

COMMITTEE ON FOREIGN AFFAIRS  
COMMITTEE ON FOREIGN RELATIONS

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# Legislation on Foreign Relations Through 2005



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JOINT COMMITTEE PRINT

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MAY 2008

VOLUME II-A  
OF VOLUMES II-A AND II-B

CURRENT LEGISLATION AND  
RELATED EXECUTIVE ORDERS

U.S. HOUSE OF REPRESENTATIVES

U.S. SENATE

Legislation on Foreign Relations Through 2005—Volume II-A of Volumes II-A and II-B

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

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## FOREWORD

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

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

We wish to express our appreciation to Dianne E. Rennack and Matthew C. Weed of the Foreign Affairs, Defense, and Trade Division of the Congressional Research Service of the Library of Congress and Suzanne Kayne of the U.S. Government Printing Office who prepared volume II–A of this year’s compilation.

HOWARD L. BERMAN,  
*Chairman, Committee on Foreign Affairs.*

JOSEPH R. BIDEN, JR.,  
*Chairman, Committee on Foreign Relations.*

May 23, 2008.



## EXPLANATORY NOTE

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The body of statutory law set out in this volume was in force, as amended, at the end of 2005.

This volume sets out “session law” as originally enacted by Congress and published by the Archivist of the United States as “slip law” and later in the series *United States Statutes at Large* (as subsequently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

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

All Executive orders and State Department delegations of authority are codified and in force as of January 11, 2006.

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

## ABBREVIATIONS

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



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## 1. Authorizations and Appropriations

### a. Establishment of the Department of State

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

SEC. 199.<sup>1</sup> There shall be at the seat of Government an Executive Department to be known as the Department of State, and a Secretary of State, who shall be the head thereof.

SEC. 200 \* \* \* [Obsolete]

SEC. 201 \* \* \* [Obsolete]

SEC. 202.<sup>2</sup> The Secretary of State shall perform such duties as shall from time to time be enjoined on or intrusted to him by the President relative to correspondences, commissions, or instructions to or with public ministers or consuls from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the department, and he shall conduct the business of the department in such manner as the President shall direct.

SEC. 203.<sup>3</sup> The Secretary of State shall have the custody and charge of the seal of the Department of State, and of all the books, records, papers, furniture, fixtures, and other property which on June 22, 1874, remained in and appertained to the Department, or were thereafter acquired for it.

SEC. 204 \* \* \* [Obsolete]

SEC. 205 \* \* \* [Obsolete]

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<sup>1</sup>22 U.S.C. 2651, R.S. Sec. 199, derived from Acts of July 27, 1789 (1 Stat. 28), and September 15, 1789 (1 Stat. 68)

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

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

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

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

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

<sup>2</sup>22 U.S.C. 2656, R.S. Sec. 202, derived from Acts of July 27, 1789 (1 Stat. 28), and September 15, 1789 (1 Stat. 68).

<sup>3</sup>22 U.S.C. 2657, R.S. Sec. 203, derived from Acts of July 27, 1789 (1 Stat. 29), and September 15, 1789 (1 Stat. 69).

SEC. 206.<sup>4</sup> The Secretary of State shall procure from time to time such of the statutes of the several States as may not be in his office.

SECS. 207-209 \* \* \* [Obsolete]

SEC. 210.<sup>5</sup> The Secretary of State shall furnish to the Public Printer a correct copy of every treaty between the United States and any foreign government as soon as possible after it has been duly ratified and has been proclaimed by the President; and also of every postal convention made between the United States Postal Service, by and with the advice and consent of the President, on the part of the United States and foreign countries, as soon as possible after copies of such conventions have been transmitted to him by the United States Postal Service.

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<sup>4</sup>22 U.S.C. 2659, R.S. Sec. 206, derived from Act of September 23, 1789 (1 Stat. 97).

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



## **b. State Department Basic Authorities Act of 1956**

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

Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 105–277 [Foreign Affairs Agencies Consolidation Act of 1998, subdivision A of division G of H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, subdivision B of division G of H.R. 4328], 112 Stat. 2681, approved October 21, 1998; [Public Law 105–323 [H.R. 4660], 112 Stat. 3029, approved October 30, 1998; Public Law 105–375 [S. 759], 112 Stat. 3385, approved November 12, 1998; Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106–553 [Department of State and Related Agency Appropriations Act, 2001, title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of H.R. 4942], 114 Stat. 2762A, approved December 21, 2000; Public Law 107–56 [Uniting and strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 272, approved October 26, 2001; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 107–132 [H.R. 3348], 115 Stat. 2412, approved January 16, 2002; Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; Public Law 108–25 [United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003; H.R. 1298], 117 Stat. 711, approved May 27, 2003; Public Law 108–332 [Global Anti-Semitism Review Act of 2004; S. 2292], 118 Stat. 1282, approved October 16, 2004; Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; and Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

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

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

## TITLE I—BASIC AUTHORITIES GENERALLY

### ORGANIZATION OF THE DEPARTMENT OF STATE

#### SECTION 1.<sup>2</sup> (a) SECRETARY OF STATE.—

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

(2) The Secretary, the Deputy Secretary of State, and the Deputy Secretary of State for Management and Resources<sup>3</sup> shall be appointed by the President, by and with the advice and consent of the Senate.

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

<sup>2</sup>22 U.S.C. 2651a. Sec. 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 402), amended and restated sec. 1. It formerly read as follows (formerly at 22 U.S.C. 2662):

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

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

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

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

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

(4) The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary of State and the Department of State. Unless otherwise specified in law, the Secretary may delegate authority to perform any of the functions of the Secretary or the Department to officers and employees under the direction and supervision of the Secretary. The Secretary may delegate the authority to redelegate any such functions.

(b) UNDER SECRETARIES.—

(1) IN GENERAL.—There<sup>4</sup> shall be in the Department of State not more than 6<sup>5</sup> Under Secretaries of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.<sup>6</sup>

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

(3)<sup>7</sup> UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the

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

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

<sup>6</sup>The current rate of compensation at level III of the Executive Schedule is \$152,000 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

<sup>7</sup>Sec. 1313 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) added para. (3).

Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting. The Under Secretary for Public Diplomacy shall—<sup>8</sup>

(A) prepare an annual strategic plan for public diplomacy in collaboration with overseas posts and in consultation with the regional and functional bureaus of the Department;

(B) ensure the design and implementation of appropriate program evaluation methodologies;

(C) provide guidance to Department personnel in the United States and overseas who conduct or implement public diplomacy policies, programs, and activities;

(D) assist the United States Agency for International Development and the Broadcasting Board of Governors to present the policies of the United States clearly and effectively; and

(E) submit statements of United States policy and editorial material to the Broadcasting Board of Governors for broadcast consideration.

(4)<sup>9</sup> **NOMINATION OF UNDER SECRETARIES.**—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the particular Under Secretary position in the Department of State that the individual shall have.

(c)<sup>10</sup> **ASSISTANT SECRETARIES.**—

<sup>8</sup>Sec. 7109(b)(1) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108-458; 118 Stat. 3793) added text beginning “The Under Secretary for Public Diplomacy shall—” through subpara. (E).

<sup>9</sup>Sec. 2306(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826), added para. (4).

<sup>10</sup>Sec. 1112 of the Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-486), provided the following:

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

“(a) **DESIGNATION OF POSITION.**—The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) as the Assistant Secretary of State for Verification and Compliance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

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

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

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

“(A) the duties of the Assistant Secretary;

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

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

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

“(c) **DUTIES.**—

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

“(2) **PARTICIPATION OF THE ASSISTANT SECRETARY.**—

“(A) **PRIMARY ROLE.**—Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations

(1) IN GENERAL.—There shall be in the Department of State not more than 24<sup>11</sup> Assistant Secretaries of State, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5.<sup>12</sup>

(2)<sup>13</sup> ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.—(A) There shall be in the Department of State an Assistant Secretary of State for Democracy, Human Rights, and Labor who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy and such other related duties as the Secretary may from time to time designate. The Secretary of State shall carry out the Secretary's responsibility under section 502B of the Foreign Assistance Act of 1961 through the Assistant Secretary.

(B) The Assistant Secretary of State for Democracy, Human Rights, and Labor shall maintain continuous observation and review all matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war

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within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

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

“(C) NATIONAL SECURITY LIMITATION.—

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

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

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

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

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

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

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

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

<sup>11</sup>Sec. 2305(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), raised this number from 20 to 24.

<sup>12</sup>The current rate of compensation at level IV of the Executive Schedule is \$143,000 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

<sup>13</sup>On December 2, 1996, the Secretary of State established an Advisory Committee on Religious Freedom Abroad, “as part of this Administration's work to promote human rights issues.” See Department of State Public Notice 2489 (61 F.R. 67090).

and members of the United States Armed Forces missing in action) in the conduct of foreign policy including the following:

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

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

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

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

(3)<sup>14</sup> NOMINATION OF ASSISTANT SECRETARIES.—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the regional or functional bureau or bureaus of the Department of State with respect to which the individual shall have responsibility.

(d)<sup>15</sup> OTHER SENIOR OFFICIALS.—In addition to officials of the Department of State who are otherwise authorized to be appointed by the President, by and with the advice and consent of the Senate, and to be compensated at level IV of the Executive Schedule of section 5315 of title 5, United States Code, four other such appointments are authorized.<sup>12</sup>

(e)<sup>16</sup> COORDINATOR FOR COUNTERTERRORISM.—

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

(2) DUTIES.—

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

<sup>14</sup>Sec. 2306(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826), added para. (3).

<sup>15</sup>Sec. 2305(c) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), struck out former subsec. (d), which had authorized "not more than 66 Deputy Assistant Secretaries of State", and redesignated subsecs. (e) through (h), as subsecs. (d) through (g), respectively.

<sup>16</sup>Sec. 2301 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-824), added this subsec. as subsec. (f). It was redesignated as subsec. (e) by sec. 2305(c)(2) of that Act.

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

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

(f)<sup>17</sup> HIV/AIDS RESPONSE COORDINATOR.—

(1) IN GENERAL.—There shall be established within the Department of State in the immediate office of the Secretary of State a Coordinator of United States Government Activities to Combat HIV/AIDS Globally, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary.

(2) AUTHORITIES AND DUTIES; DEFINITIONS.—

(A) AUTHORITIES.—The Coordinator, acting through such nongovernmental organizations (including faith-based and community-based organizations) and relevant executive branch agencies as may be necessary and appropriate to effect the purposes of this section, is authorized—

(i) to operate internationally to carry out prevention, care, treatment, support, capacity development, and other activities for combatting HIV/AIDS;

(ii) to transfer and allocate funds to relevant executive branch agencies; and

(iii) to provide grants to, and enter into contracts with, nongovernmental organizations (including faith-based and community-based organizations) to carry out the purposes of section.

(B) DUTIES.—

(i) IN GENERAL.—The Coordinator shall have primary responsibility for the oversight and coordination of all resources and international activities of the United States Government to combat the HIV/AIDS pandemic, including all programs, projects, and activities of the United States Government relating to the HIV/AIDS pandemic under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 or any amendment made by that Act.

(ii) SPECIFIC DUTIES.—The duties of the Coordinator shall specifically include the following:

(I) Ensuring program and policy coordination among the relevant executive branch agencies and nongovernmental organizations, including auditing, monitoring, and evaluation of all such programs.

<sup>17</sup>Sec. 102(a)(2) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 (Public Law 108-25; 117 Stat. 721) added subsec. (f).

(II) Ensuring that each relevant executive branch agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

(III) Avoiding duplication of effort.

(IV) Ensuring coordination of relevant executive branch agency activities in the field.

(V) Pursuing coordination with other countries and international organizations.

(VI) Resolving policy, program, and funding disputes among the relevant executive branch agencies.

(VII) Directly approving all activities of the United States (including funding) relating to combatting HIV/AIDS in each of Botswana, Cote d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia, and other countries designated by the President, which other designated countries may include those countries in which the United States is implementing HIV/AIDS programs as of the date of the enactment of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003.

(VIII) Establishing due diligence criteria for all recipients of funds section and all activities subject to the coordination and appropriate monitoring, evaluation, and audits carried out by the Coordinator necessary to assess the measurable outcomes of such activities.

(C) DEFINITIONS.—In this paragraph:

(i) AIDS.—The term “AIDS” means acquired immune deficiency syndrome.

(ii) HIV.—The term “HIV” means the human immunodeficiency virus, the pathogen that causes AIDS.

(iii) HIV/AIDS.—The term “HIV/AIDS” means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(iv) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term “relevant executive branch agencies” means the Department of State, the United States Agency for International Development, the Department of Health and Human Services (including the Public Health Service), and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or this Act.

(g)<sup>18</sup> QUALIFICATIONS OF CERTAIN OFFICERS OF THE DEPARTMENT OF STATE.—

<sup>18</sup>Sec. 303 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1377), struck out former subsecs. (f) and (g), and added this subsec. as subsec. (f). Sec. 102(a)(1) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2002 (Public Law 108-25; 117 Stat. 721) subsequently redesignated the subsec. as subsec. (g).



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

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

(3) OFFICER HAVING PRIMARY RESPONSIBILITY FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT.—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to international narcotics and law enforcement, or that officer's principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) law enforcement or international narcotics policy.

SEC. 2.<sup>19</sup> The Secretary of State, may use funds appropriated or otherwise available to the Secretary to—<sup>20</sup>

(a) provide for printing and binding outside the States of the United States<sup>21</sup> and the District of Columbia without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);

(b)<sup>22</sup> for the purpose of promoting and maintaining friendly relations with foreign countries through the prompt settlement of certain claims, settle and pay any meritorious claim against the United States which is presented by a government of a foreign country for damage to or loss of real or personal property of, or personal injury to or death of, any national of such foreign country: *Provided*, That such claim is not cognizable under any other statute or international agreement of the United States and can be settled for not more than \$15,000 or the foreign currency equivalent thereof.

Previously, sec. 2303 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), added this subsec. as subsec. (g). It was redesignated as subsec. (f) by sec. 2305(c)(2) of that Act. Subsec. (g), struck out by Public Law 107-228, was originally added as subsec. (h) by sec. 2304 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), and redesignated as subsec. (g) by sec. 2305(c)(2) of that Act.

<sup>19</sup> 22 U.S.C. 2669.

<sup>20</sup> Sec. 114 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 411), struck out "when funds are appropriated therefor, may—" and inserted in lieu thereof "may use funds appropriated or otherwise available to the Secretary to—".

<sup>21</sup> This reference to the "States of the United States" was substituted in lieu of a reference to the "continental United States" by sec. 2 of Public Law 86-624 (74 Stat. 411).

<sup>22</sup> Sec. 402 of the Foreign Assistance Act of 1962 (Public Law 87-565; 76 Stat. 263) added subsec. (b). Former sec. 2(b) was repealed by sec. 511(a)(2) of the Overseas Differentials and Allowances Act (Public Law 86-707; 74 Stat. 800).

(c)<sup>23</sup> employ individuals or organizations, by contract, for services abroad and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government; for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of subsection (f) and of any other law administered by the Secretary concerning the employment of such individuals abroad); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States.<sup>24</sup>

(d) provide for official functions and courtesies;

(e) purchase uniforms;

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

(g)<sup>25</sup> obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the maximum rate payable for GS-18 under section 5332 of such title 5;<sup>26</sup>

(h)<sup>25</sup> directly procure goods and services in the United States or abroad, solely for use by United States Foreign Service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Supply Service or otherwise applicable Federal goods and services acquisition authority would not meet emergency overseas security requirements determined necessary by the Secretary, taking into account overseas delivery, installation, maintenance, or replacement requirements, except that the authority granted by this paragraph shall cease to be effective when the amendment made by section 2711 of the Competition in Contracting Act of 1984 takes effect and thereafter procurement by the Secretary of State for the purposes described in this paragraph shall be in accordance with section 303(c)(2) of the Federal Property and Administrative Services Act of 1949;

(i)<sup>26</sup> pay obligations assumed in Germany on or after June 5, 1945;

<sup>23</sup> Sec. 303(a)(1) of Public Law 98-533 (98 Stat. 2710) amended and restated para. (c) up to the first semicolon. Subsequently, sec. 118 of Public Law 99-93 (99 Stat. 412) added the text of para. (c) up to the second semicolon. It formerly read as follows: "(c) employ aliens, by contract, for services abroad;"

<sup>24</sup> Sec. 137 and sec. 180(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397, 416), made identical amendments, adding "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States" before the period.

<sup>25</sup> Sec. 303(a)(2) of Public Law 98-533 (98 Stat.) added paras. (g) and (h).

<sup>26</sup> Sec. 111 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 21), struck out "and", and added subsecs. (i), (j), and (k).

- (j)<sup>26</sup> provide telecommunications services;<sup>27, 28</sup>
- (k)<sup>27</sup> provide maximum physical security in Government-owned and leased properties and vehicles abroad;<sup>29</sup>
- (l)<sup>27</sup> purchase special purpose passenger motor vehicles without regard to any price limitation otherwise established by law;<sup>29</sup>
- (m)<sup>28</sup> pay obligations arising under international agreements, conventions, and binational contracts to the extent otherwise authorized by law;<sup>29</sup>
- (n)<sup>30</sup> exercise the authority provided in subsection (c), upon the request of the Secretary of Defense or the head of any other department or agency of the United States, to enter into personal service contracts with individuals to perform services in support of the Department of Defense of such other department or agency, as the case may be; and<sup>29</sup>
- (o)<sup>31</sup> make administrative corrections or adjustments to an employee's pay, allowances, or differentials, resulting from mistakes or retroactive personnel actions, as well as provide back pay and other categories of payments under section 5596 of title 5, United States Code, as part of the settlement or compromise of administrative claims or grievances filed against the Department.

SEC. 3.<sup>32</sup> The Secretary of State is authorized to—

- (a) obtain insurance on official motor vehicles operated by the Department of State in foreign countries, and pay the expenses incident thereto;
- (b) rent tie lines and teletype equipment;
- (c) provide ice and drinking water for United States Embassies and Consulates abroad;
- (d) pay excise taxes on negotiable instruments which are negotiated by the Department of State abroad;
- (e)<sup>33</sup> pay the actual expenses of preparing and transporting to their former homes the remains of persons, not United States Government employees, who may die away from their homes while participating in international educational exchange activities under the jurisdiction of the Department of State;

<sup>27</sup>Sec. 4 of Public Law 102-20 (105 Stat. 68) struck out "and" at the end of subsec. (j); struck out the period ending subsec. (k), and inserted in lieu thereof "; and"; and added a new subsec. (l).

<sup>28</sup>Sec. 120 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 658), also struck out "and" at the end of subsec. (j); struck out the period ending subsec. (k), and inserted in lieu thereof "; and" (previously amended by Public Law 102-20); and also added a new subsection, originally designated as "(l)". Sec. 162(k)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), redesignated the second subsec. (l) as subsec. (m).

<sup>29</sup>Sec. 413(b) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2906), struck out "and" at the end of subsec. (k); transferred subsec. (m) to appear after subsec. (l); struck out a period at the end of each of subsecs. (l) and (m), inserting in lieu thereof a semicolon; and replaced a period at the end of subsec. (n) with "; and".

<sup>30</sup>Sec. 833 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1191) added subsec. (n).

<sup>31</sup>Sec. 413(a) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2906), added subsec. (o).

<sup>32</sup>22 U.S.C. 2670.

<sup>33</sup>Authority granted to the Secretary of State under subsec. (e) was abolished by sec. 9(a)(7) of Reorganization Plan No. 2 of 1977 (establishing the ICA).

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

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

(h) rent or lease, for periods of less than ten years, such offices, buildings, grounds, and living quarters for the use of the Foreign Service abroad as he may deem necessary, and make payments therefor in advance;

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

(j)<sup>34</sup> provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad<sup>35</sup> who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible;

(k)<sup>36</sup> subject to the availability of appropriated funds, obtain insurance on the historic and artistic articles of furniture, fixtures, and decorative objects which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department;<sup>37</sup>

(l)<sup>38</sup> make payments in advance, of the United States share of necessary expenses for international fisheries commissions, from appropriations available for such purpose; and<sup>37</sup>

(m)<sup>37</sup> establish, maintain, and operate passport and dispatch agencies.

SEC. 4.<sup>39</sup> (a)<sup>40</sup> The Secretary of State is authorized to—

(1)<sup>40</sup> subject to subsection (b), make expenditures, from such amounts as may be specifically appropriated therefor, for unforeseen emergencies arising in the diplomatic and consular service and, to the extent authorized in appropriation Acts, funds expended for such purposes may be accounted for in accordance with section 291 of the Revised Statutes (31 U.S.C. 107);<sup>41</sup> and

<sup>34</sup>Sec. 2 of Public Law 95-45 (91 Stat. 221) added subsec. (j).

<sup>35</sup>Sec. 108(a) of Public Law 95-426 (92 Stat. 966) inserted "or destitute United States citizens abroad". Sec. 108(b) of the same Act provided that this amendment would take effect on October 1, 1978.

<sup>36</sup>Sec. 126(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1342), added subsec. (k).

<sup>37</sup>Sec. 162(k)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "and" at the end of subsec. (k); struck out the period at the end of subsec. (l), and inserted in lieu thereof a semicolon; and added a new subsec. (m).

<sup>38</sup>Sec. 166 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676), added a new subsec. (l).

<sup>39</sup>22 U.S.C. 2671.

<sup>40</sup>Sec. 122 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1023), redesignated existing subssecs. (a) and (b) as paras. (1) and (2), redesignated the existing text as subsec. (a), added the reference to subsec. (b) in para. (1) of subsec. (a), and added new subssecs. (b), (c), and (d).

<sup>41</sup>See 31 U.S.C. 3526(e), pursuant to sec. 4(b) of Public Law 97-258 (96 Stat. 1067), which enacted title 31 U.S.C.

- (2)<sup>40</sup> delegate to subordinate officials the authority vested in him by section 291 of the Revised Statutes<sup>41</sup> pertaining to certification of expenditures.
- (b)<sup>40</sup>(1) Expenditures described under subsection (a) shall be made only for such activities as—
- (A) serve to further the realization of foreign policy objectives;
  - (B) are a matter of urgency to implement;
  - (C) with respect to activities the expenditures for which are required to be certified under subsection (a), require confidentiality in the best interests of the conduct of foreign policy by the United States; and
  - (D) are not otherwise prohibited by law.
- (2) Activities described in paragraph (1) include—
- (A)<sup>42</sup> the evacuation when their lives are endangered by war, civil unrest, or natural disaster of—
    - (i) United States Government employees and their dependents; and
    - (ii) private United States citizens or third-country nationals, on a reimbursable basis to the maximum extent practicable, with such reimbursements to be credited to the applicable Department of State appropriation and to remain available until expended, except that no reimbursement under this clause shall be paid that is greater than the amount the person evacuated would have been charged for a reasonable commercial air fare immediately prior to the events giving rise to the evacuation;
  - (B) loans made to destitute citizens of the United States who are outside the United States and made to provide for the return to the United States of its citizens;
  - (C) visits by foreign chiefs of state or heads of government to the United States;
  - (D) travel of delegations representing the President at any inauguration or funeral of a foreign dignitary;
  - (E) travel of the President, the Vice President, or a Member of Congress to a foreign country, including advance arrangements, escort, and official entertainment;
  - (F) travel of the Secretary of State within the United States and outside the United States, including official entertainment;
  - (G) official representational functions of the Secretary of State and other principal officers of the Department of State;
  - (H) official functions outside the United States the expenses for which are not otherwise covered by amounts appropriated for representation allowances;
  - (I) investigations and apprehension of groups or individuals involved in fraudulent issuance of United States passports and visas; and
  - (J) gifts of nominal value given by the President, Vice President, or Secretary of State to a foreign dignitary.

<sup>42</sup> Sec. 201 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1361), amended and restated subpara. (A). It formerly read as follows:

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

(c)<sup>40</sup> The Inspector General of the Department of State<sup>43</sup> shall conduct a periodic<sup>44</sup> audit of the Department of State's emergency expenditures and prepare and transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance with subsections (a) and (b) of this section.

(d)<sup>40</sup> With regard to the repatriations loan program, the Secretary of State shall—

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

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

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

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

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

(6) report defaults to commercial credit bureaus as provided in section 3711(e)<sup>45</sup> of title 31, United States Code;

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

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

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

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

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

SEC. 5.<sup>46</sup> The Secretary of State is authorized to—

<sup>43</sup>Sec. 125(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out "and the Foreign Service" at this point.

<sup>44</sup>Sec. 125(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out "an annual confidential" and inserted in lieu thereof "a periodic".

<sup>45</sup>Sec. 115(g)(2)(D) of Public Law 104-316 (110 Stat. 3835) struck out "section 3711(f)" and inserted in lieu thereof "section 3711(e)".

<sup>46</sup>22 U.S.C. 2672. The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2322), provided:

"INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

"For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$1,166,212,000: *Provided*, That the Secretary of State shall, at the time of the submission of the President's budget to Congress under section 1105(a) of title 31, United States Code, transmit to the Committees

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

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

(1) Employment of aliens;

(2) Travel expenses without regard to the Standardized Government Travel Regulations and to the rates of per diem allowances in lieu of subsistence expenses under the Travel Expense Act of 1949, as amended (5 U.S.C. 5701-5708).<sup>47</sup>

(3) Travel expenses of persons serving without compensation in an advisory capacity while away from their homes or regular places of business not in excess of those authorized for regular officers and employees traveling in connection with said international activities; and

(4) Rental of quarters by contract or otherwise.

SEC. 6.<sup>48</sup> The provisions of section 8 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e), and regulations thereunder, applicable to expenses incurred pursuant to that Act, may be applicable to the obligation and expenditure of funds in connection with United States participation in the International Civil Aviation Organization.

SEC. 7.<sup>49</sup> The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles in possession of the Foreign Service abroad, in accordance with section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c)), shall be available without fiscal year limitation for replacement of an equal number of such vehicles.

SEC. 8.<sup>50</sup> The Secretary of State may allocate or transfer to any department, agency, or independent establishment of the United

on Appropriations the most recent biennial budget prepared by the United Nations for the operations of the United Nations: *Provided further*, That the Secretary of State shall notify the Committees on Appropriations at least 15 days in advance (or in an emergency, as far in advance as is practicable) of any United Nations action to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations budget for the biennium 2006-2007 to exceed the revised United Nations budget level for the biennium 2004-2005 of \$3,695,480,000: *Provided further*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.<sup>47</sup>

<sup>47</sup> Formerly 5 U.S.C. 835-842, until codified by sec. 7(b) of Public Law 89-554 (80 Stat. 378; approved September 6, 1966).

<sup>48</sup> 22 U.S.C. 2673.

<sup>49</sup> 22 U.S.C. 2674.

<sup>50</sup> 22 U.S.C. 2675. Sec. 121 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1023), amended and restated sec. 8. It formerly read as follows:

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

SEC. 9.<sup>51</sup> The Secretary of State is authorized to enter into contracts in foreign countries involving expenditures from funds appropriated or otherwise made available to the Department of State, without regard to the provisions of section 3741 of the Revised Statutes (41 U.S.C. 22): *Provided*, That nothing in this section shall be construed to waive the provisions of section 431 of title 18 of the United States Code.

SEC. 10.<sup>52</sup> Appropriated funds made available to the Department of State for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel shall be available for such expenses when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed during that same fiscal year.

REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN  
AUTHORIZATIONS

SEC. 11.<sup>53</sup> If the amount appropriated (or made available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177; 2 U.S.C. 901 et seq.)) for a fiscal year pursuant to any authorization of appropriations provided by an Act other than an appropriation Act is less than the authorization amount and a provision of that Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated (or made available in the event of sequestration) bears to the authorization amount.

SEC. 12.<sup>54</sup> The Secretary of State, with the approval of the Office of Management and Budget,<sup>55</sup> shall prescribe the maximum rates per diem in lieu of subsistence (or of similar allowances therefor)

<sup>51</sup>“SEC. 8. The Secretary of State may, when authorized in an appropriation or other law, transfer to any department, agency, or independent establishment of the Government, with the consent of the head thereof, any funds appropriated to the Department of State, for direct expenditure by such department, agency, or independent establishment for the purposes for which the funds are appropriated.”

<sup>52</sup>22 U.S.C. 2676.

<sup>53</sup>22 U.S.C. 2677.

<sup>54</sup>22 U.S.C. 2678. Sec. 106 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 20), added sec. 11. A previous sec. 11 was repealed by Public Law 99-550 (100 Stat. 3067), which read: “Notwithstanding section 1344(a) of title 31, United States Code, the Deputy Secretary of State is authorized to use Government-owned vehicles for security purposes for travel between his or her residence and places where official functions are performed.”

<sup>55</sup>22 U.S.C. 2679.

<sup>55</sup>Reorganization Plan No. 2 of 1970 redesignated the Bureau of the Budget as the Office of Management and Budget.



payable while away from their own countries to foreign participants in any exchange of persons program, or in any program of furnishing technical information and assistance, under the jurisdiction of any Government agency, and said rates may be fixed without regard to any provision of law in limitation thereof.

SEC. 13.<sup>56</sup> (a)<sup>57</sup> There is hereby established a working capital fund for the Department of State, which shall be available without fiscal year limitations, for expenses (including those authorized by the Foreign Service Act of 1980)<sup>58</sup> and equipment, necessary for maintenance and operation in the city of Washington and elsewhere of (1) central reproduction, editorial, data processing, audio-visual, library and administrative support services; (2) central services for supplies and equipment (including repairs) (3) such other administrative services as the Secretary, with the approval of the Bureau of the Budget,<sup>55</sup> determines may be performed more advantageously and more economically as central services; and<sup>59</sup> (4)<sup>60</sup> medical and health care services. Such fund shall also be available without fiscal year limitation to carry out the purposes of title II of this Act.<sup>59</sup> The capital of the fund shall consist of the amount of the fair and reasonable value of such supply inventories, equipment, and other assets and inventories on order, pertaining to the services to be carried on by the fund, as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital.<sup>61</sup> The fund shall be reimbursed, or credited with advance payments, from applicable appropriations and funds of the Department of State, other Federal agencies, and other sources authorized by law, for supplies and services at rates which will approximate the expense of operations, including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, earnings which the Secretary determines to be excess to the needs of the fund.

(b)<sup>57</sup> The current value of supplies returned to the working capital fund by a post, activity, or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to

<sup>56</sup>22 U.S.C. 2684. Sec. 13 was added by sec. 405 of Public Law 88-205 (77 Stat. 391) and further amended by sec. 407(c) of Public Law 92-226 which deleted the last sentence of sec. 13(a) which formerly read as follows: "There is hereby authorized to be appropriated such amounts as may be necessary to provide capital for the fund." The original sec. 13, as repealed September 6, 1960, by sec. 511(a)(2) of Public Law 86-707 (74 Stat. 800), read as follows: "Allowances granted under sec. 901(1) of the Foreign Service Act of 1946 (22 U.S.C. 1311(1)), may include water, in addition to the utilities specified."

<sup>57</sup>Sec. 109(a) of Public Law 95-426 (92 Stat. 966) added subsec. designation "(a)" and subsec. (b).

<sup>58</sup>The reference to the Foreign Service Act of 1980 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2201(b) of Public Law 96-465 (94 Stat. 2157).

<sup>59</sup>Sec. 112 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 21), inserted "and" before clause (4); struck out clause (5), which formerly read as follows: "(5) services and supplies to carry out title II of this Act"; and added the sentence which begins "Such fund".

<sup>60</sup>Sec. 109(a) of Public Law 95-426 (92 Stat. 966) added clause (4).

<sup>61</sup>Sec. 109(a) of Public Law 95-426 (92 Stat. 966) struck out a sentence at this point that read as follows: "Not to exceed \$750,000 in net assets shall be transferred to the fund for purposes of providing capital."

current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories.

SEC. 14.<sup>62</sup> (a) Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

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

(2) the Secretary of State determines that—

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

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

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

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

SEC. 15.<sup>63</sup> (a)(1) Notwithstanding any provision of law enacted before the date of enactment of the State Department/USIA Authorization Act, Fiscal Year 1975,<sup>64</sup> no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

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

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

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

<sup>62</sup> 22 U.S.C. 2679a. Sec. 121 of Public Law 97-241 (96 Stat. 280) added sec. 14. A prior sec. 14, part of the original Act, was repealed by Public Law 86-707 (74 Stat. 798). Subsequently, a new sec. 14 was added by sec. 10 of Public Law 93-475 (88 Stat. 1441) and amended by Public Law 93-475, Public Law 94-161, and Public Law 95-105. It was repealed by sec. 2205(10) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). Such section formerly concerned the payment of a gratuity to the surviving dependents of a Foreign Service employee who died as the result of injuries sustained in the performance of duty outside the United States. This gratuity is now covered at Sec. 413 of the Foreign Service Act of 1980.

<sup>63</sup> 22 U.S.C. 2680. Sec. 15 was amended by sec. 407(b) of Public Law 92-226 (86 Stat. 35) and further amended by sec. 102 of Public Law 92-352 (86 Stat. 490). Subsec. (a) was further amended by sec. 11 of Public Law 93-475 (88 Stat. 1442). It formerly read as follows: "Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress. The provisions of this subsection shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law."

<sup>64</sup> Public Law 93-475 (88 Stat. 1439), approved October 26, 1974.

(3) The provisions of this section—

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

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

(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>65</sup> of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

SEC. 16.<sup>66</sup> The first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the “Defense Base Act”) shall not apply with respect to such contracts as the Secretary of State may determine which are contracts with persons employed to perform work for the Department of State or the Foreign Service on an intermittent basis for not more than 90 days in a calendar year.

SEC. 17.<sup>67</sup> The Secretary of State is authorized to use appropriated funds for unusual expenses similar to those authorized by section 5913 of title 5, United States Code, incident to the operation and maintenance of the living quarters of the United States Representative to the Organization of American States.

SEC. 18.<sup>68</sup> It is the sense of the Congress that the position of United States ambassador to a foreign country should be accorded to men and women possessing clearly demonstrated competence to perform ambassadorial duties. No individual should be accorded the position of United States ambassador to a foreign country primarily because of financial contributions to political campaigns.

SEC. 19.<sup>69</sup> Each fiscal year (beginning with fiscal year 1977), the Secretary of State may use<sup>70</sup> funds appropriated for the American Sections, International Joint Commission, United States and Canada, for representation expenses and official entertainment within the United States for such American Sections.

SEC. 20.<sup>71</sup> Any expenditure for any gift for any person of any foreign country which involves any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Controller General and reports thereon

<sup>65</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>66</sup> 22 U.S.C. 2680a. Sec. 122 of Public Law 97-241 (96 Stat. 281) added sec. 16. A prior sec. 16, as added by Public Law 93-475 and amended by Public Law 94-426, was repealed by sec. 2205(10) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). Sec. 16 formerly described the duties and responsibilities of a United States chief of mission. A similar provision is now included at Sec. 207 of the Foreign Service Act of 1980.

<sup>67</sup> 22 U.S.C. 2687. Sec. 101(c) of Public Law 94-141 added sec. 17.

<sup>68</sup> 22 U.S.C. 2688. Sec. 104 of Public Law 94-141 added sec. 18.

<sup>69</sup> 22 U.S.C. 2689. Sec. 104 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), added sec. 19.

<sup>70</sup> Sec. 110(a) of Public Law 95-426 (92 Stat. 967) struck out “not to exceed \$1,500 of the” at this point.

<sup>71</sup> 22 U.S.C. 2690. Sec. 16 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), added sec. 20.

made to the Congress to such extent and at such times as he may determine necessary. The representatives of the General Accounting Office<sup>72</sup> shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such expenditure and necessary to facilitate the audit.

SEC. 21.<sup>73</sup> \* \* \* [Repealed—1990]

SEC. 22.<sup>74</sup> (a) The Secretary of State may compensate, pursuant to regulations which he shall prescribe, for the cost of participating in any proceeding or on any advisory committee or delegation of the Department of State, any organization or person—

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

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

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

#### ADMINISTRATIVE SERVICES<sup>75</sup>

SEC. 23.<sup>75</sup> (a) AGREEMENTS.—Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the Broadcasting Board of Governors<sup>76</sup> and the Agency for International Development)<sup>77</sup> determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement

<sup>72</sup>Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the “General Accounting Office” as the “Government Accountability Office” and provided that “Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.”

<sup>73</sup>Formerly 22 U.S.C. 2691. Sec. 603(a)(18) of the Immigration Act of 1990 (Public Law 101-649; 104 Stat. 5084) repealed sec. 21. Previously, sec. 21 was added by sec. 112 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 848), and substantially amended by sec. 109 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 397), and earlier amended by sec. 119 of Public Law 95-426 (92 Stat. 970). Sec. 21 provided for the issuance of visas to aliens, otherwise excludable because of organizational affiliations, to participate in the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975).

<sup>74</sup>22 U.S.C. 2692. Sec. 113(a) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 848), added sec. 22.

<sup>75</sup>22 U.S.C. 2695. Sec. 111(a) of Public Law 95-426 (92 Stat. 967), added sec. 23.

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

<sup>76</sup>Sec. 1335(1)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

<sup>77</sup>Sec. 1225(f) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out “, the Agency for International Development, and the Arms Control and Disarmament Agency” and inserted in lieu thereof “and the Agency for International Development”.

which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.

(b)<sup>78</sup> PAYMENT.—

(1) A Federal agency which obtains administrative services from the Department of State pursuant to an agreement authorized under subsection (a) shall make full and prompt payment for such services through advance of funds or reimbursement.

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

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

SEC. 24.<sup>79</sup> (a) There are authorized to be appropriated for the Department of State, in addition to amounts otherwise authorized to be appropriated for the Department, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b)<sup>80</sup> (1) In order to maintain the levels of program activity for the Department of State provided for each fiscal year by the annual authorizing legislation, there are authorized to be appropriated for the Department of State such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the earlier of—

<sup>78</sup> Functions vested in the Secretary of State in this subsection were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>79</sup> 22 U.S.C. 2696. Sec. 105 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 396), added sec. 24.

<sup>80</sup> Sec. 112(a) of Public Law 97-241 (96 Stat. 277) amended and restated subsec. (b).

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

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

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

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

(4) In order to offset adverse fluctuations in foreign currency exchange rates or overseas wage and price changes, the Secretary of State may transfer from the Buying Power Maintenance account to any appropriation account under the heading "Administration of Foreign Affairs" such amounts as the Secretary determines are necessary to maintain the approved level of operations under that appropriation account.

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

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

(7)<sup>81</sup> (A) Subject to the limitations contained in this paragraph, not later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available for an account under "Administration of Foreign Affairs", the Secretary of State may transfer any unobligated balance of such funds to the Buying Power Maintenance account.

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

(C) Any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 34 and shall be available

<sup>81</sup>Sec. 117(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 656), added para. (7). Clause (E), repealed by 122(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), had provided that "[T]his paragraph shall cease to have effect after September 30, 1993."

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

for obligation or expenditure only in accordance with the procedures under such section.

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

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

(d)<sup>82</sup> (1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the Department of State in the Department of State Appropriations Act, for either<sup>83</sup> fiscal year of any two-year authorization cycle may be appropriated for such<sup>83</sup> fiscal year for any other account of the Department of State.

(2)<sup>84</sup> Amounts appropriated for the “Diplomatic and Consular Programs” account may not exceed by more than 5 percent the amount specifically authorized to be appropriated for such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

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

(e)<sup>85</sup> Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be obligated for twelve-month contracts which are to be performed in two fiscal years, if the total amount for such contracts is obligated in the earlier fiscal year.

SEC. 25.<sup>86</sup> (a) The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted under section (a), the income from any gift property held under subsection (c) or (d) (except income made available for expenditure under subsection (d)(2)), the net proceeds from the liquidation of gift property under subsection (c) or (d), and the proceeds of insurance on any gift property which are not used for its restoration, shall be deposited

<sup>82</sup>Sec. 117(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 657), amended and restated subsec. (d). Sec. 122(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), struck out para. (4) of subsec. (d), which had provided that, “[T]his subsection shall cease to have effect after September 30, 1993.”

<sup>83</sup>Sec. 122(a)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), struck out “the second” and inserted in lieu thereof “either”. Sec. 122(a)(2)(B) of that Act struck out “such second” and inserted in lieu thereof “such”.

<sup>84</sup>The first sentence of this para. was amended and restated by sec. 122(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392).

<sup>85</sup>Sec. 107 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 21), added subsec. (e).

<sup>86</sup>22 U.S.C. 2697. Sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153) added sec. 25.

in the Treasury of the United States. Such funds are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department of State (including the Foreign Service). The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such funds and the income from such investments shall be available for expenditure in the operation of the Department of State (including the Foreign Service) and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by the Congress, but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds.<sup>87</sup>

(c) The evidences of any unconditional gift of intangible personal property (other than money) accepted under subsection (a), shall be deposited with the Secretary of the Treasury who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department of State (including the Foreign Service) or the performance of its functions.

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

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

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

(f) The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Broadcasting Board of Governors<sup>88</sup> and the Administrator of

<sup>87</sup>Sec. 125 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1341), inserted "but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds".

<sup>88</sup>Sec. 1335(1)(2)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Previously, sec. 303(b) of Public Law 97-241 (96 Stat. 291) substituted "Director of the United



the Agency for International Development<sup>89</sup> with respect to the Board and the Agency”.<sup>90</sup>

SEC. 26.<sup>91</sup> (a) The Secretary of State may, without regard to section 3106 of title 5, United States Code, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member’s work efficiently.

(b) The authority available to the Secretary of State under this section shall be available to the Broadcasting Board of Governors,<sup>92</sup> and the Administrator of the Agency for International Development<sup>93</sup> with respect to the Board and the Agency.<sup>94</sup>

SEC. 27.<sup>95</sup> (a) In order to expand employment opportunities for family members of the United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies.

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

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

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

SEC. 28.<sup>96</sup> The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

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States Information Agency” for “Director of the International Communication Agency”, wherever it appeared in law.

<sup>89</sup>Sec. 1422(b)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-792) struck out “Director of the United States International Development Cooperation Agency” and inserted in lieu thereof “Administrator of the Agency for International Development”.

<sup>90</sup>Sec. 1335(1)(2)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out “with respect to their respective agencies” and inserted in lieu thereof “with respect to the Board and the Agency”.

<sup>91</sup>22 U.S.C. 2698. Sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153) added sec. 26.

<sup>92</sup>Sec. 1335(1)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out “Director of the United States Information Agency, the chairman of the Board for International Broadcasting,” and inserted in lieu thereof “Broadcasting Board of Governors”. Previously, sec. 303 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 64), struck out “International Communication Agency” and inserted in lieu thereof “United States Information Agency, the chairman of the Board for International Broadcasting.”

<sup>93</sup>Sec. 1422(b)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-792) struck out “Director of the United States International Development Cooperation Agency” and inserted in lieu thereof “Administrator of the Agency for International Development”.

<sup>94</sup>Sec. 1335(1)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out “with respect to their respective agencies” and inserted in lieu thereof “with respect to the Board and the Agency”.

<sup>95</sup>22 U.S.C. 2699. Sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2153) added sec. 27.

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

SEC. 29.<sup>97</sup> Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secretary may, in such manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926, and of paragraphs (h) and (i) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include hiring, transporting, and payment of teachers and other necessary personnel. Notwithstanding any other provision of law, where the child of a United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section.<sup>98</sup>

SEC. 30.<sup>99</sup> (a) The remedy—

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

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

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

(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date

<sup>97</sup> 22 U.S.C. 2701. Sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2154) added sec. 29.

<sup>98</sup> Sec. 2201 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-804), added text beginning at "Notwithstanding any other provision of law".

<sup>99</sup> 22 U.S.C. 2702. Sec. 30 was added by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2155).

of service or knowledge of service as may be determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

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

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

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

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

SEC. 31.<sup>100</sup> (a) The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular, and other missions and posts abroad. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292-300) and section 13 of this Act may be utilized by the Secretary in providing such assistance.

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

(c) Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad, and, where determined by the Secretary to be appropriate due to exceptional circumstances, to United States citizens hired outside of the host country to serve as teaching staff for such dependents abroad.<sup>101</sup> Such services and facilities shall not be established in localities where another agency operates similar services or facilities unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

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

<sup>100</sup> 22 U.S.C. 2703. Sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2156) added sec. 31.

<sup>101</sup> Sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), added text to end of sentence beginning with “, and, where determined by the Secretary \* \* \*”.

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

(e)<sup>102</sup> The<sup>103</sup> Secretary of State may make grants to child care facilities, to offset in part the cost of such care, in Moscow and at no more than five other posts abroad where the Secretary determines that due to extraordinary circumstances such facilities are necessary to the efficient operation of the post. In making that determination, the Secretary shall take into account factors such as—

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

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

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

(2) whether local child care is available.

SEC. 32.<sup>104</sup> The Secretary of State may pay, without regard to section 5702 of title 5, United States Code, subsistence expenses of (1) special agents<sup>105</sup> of the Department of State who are on authorized protective missions, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status. The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Broadcasting Board of Governors<sup>106</sup> and the Administrator of the Agency for International Development<sup>107</sup> with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.<sup>108</sup>

SEC. 33.<sup>109</sup> The following documents shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction:

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

(2) The report, designated as a “Report of Birth Abroad of a Citizen of the United States”, issued by a consular officer to

<sup>102</sup>Sec. 147 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 38), added subsec. (e).

<sup>103</sup>Sec. 124 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out “For the fiscal years 1992 and 1993, the” and inserted in lieu thereof “The”. Previously, sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), renewed this authority originally established for fiscal years 1990 and 1991.

<sup>104</sup>22 U.S.C. 2704. Sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2157) added sec. 32.

<sup>105</sup>Sec. 125(b) of Public Law 99-93 (99 Stat. 417) struck out “security officers” and inserted in lieu thereof “special agents”. Sec. 125(c) of the same Act repealed sec. 4 of the Act entitled “An Act to provide authority to protect heads of foreign states and other officials” approved August 27, 1964 (2 U.S.C. 2667), and the Act entitled “An Act to authorize certain officers and employees of the Department of State and the Foreign Service to carry firearms” approved June 28, 1955 (22 U.S.C. 2666).

<sup>106</sup>Sec. 1335(l)(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-7789) struck out “the Director of the United States Information Agency” and inserted in lieu thereof “the Broadcasting Board of Governors”.

<sup>107</sup>Sec. 1422(b)(3)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out “Director of the United States International Development Cooperation Agency” and inserted in lieu thereof “Administrator of the Agency for International Development”.

<sup>108</sup>Sec. 303(c) of Public Law 98-533 (98 Stat. 2711) added this sentence.

<sup>109</sup>22 U.S.C. 2705. Sec. 117 of Public Law 97-241 (96 Stat. 279) added sec. 33.

document a citizen born abroad. For purposes of this paragraph, the term ‘consular officer’ includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.<sup>110</sup>

SEC. 34.<sup>111</sup> (a) Unless the Committee on International Relations and the Committee on Appropriations<sup>112</sup> of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations<sup>113</sup> of the Senate are notified fifteen days in advance of the proposed reprogramming, funds appropriated for the Department of State shall not be available for obligation or expenditure through any reprogramming of funds—

- (1) which creates new programs;
- (2) which eliminates a program, project, or activity;
- (3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;
- (4) which relocates an office or employees;
- (5) which reorganizes offices, programs, or activities;
- (6) which involves contracting out functions which had been performed by Federal employees; or
- (7) which involves a reprogramming in excess of \$1,000,000<sup>114</sup> or 10 percent, whichever is less and which (A) augments existing programs, projects, or activities, (B) reduces by 10 percent or more the funding for any existing program, project, activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress.

(b)<sup>111</sup> Funds appropriated for the Department of State may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last

<sup>110</sup>Sec. 2222(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-818), added text beginning with “For purposes of this paragraph”.

<sup>111</sup>22 U.S.C. 2706. Sec. 34(a) was originally added as sec. 34 by sec. 123 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1025). Sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1339), redesignated it as subsec. (a) and added a new subsec. (b).

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

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

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

<sup>113</sup>Sec. 2243(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-823), inserted “and the Committee on Appropriations” after “Foreign Relations”.

<sup>114</sup>Sec. 122(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), struck out “\$500,000” and inserted in lieu thereof “\$1,000,000”.

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

15 days in which such funds are available unless notice of such reprogramming is made before such period.

(c)<sup>115</sup> The Secretary of State may waive the notification requirement of subsection (a), if the Secretary determines that failure to do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances.

SEC. 35.<sup>116</sup> (b)<sup>117</sup> The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international communications and information policy. The Secretary of State shall—

(1)<sup>118</sup> exercise primary authority for the conduct of foreign policy with respect to such telecommunications functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this

<sup>115</sup>Sec. 2243(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-823), added subsec. (c).

<sup>116</sup>22 U.S.C. 2707. Sec. 162(k)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out subsec. (a) and substantially restructured subsec. (b). Subsec. (a) had provided for the Secretary of State to assign responsibility to an Under Secretary for international communications and information policy matters. Subsec. (b) had provided for the establishment of the State Department Office of Coordinator for International Communications and Information Policy, and for the appointment of a Coordinator with rank of ambassador.

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

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

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

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

<sup>117</sup>Sec. 162(k)(1)(B)(i) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out the text preceding para. (1) in subsec. (b) and added this new sentence. Designation of subsec. (b) was retained; it should probably have been stricken.

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

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

<sup>118</sup>Sec. 162(k)(1)(B)(ii)-(v) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out former para. (2); redesignated para. (1) as para. (2); and inserted a new para. (1). Former para. (2) had read as follows:

“(2) in accordance with such authority as may be delegated by the President pursuant to Executive order, chair such agency and interagency meetings as may be necessary to coordinate actions on pending issues to ensure proper policy coordination;”

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

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

responsibility, the Secretary shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the authority vested by law or Executive order in the Federal Communications Commission, the Department of Commerce and the Office of the United States Trade Representative in this area;

(2)<sup>118</sup> maintain continuing liaison<sup>119</sup> with other executive branch agencies concerned with international communications and information policy and with the Federal Communications Commission, as appropriate;<sup>119</sup>

(3) in accordance with such authority as may be delegated by the President pursuant to Executive order, supervise and coordinate the activities of any senior interagency policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;<sup>120</sup>

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

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

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

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

**SEC. 36.<sup>121</sup> DEPARTMENT OF STATE REWARDS PROGRAM.**

(a) ESTABLISHMENT.—

<sup>119</sup>Sec. 162(k)(1)(B)(v) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out “with the bureaus and offices of the Department of State and” following “liaison”, and inserted before the semicolon, “and with the Federal Communications Commission, as appropriate”.

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

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

<sup>120</sup>Sec. 162(k)(1)(B)(vi) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 408), struck out “the Senior Interagency Group on International Communications and Information Policy” and inserted in lieu thereof “any senior interagency policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;”. The amendment resulted in a double semicolon.

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

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

<sup>121</sup>22 U.S.C. 2708. Sec. 102 of Public Law 98-533 (98 Stat. 2708) added original sec. 36. Sec. 2202 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of



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

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

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

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

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

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

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

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

(B) the killing or kidnapping of—

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

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

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

(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3);<sup>122</sup>

division G of Public Law 105-277; 112 Stat. 2681-805), amended and restated sec. 36. Sec. 101 of Public Law 105-323 (112 Stat. 3029) also amended and restated sec. 36, enacting text identical to that enacted in sec. 2202 of Public Law 105-277 with the exception of sec. 36(e)(1). That para., enacted by Public Law 105-323, raised the maximum amount of any reward to be paid under this section not to exceed \$5,000,000 from the level of \$2,000,000 enacted in Public Law 105-277.

<sup>122</sup>Sec. 502(1)(A) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) struck out "or" at the end of para. (4).

(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3), including by dismantling an organization in whole or significant part;<sup>123</sup>

(6)<sup>124</sup> the identification or location of an individual who holds a key leadership position in a terrorist organization; or<sup>123</sup>

(7)<sup>123</sup> the disruption of financial mechanisms of a foreign terrorist organization, including the use by the organization of illicit narcotics production or international narcotics trafficking—

(A) to finance acts of international terrorism; or

(B) to sustain or support any terrorist organization.

(c) COORDINATION.—

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

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

(B) the publication of rewards;

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

(D) the receipt and analysis of data; and

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

(2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

(d) FUNDING.—

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

(2)<sup>125</sup> PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

<sup>123</sup>Sec. 502(1)(B) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) struck out a period at the end of para. (5), and inserted in lieu thereof “, including by dismantling an organization in whole or significant part; or”.

Sec. 405(a) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2902), struck out “or” at the end of para. (5), replaced a period at the end of para. (6) with “; or”, and added para (7).

<sup>124</sup>Sec. 502(1)(C) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) added para. (6).

<sup>125</sup>Sec. 502(2) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) struck out former paras. (2) and (3) and redesignated para. (4) as para. (2). Former paras. (2) and (3) read as follows:

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

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

(e) LIMITATIONS AND CERTIFICATION.—

(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$25,000,000,<sup>126</sup> except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts.<sup>127</sup> Without first making such determination, the Secretary may authorize a reward of up to twice the amount specified in this paragraph for the capture or information leading to the capture of a leader of a foreign terrorist organization.<sup>128</sup>

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

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

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

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

(6)<sup>129</sup> FORMS OF REWARD PAYMENT.—The Secretary may make a reward under this section in the form of money, a non-monetary item (including such items as automotive vehicles), or a combination thereof.

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

(g) REPORTS.—

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

<sup>126</sup>Sec. 405(b)(1) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2903), struck out "\$5,000,000" and inserted in lieu thereof "\$25,000,000".

<sup>127</sup>Sec. 502(3) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) inserted "except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts." (resulting in a double period).

Sec. 405(b)(2) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2903), struck out the second period.

<sup>128</sup>405(b)(3) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2903), added this sentence.

<sup>129</sup>Sec. 405(c) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2903), added para. (6).

paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

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

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

(i) <sup>130</sup> MEDIA SURVEYS AND ADVERTISEMENTS.—

(1) SURVEYS CONDUCTED.—For the purpose of more effectively disseminating information about the rewards program, the Secretary may use the resources of the rewards program to conduct media surveys, including analyses of media markets, means of communication, and levels of literacy, in countries determined by the Secretary to be associated with acts of international terrorism.

(2) CREATION AND PURCHASE OF ADVERTISEMENTS.—The Secretary may use the resources of the rewards program to create advertisements to disseminate information about the rewards program. The Secretary may base the content of such advertisements on the findings of the surveys conducted under paragraph (1). The Secretary may purchase radio or television time, newspaper space, or make use of any other means of advertisement, as appropriate.

(j) <sup>130</sup> DETERMINATIONS OF THE SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

(k) <sup>130</sup> DEFINITIONS.—As used in this section:

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

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

(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual,

<sup>130</sup> 405(d) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2903), redesignated subsecs. (i) and (j) as subsecs. (j) and (k), respectively, and added a new subsec. (i).

group, or country supporting international terrorism as determined for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)).

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

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

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

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

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

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

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

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

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

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

**SEC. 36A.<sup>131</sup> AWARD OF THOMAS JEFFERSON STAR FOR FOREIGN SERVICE.**

(a) **AUTHORITY TO AWARD.**—The President, upon the recommendation of the Secretary, may award a Thomas Jefferson Star for Foreign Service<sup>132</sup> to any member of the Foreign Service or any other civilian employee of the Government of the United States who, while employed at, or assigned permanently or temporarily to, an official mission overseas or while traveling abroad on official business, incurred a wound or other injury or an illness (whether or not the wound, other injury, or illness resulted in death)—

(1) as the person was performing official duties;

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

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

(b) **SELECTION CRITERIA.**—The Secretary shall prescribe the procedures for identifying and considering persons eligible for award

<sup>131</sup> 22 U.S.C. 2708a. Sec. 321 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-436), added sec. 36A.

Sec. 311(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1377), struck out “**FOREIGN SERVICE STAR**” in the section catchline and inserted in lieu thereof “**THOMAS JEFFERSON STAR FOR FOREIGN SERVICE**”.

<sup>132</sup> Sec. 311(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1378), struck out “Foreign Service star” and inserted in lieu thereof “Thomas Jefferson Star for Foreign Service” throughout sec. 36A.

of a Thomas Jefferson Star for Foreign Service<sup>132</sup> and for selecting the persons to be recommended for the award.

(c) AWARD IN THE EVENT OF DEATH.—If a person selected for award of a Thomas Jefferson Star of Foreign Service<sup>132</sup> dies before being presented the award, the award may be made and the star presented to the person's family or to the person's representative, as designated by the President.

(d) FORM OF AWARD.—The Secretary shall prescribe the design of the Thomas Jefferson Star of Foreign Service.<sup>132</sup> The award may not include a stipend or any other cash payment.

(e) FUNDING.—Any expenses incurred in awarding a person a Thomas Jefferson Star of Foreign Service<sup>132</sup> may be paid out of appropriations available at the time of the award for personnel of the department or agency of the United States Government in which the person was employed when the person incurred the wound, injury, or illness upon which the award is based.

#### SPECIAL AGENTS

SEC. 37.<sup>133</sup> (a)<sup>134</sup> GENERAL AUTHORITY.—Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

- (1) conduct investigations concerning illegal passport or visa issuance or use;
- (2)<sup>135</sup> obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;
- (3) protect and perform protective functions directly related to maintaining the security and safety of—

<sup>133</sup> 22 U.S.C. 2709. Sec. 125(a) of Public Law 99-93 (99 Stat. 415) redesignated sec. 37 as sec. 38 and added a new sec. 37.

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

<sup>134</sup> Sec. 202(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1362), provided the following:

"(c) IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY.—(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities Act of 1956, as amended by subsection (a), may not be exercised until the date on which the Secretary—

"(A) submits the agreement required by subsection (b)(2) of section 37 of such Act to the appropriate congressional committees; and

"(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

"(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act, may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register."

<sup>135</sup> Sec. 202(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1362), amended and restated para. (2). It previously read, amended by Public Law 101-246, as follows:

"(2) For the purpose of conducting such investigation—

"(A) obtain and execute search and arrest warrants,

"(B) make arrests without warrant for any offense concerning passport or visa issuance or use of the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and

"(C) obtain and serve subpoenas and summonses issued under the authority of the United States;".

(A) heads of a foreign state, official representatives of a foreign government, and other distinguished visitors to the United States, while in the United States;

(B) the Secretary of State, Deputy Secretary of State, and official representatives of the United States Government, in the United States or abroad;

(C) members of the immediate family of persons described in subparagraph (A) or (B);<sup>136</sup>

(D) foreign missions (as defined in section 202(a)(4) of this Act) and international organizations (as defined in section 209(b) of this Act), within the United States;

(E)<sup>136</sup> a departing Secretary of State for a period of up to 180 days after the date of termination of that individual's incumbency as Secretary of State, on the basis of a threat assessment; and

(F)<sup>136</sup> an individual who has been designated by the President or President-elect<sup>137</sup> to serve as Secretary of State, prior to that individual's appointment.

(4) if designated by the Secretary and qualified, under regulations approved by the Attorney General, for the use of firearms, carry firearms for the purpose of performing the duties authorized by this section; and

(5)<sup>138</sup> make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(b)<sup>139</sup> AGREEMENTS WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY AND FIREARMS REGULATIONS.—

(1) AGREEMENT WITH ATTORNEY GENERAL.—The authority conferred by paragraphs (1) and (4) of subsection (a) shall be exercised subject to an agreement between the Secretary and the Attorney General.

<sup>136</sup>Sec. 406 of the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-97), as amended by Public Law 106-554, struck out "and" at the end of subpara. (C), and added new subparas. (E) and (F).

<sup>137</sup>Sec. 202(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1362), inserted "or President-elect" after "President".

<sup>138</sup>Sec. 202(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1362), amended and restated para. (5), which was previously amended and restated by Sec. 113(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), to read as follows:

"(5) arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028, of title 18, United States Code—

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

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

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

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

<sup>139</sup>Sec. 202(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1362), redesignated para. (2) as para. (3); struck out subsec. heading and para. (1) and inserted in lieu thereof the current subsec. heading and paras. (1) and (2). Text previously read as follows:

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

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

(2) AGREEMENT WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY.—The authority conferred by paragraphs (2) and (4) of subsection (a) shall be exercised subject to an agreement among the Secretary, the Attorney General, and the Secretary of the Treasury.

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

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

EXPENSES RELATING TO PARTICIPATION IN ARBITRATIONS OF CERTAIN DISPUTES

SEC. 38.<sup>140</sup> (a) INTERNATIONAL AGREEMENTS.—The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations and other proceedings for the peaceful resolution of disputes under treaties or other international agreements.

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

(c)<sup>141</sup> PROCUREMENT OF SERVICES.—The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure personal and<sup>142</sup> other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

(d)<sup>141</sup> INTERNATIONAL LITIGATION FUND.—

(1) ESTABLISHMENT.—In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or

<sup>140</sup> 22 U.S.C. 2710. Sec. 128 of Public Law 99-93 (99 Stat. 419) added sec. 38, comprised of subsecs. (a) and (b).

<sup>141</sup> Sec. 123 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), added subsecs. (c) and (d).

<sup>142</sup> Sec. 2212(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-812), inserted "personal and" before "other support services".



prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the "ILF"). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.

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

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

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

(e)<sup>143</sup> RETENTION OF FUNDS.—

(1) IN GENERAL.—To reimburse the expenses of the United States Government in preparing or prosecuting a proceeding before an international tribunal, or a claim against a foreign government or other foreign entity, the Secretary may retain 1.5 percent of any amount between \$100,000 and \$5,000,000, and one percent of any amount over \$5,000,000, received per claim under chapter 34 of the Act of February 27, 1896 (22 U.S.C. 2668a; 29 Stat. 32).

(2) TREATMENT.—Amounts retained under the authority of paragraph (1) shall be deposited into the fund under subsection (d).

#### COUNTERTERRORISM PROTECTION FUND

SEC. 39.<sup>144</sup> (a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

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

<sup>143</sup>Sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1362), added subsec. (e).

<sup>144</sup>22 U.S.C. 2711. Sec. 504(2) of Public Law 99-399 (100 Stat. 871) added sec. 39.

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

AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES

SEC. 40.<sup>145</sup> (a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provisions of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

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

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

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

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

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

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

(e) DEFINITIONS.—

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

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

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

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

(f) VIOLATIONS.—

<sup>145</sup> 22 U.S.C. 2712. Sec. 506(2) of Public Law 99-399 (100 Stat. 872) added sec. 40.

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

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

(g) CONGRESSIONAL OVERSIGHT.—

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

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

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

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

SEC. 41.<sup>146</sup> (a) IN GENERAL.—The Secretary of State shall administer the historic and artistic articles of furniture, fixtures, and decorative objects of the reception areas of the Department of State by such means and measures as conform to the purposes of the reception areas, which include conserving those articles, fixtures, and objects and providing for their enjoyment in such manner and by such means as will leave them for the use of the American people. Nothing shall be done under this subsection which conflicts with the administration of the Department of State or with the use of the reception areas for official purposes of the United States Government.

(b) DISPOSITION OF HISTORIC AND ARTISTIC ITEMS.—

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

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

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

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

<sup>146</sup> 22 U.S.C. 2713. Sec. 126(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1341), added sec. 41.

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

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

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

#### DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS

##### SEC. 42.<sup>147</sup> (a) INELIGIBILITY FOR PASSPORT.—

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

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

##### (b) DRUG LAW OFFENSES.—

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

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

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

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

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

<sup>147</sup> 22 U.S.C. 2714. Sec. 4603 of the International Narcotics Control Act of 1988 (Public Law 100-690; 102 Stat. 4287) added sec. 42.

(d) EMERGENCY AND HUMANITARIAN EXCEPTIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

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

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

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

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

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

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

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

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

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

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

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

PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD  
AFFECTING UNITED STATES CITIZENS

SEC. 43.<sup>148</sup> (a)<sup>149</sup> AUTHORITY.—In the case of a major disaster or incident abroad which affects the health and safety of citizens of the United States residing or traveling abroad, the Secretary of State shall provide prompt and thorough notification of all appropriate information concerning such disaster or incident and its effect on United States citizens to the next-of-kin of such individuals. Notification shall be provided through the most expeditious means available, including telephone communications, and shall include timely written notice. The Secretary, through the appropriate offices of the Department of State, shall act as a clearinghouse for up-to-date information for the next-of-kin and shall provide other services and assistance. Assistance shall include liaison with foreign governments and persons and with United State air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as disposition of personal estates pursuant to section 43B of this Act.<sup>150</sup>

(b)<sup>151</sup> DEFINITIONS.—For purposes of this section and sections 43A and 43B, the term “consular officer” includes any United States citizen employee of the Department of State who is designated by the Secretary of State to perform consular services pursuant to such regulations as the Secretary may prescribe.

**SEC. 43A.<sup>152</sup> NOTIFICATION OF NEXT OF KIN; REPORTS OF DEATH.**

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

<sup>148</sup> 22 U.S.C. 2715. Sec. 115(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 23), redesignated the previous sec. 43 as sec. 44, and added a new sec. 43. Sec. 115(d) also provided the following:

“(d) DEVELOPMENT OF STANDARDIZED PROCEDURES.—

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

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

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

<sup>149</sup> Sec. 235(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-429), inserted “(a) AUTHORITY.—” before “In”.

<sup>150</sup> Sec. 235(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-429), struck out “disposition of personal effects” and inserted in lieu thereof “disposition of personal estates pursuant to section 43B of this Act”.

<sup>151</sup> Sec. 235(3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-429), added subsec. (b).

<sup>152</sup> 22 U.S.C. 2715b. Sec. 234(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-426), added secs. 43A and 43B, effective six months after date of enactment.

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

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

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

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

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

**SEC. 43B.<sup>153</sup> CONSERVATION AND DISPOSITION OF ESTATES.**

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

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

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

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

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

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

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

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

<sup>153</sup> 22 U.S.C. 2715c. Added by sec. 234(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-426).

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

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

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

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

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

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

(B) permitted by established usage in that country.

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

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

(1) **PERSONAL ESTATES.**—

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



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

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

(2) REAL PROPERTY.—

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

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

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

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

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

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

(2) LIABILITY.—

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

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

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

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

#### DEBT COLLECTION

SEC. 44.<sup>154</sup> (a) CONTRACT AUTHORITY.—(1) Subject to the availability of appropriations, the Secretary of State shall enter into contracts for collection services to recover indebtedness owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 90 days.

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

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

#### DEFENSE TRADE CONTROLS REGISTRATION FEES<sup>155</sup>

SEC. 45.<sup>155</sup> For each fiscal year, 100 percent<sup>156</sup> of the registration fees collected by the Office of Defense Trade Controls<sup>157</sup> of the Department of State shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited

<sup>154</sup>22 U.S.C. 2716. Sec. 117 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 25), redesignated sec. 44 as sec. 45 and added a new sec. 44.

<sup>155</sup>22 U.S.C. 2717. Sec. 118 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 25), redesignated sec. 45 as sec. 46, and added a new sec. 45.

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

<sup>156</sup>Sec. 1513(b)(1)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2174) struck out "\$700,000" and inserted in lieu thereof "100 percent". Previously, sec. 126(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), struck out "\$500,000" and inserted in lieu thereof "\$700,000".

<sup>157</sup>Sec. 126(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), further amended this section: by striking out "Munitions Control" and inserting in lieu thereof "Defense Trade Controls" throughout subsec. (a); and by striking "munitions control" and inserting in lieu thereof "defense trade controls" in each place it appeared in subsec. (a).

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

(1) contract personnel to assist in the evaluation of defense trade controls<sup>157</sup> license applications, reduction in processing time for license applications, and improved monitoring of compliance with the terms of licenses;<sup>158</sup>

(2) the automation of defense trade control<sup>157</sup> functions and the processing of defense trade control<sup>157</sup> license applications, including the development, procurement, and utilization of computer equipment and related software; and<sup>158</sup>

(3)<sup>158</sup> the enhancement of defense trade export compliance and enforcement activities, including compliance audits of United States and foreign parties, the conduct of administrative proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls.

#### FEES RECEIVED FOR USE OF BLAIR HOUSE

SEC. 46.<sup>159</sup> (a) USE OF FEES.—Notwithstanding any other provision of law,<sup>160</sup> funds received by the Department of State in connection with the use of Blair House (including reimbursements and surcharges for services and goods provided and fees for use of Blair House facilities) may be credited to the appropriate appropriation account of the Department of State which is currently available. Such funds shall be available only for maintenance and other expenses of Blair House.

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

#### GRANTS FOR TRAINING AND EDUCATION IN INTERNATIONAL AFFAIRS

SEC. 47.<sup>161</sup> The Secretary of State may make grants to postsecondary educational institutions or students for the purpose of increasing the level of knowledge and awareness of and interest in employment with the Foreign Service, consistent with section 105 of the Foreign Service Act of 1980. To the extent possible, the Secretary shall give special emphasis to promoting such knowledge and awareness of, and interest in employment with, the Foreign Service among minority students. Any grants awarded shall be made pursuant to regulations to be established by the Secretary of

<sup>158</sup>Sec. 2203 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-808), amended sec. 45(a), understood here to apply to sec. 45, as follows: struck out “and” at the end of para. (1); replaced a period at the end of para. (2) with “; and”; and added a new para. (3).

<sup>159</sup>22 U.S.C. 2718. Sec. 119 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 26), redesignated sec. 46 as sec. 47 and added a new sec. 46.

<sup>160</sup>Sec. 123 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), struck out “for the fiscal years 1990 and 1991.”

<sup>161</sup>22 U.S.C. 2719. Sec. 150 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 42), redesignated sec. 47 as sec. 48 and added a new sec. 47.

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

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

#### CLOSING OF CONSULAR AND DIPLOMATIC POSTS ABROAD

SEC. 48.<sup>162</sup> (a) PROHIBITED USES OF FUNDS.—Except as provided under subsection (d) or in accordance with the procedures under subsections (b) and (c) of this section—

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

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

(b) POST CLOSING NOTIFICATION.—Not less than 45 days before the closing of any United States consular or diplomatic post abroad, the Secretary of State shall notify the Committee on Foreign Affairs<sup>163</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

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

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

<sup>162</sup> 22 U.S.C. 2651 note. A short title was originally added as sec. 33 by sec. 2201 of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2157). Subsequently, sec. 117 of Public Law 97-241 (96 Stat. 279), sec. 124 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1025), and sec. 102 of Public Law 98-533 (98 Stat. 2708) redesignated it as secs. 34, 36, and 37, respectively. Sec. 125(a) of Public Law 99-93 (99 Stat. 415) redesignated this section as sec. 38, and sec. 128 of the same law again redesignated it as sec. 39. Sec. 504(1) of Public Law 99-399 redesignated it as sec. 41 and sec. 126 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1341), redesignated it as sec. 42. Sec. 4603 of the International Narcotics Control Act of 1988 (Public Law 100-690; 102 Stat. 4287) redesignated it as sec. 43 and inserted a new sec. 42. Sec. 115(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), redesignated it as sec. 44 and added a new sec. 43. Sec. 117 of that Act further redesignated sec. 44 as sec. 45, and added a new sec. 44. Sec. 118 of that Act further redesignated sec. 45 as sec. 46, and added a new sec. 45. Sec. 119 of that Act further redesignated sec. 46 as sec. 47, and added a new sec. 46. Sec. 150 of that Act further redesignated sec. 47 as sec. 48, and added a new sec. 47.

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

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

<sup>163</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

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

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

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

#### IMPERMISSIBLE BASIS FOR DENIAL OF PASSPORTS

SEC. 49.<sup>164</sup> A passport may not be denied issuance, revoked, restricted, or otherwise limited because of any speech, activity, belief, affiliation, or membership, within or outside the United States, which, if held or conducted within the United States, would be protected by the first amendment to the Constitution of the United States.

#### INTERNATIONAL MEETINGS

SEC. 50.<sup>165</sup> (a) AUTHORITY TO PAY EXPENSES.—If the United States Government hosts an international meeting or conference in the United States, the Secretary of State is authorized to pay all reasonable expenses of such meeting or conference. Such expenses may include rental of quarters (by contract or otherwise) and personal services.

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

#### DENIAL OF VISAS<sup>166</sup>

SEC. 51.<sup>166</sup> (a) REPORT TO CONGRESS.—(1)<sup>167</sup> DENIAL OF VISAS.—The Secretary shall report, on a timely basis, to the appropriate committees of the Congress each time a consular post denies a visa on the grounds of terrorist activities or foreign policy. Such report

<sup>164</sup> 22 U.S.C. 2721. Sec. 113 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), added sec. 49.

<sup>165</sup> 22 U.S.C. 2722. Sec. 119 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 658), added sec. 50.

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

<sup>166</sup> 22 U.S.C. 2723. Sec. 127(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 660), added sec. 51. See also sec. 128 of that Act, relating to visa lookout systems.

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

<sup>167</sup> Sec. 231 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1372), added para. designation “(1)”, the para. heading “DENIAL OF VISAS.—”, and para. (2).

shall set forth the name and nationality of each such person and a factual statement of the basis for such denial.

(2)<sup>167</sup> VISA ISSUANCE TO INADMISSIBLE ALIENS.—The Secretary shall, on a semiannual basis, submit to the appropriate committees of the Congress a report describing every instance during the period covered by the report in which a consular post or the Visa Office of the Department of State issued an immigrant or non-immigrant visa to an alien who is inadmissible to the United States based upon terrorist activity or failed to object to the issuance of an immigrant or nonimmigrant visa to an alien notwithstanding any such ground of inadmissibility. The report shall set forth the name and nationality of the alien, the issuing post, and a brief factual statement of the basis for issuance of the visa or the failure to object. The report may be submitted in classified or unclassified form.

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

(c) APPROPRIATE COMMITTEES.—For the purposes of this section the term “appropriate committees of the Congress” means the Committee on the Judiciary and the Committee on Foreign Affairs<sup>168</sup> of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

**SEC. 52.<sup>169</sup> FEES FOR COMMERCIAL SERVICES.**

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

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

(b) USE OF FEES.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing commercial services. Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited.<sup>170</sup>

<sup>168</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>169</sup>22 U.S.C. 2724. Sec. 136 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 396), added sec. 52. The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

<sup>170</sup>Sec. 2204 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-808), added this sentence.

**SEC. 53.<sup>171</sup> FEES FOR USE OF THE GEORGE P. SHULTZ NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**

The Secretary is authorized to charge a fee for use of the George P. Shultz<sup>172</sup> National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.

**SEC. 54.<sup>173</sup> FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

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

**SEC. 55.<sup>174</sup> ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

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

**SEC. 56.<sup>175</sup> CRIMES COMMITTED BY DIPLOMATS.**

(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—

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

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

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

<sup>171</sup> 22 U.S.C. 2725. Sec. 2205(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-809), added sec. 53. Sec. 2205(c) of that Act, which required the Secretary of State to report on the pilot program under this section, was repealed by sec. 318(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1380).

Sec. 2(a)(1) of Public Law 107-132 (115 Stat. 2412) inserted “GEORGE P. SHULTZ” after “THE” in the section catchline.

<sup>172</sup> Sec. 2(a)(2) of Public Law 107-132 (115 Stat. 2412) inserted “George P. Shultz” after “use of the”.

<sup>173</sup> 22 U.S.C. 2726. Sec. 2206 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810), added sec. 54.

<sup>174</sup> 22 U.S.C. 2727. Sec. 2207 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810), added sec. 55.

<sup>175</sup> 22 U.S.C. 2728. Sec. 2217 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-815), added sec. 56.

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

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

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

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

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

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

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

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

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

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

(ii) reckless driving; or

(iii) driving while intoxicated.

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

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

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



the sending state will waive such immunity or the sending state will prosecute such individual.

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

**SEC. 57.<sup>176</sup> STATE DEPARTMENT RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NONNATURAL CAUSES.**

(a) COLLECTION OF INFORMATION.—The Secretary shall, to the maximum extent practicable, collect, with respect to each foreign country, the following information with respect to each United States citizen who dies in that country from a nonnatural cause on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Year 2003:

(1) The date of death.

(2) The locality where the death occurred (including the state or province and municipality, if available).

(3) The cause of death, including information on the circumstances of the death, and including, if the death resulted from an act of terrorism, a statement disclosing that information.

(4) Such other information as the Secretary shall prescribe.

(b) DATABASE.—The Secretary shall establish and maintain a database containing the information collected under subsection (a).

(c) PUBLIC AVAILABILITY OF INFORMATION.—Beginning three months after the date of enactment of the Foreign Relations Authorization Act, Fiscal Year 2003, the Secretary, shall make available, on a country-by-country basis, on the Internet website of the Department's Bureau of Consular Affairs, the information from the database described in subsection (b) with respect to deaths occurring since the date of enactment of that Act, or occurring during the preceding three calendar years, whichever period is shorter. The information shall be updated at least every six months.

**SEC. 58.<sup>177</sup> PROHIBITION ON FUNDING THE INVOLUNTARY RETURN OF REFUGEES.**

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), none of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)), may be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) EXCEPTION.—The prohibition in paragraph (1) does not apply to the return of any person on grounds recognized as precluding protection as a refugee under the United Nations

<sup>176</sup> 22 U.S.C. 2729. Sec. 204 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1363), added sec. 57.

<sup>177</sup> 22 U.S.C. 2730. Sec. 241 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1373), added sec. 58.

Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate resolution of advice and consent to ratification of the Protocol.

(b) CONGRESSIONAL NOTIFICATION REQUIRED IN ALL CASES.—None of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)), may be available to effect the involuntary return by the United States of any person to any country unless the Secretary first notifies the appropriate congressional committees, except that, in the case of an emergency involving a threat to human life, the Secretary shall notify the appropriate congressional committees as soon as practicable.

(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting activities of the Department of State that relate to removal proceedings under the Immigration and Nationality Act or extradition.

(d) DEFINITIONS.—In this section:

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

(2) TO EFFECT THE INVOLUNTARY RETURN.—The term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

#### SEC. 59.<sup>178</sup> MONITORING AND COMBATING ANTI-SEMITISM.

(a) OFFICE TO MONITOR AND COMBAT ANTI-SEMITISM.—

(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish within the Department of State an Office to Monitor and Combat anti-Semitism (in this section referred to as the ‘Office’).

(2) HEAD OF OFFICE.—

(A) SPECIAL ENVOY FOR MONITORING AND COMBATING ANTI-SEMITISM.—The head of the Office shall be the Special Envoy for Monitoring and Combating anti-Semitism (in this section referred to as the “Special Envoy”).

(B) APPOINTMENT OF HEAD OF OFFICE.—The Secretary shall appoint the Special Envoy. If the Secretary determines that such is appropriate, the Secretary may appoint the Special Envoy from among officers and employees of the Department. The Secretary may allow such officer or employee to retain the position (and the responsibilities associated with such position) held by such officer or employee prior to the appointment of such officer or employee to the position of Special Envoy under this paragraph.

<sup>178</sup> 22 U.S.C. 2731. Sec. 5 of the Global Anti-Semitism Review Act of 2004 (Public Law 108-332; 118 Stat. 1284) added sec. 59.

(b) **PURPOSE OF OFFICE.**—Upon establishment, the Office shall assume the primary responsibility for—

(1) monitoring and combating acts of anti-Semitism and anti-Semitic incitement that occur in foreign countries;

(2) coordinating and assisting in the preparation of that portion of the report required by sections 116(d)(7) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)(7) and 2304(b)) relating to an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement for inclusion in the annual Country Reports on Human Rights Practices; and

(3) coordinating and assisting in the preparation of that portion of the report required by section 102(b)(1)(A)(iv) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(A)(iv)) relating to an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement for inclusion in the Annual Report on International Religious Freedom.

(c) **CONSULTATIONS.**—The Special Envoy shall consult with domestic and international nongovernmental organizations and multilateral organizations and institutions, as the Special Envoy considers appropriate to fulfill the purposes of this section.

**SEC. 60.<sup>179</sup> PUBLIC DIPLOMACY RESPONSIBILITIES OF THE DEPARTMENT OF STATE.**

(a) **INTEGRAL COMPONENT.**—The Secretary of State shall make public diplomacy an integral component in the planning and execution of United States foreign policy.

(b) **COORDINATION AND DEVELOPMENT OF STRATEGY.**—The Secretary shall make every effort to—

(1) coordinate, subject to the direction of the President, the public diplomacy activities of Federal agencies; and

(2) coordinate with the Broadcasting Board of Governors to—  
(A) develop a comprehensive and coherent strategy for the use of public diplomacy resources; and

(B) develop and articulate long-term measurable objectives for United States public diplomacy.

(c) **OBJECTIVES.**—The strategy developed pursuant to subsection (b) shall include public diplomacy efforts targeting developed and developing countries and select and general audiences, using appropriate media to properly explain the foreign policy of the United States to the governments and populations of such countries, with the objectives of increasing support for United States policies and providing news and information. The Secretary shall, through the most effective mechanisms, counter misinformation and propaganda concerning the United States. The Secretary shall continue to articulate the importance of freedom, democracy, and human rights as fundamental principles underlying United States foreign policy goals.

<sup>179</sup> 22 U.S.C. 2732. Sec. 7109(a) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108-458; 118 Stat. 3792) added sec. 60.

(d) IDENTIFICATION OF UNITED STATES FOREIGN ASSISTANCE.—In cooperation with the United States Agency for International Development (USAID) and other public and private assistance organizations and agencies, the Secretary should ensure that information relating to foreign assistance provided by the United States, non-governmental organizations, and private entities of the United States is disseminated widely, and particularly, to the extent practicable, within countries and regions that receive such assistance. The Secretary should ensure that, to the extent practicable, projects funded by USAID not involving commodities, including projects implemented by private voluntary organizations, are identified as provided by the people of the United States.

## TITLE II—AUTHORITIES RELATING TO THE REGULATION OF FOREIGN MISSIONS<sup>180</sup>

### DECLARATION OF FINDINGS AND POLICY

SEC. 201.<sup>181</sup> (a) The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

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

(c) The treatment to be accorded to a foreign mission in the United States shall be determined by the Secretary after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission as well as matters relating to the protection of the interests of the United States.<sup>182</sup>

### DEFINITIONS

SEC. 202.<sup>183</sup> (a)<sup>184</sup> For purposes of this title—

<sup>180</sup> Popularly referred to as the “Foreign Missions Act”. Title II was added by sec. 202(b) of Public Law 97-241 (96 Stat. 283).

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

<sup>181</sup> 22 U.S.C. 4301. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 201.

<sup>182</sup> Sec. 127(a) of Public Law 99-93 (99 Stat. 418) inserted “as well as matters relating to the protection of the interests of the United States”.

<sup>183</sup> 22 U.S.C. 4302.

<sup>184</sup> Sec. 162(o)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out para. (3) under this subsec., which had defined “Director” to mean “the Director of the Office of Foreign Missions established pursuant to section 203(a)”; and redesignated paras. (4) through (8) as paras. (3) through (7).

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

(A) real property by purchase, lease, exchange, construction, or otherwise,

(B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,

(C) supplies, maintenance, and transportation,

(D) locally engaged staff on a temporary or regular basis,

(E) travel and related services,

(F) protective services, and

(G)<sup>185</sup> financial and currency exchange services,

and includes such other benefits as the Secretary may designate;

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

(3)<sup>186</sup> “foreign mission” means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—

(A) a foreign government, or

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

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

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

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

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

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

<sup>185</sup>Sec. 153(e) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1353), added subpara. (G).

<sup>186</sup>Para. (3) was substantively amended and restated by sec. 701 of Public Law 99-569 (100 Stat. 3190); and was previously amended by sec. 127(b) of Public Law 99-93 (99 Stat. 418).

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

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

#### AUTHORITIES OF THE SECRETARY OF STATE

SEC. 203.<sup>187</sup> The Secretary shall carry out the following functions:

- (1) Assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled.
- (2) Provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204.
- (3) As determined by the Secretary, dispose of property acquired in carrying out the purposes of this Act.
- (4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this Act. If such an office is established, the President may appoint, by and with the advice and consent of the Senate, a Director, with the rank of ambassador. Of the Director and the next most senior person in the office, one should be an individual who has served in the Foreign Service and the other should be an individual who has served in the United States intelligence community.
- (5) Perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.

#### PROVISION OF BENEFITS

SEC. 204.<sup>188</sup> (a) Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Secretary<sup>189</sup> on such terms and conditions as the Secretary may approve.

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

- (1) to facilitate relations between the United States and a sending State,
- (2) to protect the interests of the United States,
- (3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad,<sup>190</sup>
- (4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State, or<sup>190</sup>
- (5)<sup>190</sup> subject to subsection (f), to implement an exchange of property between the Government of the United States and the government of a foreign country, such property to be used by

<sup>187</sup> 22 U.S.C. 4303. Sec. 203, originally providing for the establishment of the Office of Foreign Missions, was amended and restated by sec. 162(o)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409).

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

<sup>188</sup> 22 U.S.C. 4304. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 204.

<sup>189</sup> Sec. 162(o)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director" throughout subsecs. (a) through (c) of sec. 204, and inserted in lieu thereof "Secretary".

<sup>190</sup> Sec. 116(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 24), struck out "or" at the end of para. (3); inserted "or" at the end of para. (4); and added a new para. (5).

each government in the respective receiving state for, or in connection with, diplomatic or consular establishments, then the Secretary may require a foreign mission (A) to obtain benefits from or through the Secretary<sup>189</sup> on such terms and conditions as the Secretary may approve, or (B) to forego the acceptance, use, or relations of any benefit or<sup>191</sup> to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement, the acquisition, retention, or use of any real property, or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

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

(1) a requirement to pay to the Secretary<sup>189</sup> a surcharge or fee, and

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

(d) For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate any<sup>192</sup> officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

(e) Nothing in this title<sup>193</sup> shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3, United States Code, or section 3056 of title 18, United States Code, at a level commensurate with protective requirements as determined by the United States Secret Service.

(f)<sup>194</sup> Upon a determination in each specific case by the Secretary of State or the Secretary's designee that the purpose of the Foreign Service Buildings Act, 1926, can best be met on the basis of an in-kind exchange of properties with a foreign country pursuant to subsection (b)(5), the Secretary of State may transfer funds made available under the heading "Acquisition and Maintenance of Buildings Abroad" (including funds held in the Foreign Service Buildings Fund) for such purpose to the Working Capital Fund, as provided in section 208(h)(1). Except for funds that may be provided by a foreign government for the purchase of property, only

<sup>191</sup> Sec. 127(c) of Public Law 99-93 (99 Stat. 418) inserted "to forego the acceptance, use, or relations of any benefit or" after "(B)".

<sup>192</sup> Sec. 162(o)(3)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), as amended, struck out "the Director or any other" and inserted in lieu thereof "any".

<sup>193</sup> Sec. 126(b) of Public Law 99-93 (99 Stat. 418) inserted "title" in lieu of "section".

<sup>194</sup> Sec. 116(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 24), added subsec. (f).

funds transferred under the preceding sentence may be used for the purposes of subsection (b)(5).

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

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

(4) At least 15 days before entering into any reciprocal agreement for the exchange of property with another foreign government, the Secretary of State shall notify the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives<sup>195</sup> and the Committee on Foreign Relations of the Senate.

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

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

#### ENFORCEMENT OF COMPLIANCE WITH LIABILITY INSURANCE REQUIREMENTS

SEC. 204A.<sup>196</sup> (a)(1) The head of a foreign mission shall notify promptly the Secretary<sup>197</sup> of the lapse or termination of any liability insurance coverage held by a member of the mission, by a member of the family of such member, or by an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946.

(2) Not later than February 1 of each year, the head of each foreign mission shall prepare and transmit to the Secretary<sup>197</sup> a report including a list of motor vehicles, vessels, and aircraft registered in the United States by members of the mission, members of the families of such members, individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, and by the mission itself. Such list shall set forth for each such motor vehicle, vessel, or aircraft—

- (A) the jurisdiction in which it is registered;
- (B) the name of insured;
- (C) the name of the insurance company;

<sup>195</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(9) of that Act provided that references to the Committee on Public Works and Transportation shall be treated as referring to the Committee on Transportation and Infrastructure.

<sup>196</sup> 22 U.S.C. 4304a. Sec. 603 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1043), added sec. 204A. See also sec. 6 of the Diplomatic Relations Act for additional text concerning requirements for liability insurance.

<sup>197</sup> Sec. 162(o)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director" at each place it appeared in sec. 204A, and inserted in lieu thereof "Secretary".



(D) the insurance policy number and the extent of insurance coverage; and

(E) such other information as the Secretary<sup>197</sup> may prescribe.

(b) Whenever the Secretary<sup>197</sup> finds that a member of a foreign mission, a member of the family of such member, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946—

(1) is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States,

(2) is not covered by liability insurance, and

(3) has not satisfied a court-rendered judgment against him or is not legally liable,

the Secretary<sup>197</sup> shall impose a surcharge or fee on the foreign mission of which such member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment an estimated amount of damages incurred by the victim. The payment of any such surcharge or fee shall be available only for compensation of the victim or his estate.

(c) For purposes of this section—

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

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

#### SEC. 204B.<sup>198</sup> CRIMES COMMITTED BY DIPLOMATS.

(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—

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

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

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

(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before

<sup>198</sup> 22 U.S.C. 4304b. Sec. 1 of Public Law 105-375 (112 Stat. 3385) added sec. 204B.

the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

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

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

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

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

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

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

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

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

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

(ii) reckless driving; or

(iii) driving while intoxicated.

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

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

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

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

## PROPERTY OF FOREIGN MISSIONS

SEC. 205.<sup>199</sup> (a)(1) The Secretary shall require any foreign mission, including any mission to an international organization (as defined in section 209(b)(2)), to notify the Secretary<sup>200</sup> prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. The foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

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

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

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

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

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

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

(3)<sup>201</sup> where otherwise necessary to protect the interests of the United States.

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

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

(2) may<sup>202</sup> dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending State the net proceeds from such disposition.

<sup>199</sup> 22 U.S.C. 4305. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 205. Subsequently, sec. 127(e) of Public Law 99-93 (99 Stat. 418) amended sec. 205(a)(1) by: in the first sentence, striking out “may” and inserting in lieu thereof “shall”; in the first sentence, inserting “, including any mission to an international organization (as defined in section 209(b)(2)),” after “foreign mission”; and in the second sentence, by striking out “If such a notification is required, the” and inserting in lieu thereof “The”.

<sup>200</sup> Sec. 162(o)(5)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out “Director” and inserted in lieu thereof “Secretary”.

<sup>201</sup> Sec. 127(d)(3) of Public Law 99-93 (99 Stat. 418) added para. (3).

<sup>202</sup> Sec. 162(o)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out “authorize the Director to” after “may”.

(d)<sup>203</sup> (1) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

(2) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

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

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

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

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

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

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

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

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

#### LOCATION OF FOREIGN MISSIONS IN THE DISTRICT OF COLUMBIA

SEC. 206.<sup>204</sup> (a) The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

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

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

<sup>203</sup> Subsec. (d) was added by sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1356).

<sup>204</sup> 22 U.S.C. 4306. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 206.

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

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

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

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

(c)(1) If a foreign mission wishes to locate a chancery in an area described in subsection (b)(2), or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

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

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

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

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

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

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

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

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

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

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

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

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

(g) The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

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

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

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

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

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

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

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

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

## PREEMPTION

SEC. 207.<sup>205</sup> Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this title. Nothing in section 202, 203, 204, or 205 may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

## GENERAL PROVISIONS

SEC. 208.<sup>206</sup> (a) The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this title.

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

(c) For purposes of administering this title—

(1) the Secretary may accept details and assignments of employees of Federal agencies to the Department of State<sup>207</sup> on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and

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

(d) Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Secretary<sup>208</sup> shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or

<sup>205</sup> 22 U.S.C. 4307. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 207.

<sup>206</sup> 22 U.S.C. 4308. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 208.

<sup>207</sup> Sec. 162(o)(6)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Office of Foreign Missions" and inserted in lieu thereof "Department of State" at each place it appeared in subsecs. (c), (e), and (f) of sec. 208.

<sup>208</sup> Sec. 162(o)(6)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out "Director" and inserted in lieu thereof "Secretary".

procurement of services does not exceed \$10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this title.

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

(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Department of State<sup>207</sup> (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

(2) acquire and accept services from the Department of State,<sup>207</sup> including (whenever the Secretary determines it to be in furtherance of the purposes of this title) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

(f) Assets of or under the control of the Department of State,<sup>207</sup> wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

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

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

(2) All revenues, including proceeds from gifts and donations, received by the<sup>209</sup> Secretary in carrying out this title may be credited to the working capital fund established by section 13 of this Act and shall be available for purposes of this title in accordance with that section.

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

#### APPLICATION TO PUBLIC INTERNATIONAL ORGANIZATIONS AND OFFICIAL MISSIONS TO SUCH ORGANIZATIONS

SEC. 209.<sup>210</sup> (a) The Secretary may make section 206, or any other provision of this title, applicable with respect to an international organization to the same extent that it is applicable with respect to a foreign mission if the Secretary determines that such application is necessary to carry out the policy set forth in section 201(b) and to further the objectives set forth in section 204(b).

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

<sup>209</sup>Sec. 162(o)(6)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out “Director or the” at this point.

<sup>210</sup>22 U.S.C. 4309. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 209.



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

UNITED STATES RESPONSIBILITIES FOR EMPLOYEES OF THE UNITED  
NATIONS

SEC. 209A.<sup>211</sup> (a) FINDINGS.—The Congress finds that—

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

(A) the obligation to permit and to facilitate the right of individuals, who are employed by or are authorized by the United Nations to conduct official business in connection with that organization or its agencies, to enter into and exit from the United States for purposes of conducting official activities within the United Nations Headquarters District, subject to regulation as to points of entry and departure; and

(B) the implied obligation to permit and to facilitate the acquisition of facilities in order to conduct such activities within or in proximity to the United Nations Headquarters District, subject to reasonable regulation including regulation of the location and size of such facilities; and

- (2) taking into account paragraph (1) and consistent with the obligation of the United States to facilitate the functioning of the United Nations, the United States has no additional obligation to permit the conduct of any other activities, including nonofficial activities, by such individuals outside of the United Nations Headquarters District.

(b)<sup>212</sup> ACTIVITIES OF UNITED NATIONS EMPLOYEES.—(1) The conduct of any activities, or the acquisition of any benefits (as defined in section 201(a)(1) of this title), outside the United Nations Headquarters District by any individual employed by, or authorized by the United Nations to conduct official business in connection with that organization or its agencies, or by any person or agency acting

<sup>211</sup> 22 U.S.C. 4309a. Sec. 141 of Public Law 99-93 (99 Stat. 423) added sec. 209A.

<sup>212</sup> Sec. 139(26) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 399), repealed para. (2) of subsec. (b). It had provided:

“(2) The Secretary shall apply to those employees of the United Nations Secretariat who are nationals of a foreign country or members of a foreign mission all terms, limitations, restrictions, and conditions which are applicable pursuant to this title to the members of that country’s mission or of any other mission to the United Nations unless the Secretary determines and reports to the Congress that national security and foreign policy circumstances require that this paragraph be waived in specific circumstances.”

on behalf thereof, may be permitted or denied or subject to reasonable regulation, as determined to be in the best interest of the United States and pursuant to this title.

(c) REPORTS.—The Secretary shall report to the Congress—

(1) not later than 30 days after the date of the enactment of this section, on the plans of the Secretary for implementing this section; and

(2) not later than 6 months thereafter, on the actions taken pursuant to those plans.

(d) UNITED STATES NATIONALS.—This section shall not apply with respect to any United States national.

(e) DEFINITIONS.—For purposes of this section, the term “United Nations Headquarters District” means the area within the United States which is agreed to by the United Nations and the United States to constitute such a district, together with such other areas as the Secretary of State may approve from time to time in order to permit effective functioning of the United Nations or missions to the United Nations.

#### PRIVILEGES AND IMMUNITIES

SEC. 210.<sup>213</sup> Nothing in this title shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this title shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

#### ENFORCEMENT

SEC. 211.<sup>214</sup> (a) It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this title. The United States, acting on its own behalf or on behalf of a foreign mission, has standing to bring or intervene in an action to obtain compliance with this title, including any action for injunctive or other equitable relief.

(b) Upon the request of any Federal agency, any State or local government agency, or any business or other person that proposes to enter into a contract or other transaction with a foreign mission, the Secretary shall advise whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this title.

#### PRESIDENTIAL GUIDELINES

SEC. 212.<sup>215</sup> The authorities granted to the Secretary pursuant to the provisions of this title shall be exercised in accordance with procedures and guidelines approved by the President.

<sup>213</sup> 22 U.S.C. 4310. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 210.

<sup>214</sup> 22 U.S.C. 4311. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 211.

<sup>215</sup> 22 U.S.C. 4312. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 212.

## SEVERABILITY

SEC. 213.<sup>216</sup> If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to any other person or circumstance shall not be affected thereby.

## EXTRAORDINARY PROTECTIVE SERVICES

SEC. 214.<sup>217</sup> (a) GENERAL AUTHORITY.—The Secretary may provide extraordinary protective services for foreign missions directly, by contract, or through State or local authority to the extent deemed necessary by the Secretary in carrying out this title, except that the Secretary may not provide under this section any protective services for which authority exists to provide such services under sections 202(7) and 208 of title 3, United States Code.

(b) REQUIREMENT OF EXTRAORDINARY CIRCUMSTANCES.—The Secretary may provide funds to a State or local authority for protective services under this section only if the Secretary has determined that a threat of violence, or other circumstances, exists which requires extraordinary security measures which exceed those which local law enforcement agencies can reasonably be expected to take.

(d) RESTRICTIONS ON USE OF FUNDS.—Of the funds made available for obligation under this section in any fiscal year—

(1) not more than 20 percent may be obligated for protective services within any single State during that year; and

(2) not less than 15 percent shall be retained as a reserve for protective services provided directly by the Secretary or for expenditures in local jurisdictions not otherwise covered by an agreement for protective services under this section.

The limitations on funds available for obligation in this subsection shall not apply to unobligated funds during the final quarter of any fiscal year.

(e) PERIOD OF AGREEMENT WITH STATE OR LOCAL AUTHORITY.—Any agreement with a State or local authority for the provision of protective services under this section shall be for a period of not to exceed 90 days in any calendar year, but such agreements may be renewed after review by the Secretary.

(f) REQUIREMENT FOR APPROPRIATIONS.—Contracts may be entered into in carrying out this section only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) WORKING CAPITAL FUND.—Amounts used to carry out this section shall not be subject to section 208(h).

<sup>216</sup> 22 U.S.C. 4313. Sec. 202(b) of Public Law 97-241 (96 Stat. 283) added sec. 213.

<sup>217</sup> 22 U.S.C. 4314. Sec. 214 was added by sec. 126(a) of Public Law 99-93 (99 Stat. 417).

The Secretary of State delegated functions authorized under this section to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

Sec. 139(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), repealed subsec. (c) of this section, which had provided:

“(c) CONSULTATION WITH CONGRESS BEFORE OBLIGATION OF FUNDS.—Funds may be obligated under this section only after regulations to implement this section have been issued by the Secretary after consultation with appropriate committees of the Congress.”

USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS  
STATUS AS A FOREIGN MISSION

SEC. 215.<sup>218</sup> (a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

(b) TEMPORARY LODGING.—For the purposes of this section, the term “residence” does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs<sup>219</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

(e) DEFINITIONS.—For the purposes of this section—

(1) the term “foreign mission” includes any international organization as defined in section 209(b); and

(2) the term “unaffiliated alien” means, with respect to a foreign country, an alien who—

(A) is admitted to the United States as a nonimmigrant, and

(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.

APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN  
COUNTRIES AND ORGANIZATIONS

SEC. 216.<sup>220</sup> (a) REQUIREMENT FOR RESTRICTIONS.—The Secretary shall apply the same generally applicable restrictions to the travel

<sup>218</sup> 22 U.S.C. 4315. Sec. 128(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1343), added sec. 215. Sec. 128(b) of that Act established the effective date of sec. 215 as follows:

“(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

“(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

“(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).”.

<sup>219</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>220</sup> 22 U.S.C. 4316. Sec. 162(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1357), added sec. 216. Sec. 162(b) of that Act made subsec. (a) of sec. 216 effective 90 days after enactment.

Sec. 139(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), repealed subsec. (d) of this section, which had provided:

while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

(b) INDIVIDUALS SUBJECT TO RESTRICTIONS.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

(c) WAIVERS.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

(e)<sup>220</sup> DEFINITIONS.—For purposes of this section—

(1) the term “generally applicable restrictions” means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.<sup>221</sup>

(2) the term “international organization” means an organization described in section 209(b)(1); and

(3) the term “personnel” includes—

(A) officers, employees, and any other staff member, and

“(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.”

Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

\* \* \*

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

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2005*, vol. I-B.

<sup>221</sup>As enrolled. Should end with a semicolon.

(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.

TITLE III—DISPOSITION OF PERSONAL PROPERTY  
ABROAD<sup>222</sup>

DEFINITIONS

SEC. 301.<sup>223</sup> For purposes of this title, the following terms have the following meanings:

(1) The term “employee” means an individual who is under the jurisdiction of a chief of mission to a foreign country (as provided under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) and who is—

(A) an employee as defined by section 2105 of title 5, United States Code;

(B) an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(C) a member of a uniformed service who is not under the command of an area military commander; or

(D) an expert or consultant as authorized pursuant to section 3109 of title 5, United States Code, with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

(2) The term “contractor” means—

(A) an individual employed by personal services contract pursuant to section 2(c) of this Act (22 U.S.C. 2669(c)), section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3)), or pursuant to other similar authority, including, in the case of an organization performing services under such authority, an individual involved in the performance of such services; and

(B) such other individuals or firms providing goods or services by contract as are designated by regulations issued pursuant to section 303;

but does not include a contractor with or under the supervision of an area military commander.

(3) The term “charitable contribution” means a contribution or gift as defined in section 170(c) of the Internal Revenue Code of 1986, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to regulations or policies issued pursuant to section 303.

(4) The term “chief of mission” has the meaning given such term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 2902(3)).

(5) The term “foreign country” means any country or territory, excluding the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa,

<sup>222</sup> Sec. 186(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366), added title III.

<sup>223</sup> 22 U.S.C. 4341. Sec. 186(b) of Public Law 100-204 (101 Stat. 1366) made this section effective 180 days after enactment.

Guam, the Virgin Islands, and other territories or possessions of the United States.

(6) The term “personal property” means any item of personal property, including automobiles, computers, boats, audio and video equipment, and any other items acquired for personal use, but excluding items of minimal value as determined by regulation or policy issued pursuant to section 303.

(7) The term “profit” means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition, or assignment of personal property in excess of the basis for such property. For purposes of this title, basis shall include initial price, inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insurance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use, or maintenance and related costs. For purposes of computing profit, proceeds and costs shall be valued in United States dollars at the time of receipt or payment, at a rate of exchange as determined by regulation or policy issued pursuant to section 303.

#### LIMITATIONS ON DISPOSITION OF PERSONAL PROPERTY

SEC. 302.<sup>224</sup> (a) GENERAL RULE.—Except as authorized under subsection (b), employees or members of their family shall not sell, assign, or otherwise dispose of personal property within a foreign country which was imported into or purchased within that foreign country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties, or taxes which would otherwise apply.

(b) APPROVAL BY CHIEF OF MISSION.—The chief of mission to a foreign country, or a designee of such chief of mission, is authorized to approve within that foreign country sales, assignment, or other dispositions of property by employees under the chief of mission’s jurisdiction (as described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) to the extent that such sale, assignment, or other disposition is in accordance with regulations and policies, rules, and procedures issued pursuant to section 303.

(c) VIOLATION.—Violation of this section, or other importation, sale, or other disposition of personal property within a foreign country which violates its laws or regulations or governing international law and is prohibited by regulations and policies, rules, and procedures issued pursuant to section 303, shall be grounds for disciplinary action against an employee.

<sup>224</sup> 22 U.S.C. 4342. Sec. 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1368), added sec. 302. Sec. 186(b) of that Act made this section effective 180 days after enactment.

## REGULATIONS

SEC. 303.<sup>225</sup> (a) **ISSUANCE; PURPOSE.**—The Secretary of State may issue regulations to carry out the purposes of this title. The primary purpose of such regulations and related policies, rules, and procedures shall be to assure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

(b) **CONTRACTORS.**—Such regulations shall require that, to the extent contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, after the effective date of this title contracting agencies shall include provisions in their contracts to carry out the purpose of this title.

(c) **CHIEF OF MISSION.**—In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, such regulations may authorize the chief of mission to each foreign country to establish more detailed policies, rules, or procedures for the application of this title within that country to employees under the chief of mission's jurisdiction.

TITLE IV—FOREIGN RELATIONS OF THE UNITED STATES  
HISTORICAL SERIES<sup>226</sup>

**SEC. 401.<sup>227</sup> GENERAL AUTHORITY AND CONTENTS OF PUBLICATION.**

(a) **CHARTER OF THE PUBLICATION.**—The Department of State shall continue to publish the “Foreign Relations of the United States historical series” (hereafter in this title referred to as the “FRUS series”), which shall be a thorough, accurate, and reliable documentary record of major United States foreign policy decisions and significant United States diplomatic activity. Volumes of this publication shall include all records needed to provide a comprehensive documentation of the major foreign policy decisions and actions of the United States Government, including the facts which contributed to the formulation of policies and records providing supporting and alternative views to the policy position ultimately adopted.

(b) **EDITING PRINCIPLES.**—The editing of records for preparation of the FRUS series shall be guided by the principles of historical objectivity and accuracy. Records shall not be altered and deletions shall not be made without indicating in the published text that a deletion has been made. The published record shall omit no facts which were of major importance in reaching a decision, and nothing shall be omitted for the purpose of concealing a defect of policy.

<sup>225</sup> 22 U.S.C. 4343. Sec. 186 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1368), added sec. 303. Sec. 186(b) of that Act made this section effective 180 days after enactment.

<sup>226</sup> Sec. 198(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 685), added title IV.

<sup>227</sup> 22 U.S.C. 4351.



(c)<sup>228</sup> **DEADLINE FOR PUBLICATION OF RECORDS.**—The Secretary of State shall ensure that the FRUS series shall be published not more than 30 years after the events recorded.

**SEC. 402.<sup>229</sup> RESPONSIBILITY FOR PREPARATION OF THE FRUS SERIES.**

(a) **IN GENERAL.**—

(1)(A) The Historian of the Department of State shall be responsible for the preparation of the FRUS series, including the selection of records, in accordance with the provisions of this title.

(B) The Advisory Committee on Historical Diplomatic Documentation shall review records, and shall advise and make recommendations to the Historian concerning all aspects of preparation and publication of the FRUS series, including, in accordance with the procedures contained in section 403, the review and selection of records for inclusion in volumes of the series.

(2) Other departments, agencies, and other entities of the United States Government shall cooperate with the Office of the Historian by providing full and complete access to the records pertinent to United States foreign policy decisions and actions and by providing copies of selected records in accordance with the procedures developed under section 403, except that no access to any record, and no provision of any copy of a record, shall be required in the case of any record that was prepared less than 26 years before the date of a request for such access or copy made by the Office of the Historian.

(b) **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.**—Notwithstanding any other provision of this title, the requirement for the National Archives and Records Administration to provide access to, and copies of, records to the Department of State for the FRUS series shall be governed by chapter 21 of title 44, United States Code, by any agreement concluded between the Department of State and the National Archives and Records Administration, and, in the case of Presidential records, by section 2204 of such title.

**SEC. 403.<sup>230</sup> PROCEDURES FOR IDENTIFYING RECORDS FOR THE FRUS SERIES; DECLASSIFICATION, REVISIONS, AND SUMMARIES.**

(a) **DEVELOPMENT OF PROCEDURES.**—Not later than 180 days after the date of enactment of this title, each department, agency, or other entity of the United States Government engaged in foreign

<sup>228</sup>Sec. 198(c)(2)(A) and (B) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 691), required:

“(c) **COMPLIANCE.**— \* \* \*

“(2)(A) In order to come into compliance with section 401(c) of the State Department Basic Authorities Act of 1956 (as amended by this section) the Secretary of State shall ensure that, by the end of the 3-year period beginning on the date of the enactment of this Act, all volumes of the Foreign Relations of the United States historical series (FRUS) for the years that are more than 30 years before the end of that 3-year period have been published.

“(B) If the Secretary cannot reasonably meet the requirements of subparagraph (A), the Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and describe how the Department of State plans to meet the requirements of subparagraph (A). In no event shall volumes subject to subparagraph (A) be published later than 5 years after the date of the enactment of this Act.”

<sup>229</sup>22 U.S.C. 4352.

<sup>230</sup>22 U.S.C. 4353.

policy formulation, execution, or support shall develop procedures for its historical office (or a designated individual in the event that there is no historical office)—

(1) to coordinate with the State Department's Office of the Historian in selecting records for possible inclusion in the FRUS series;

(2) to permit full access to the original, unrevised records by such individuals holding appropriate security clearances as have been designated by the Historian as liaison to that department, agency, or entity, for purposes of this title, and by members of the Advisory Committee; and

(3) to permit access to specific types of records not selected for inclusion in the FRUS series by the individuals identified in paragraph (2) when requested by the Historian in order to confirm that records selected by that department, agency, or entity accurately represent the policymaking process reflected in the relevant part of the FRUS series.

(b) DECLASSIFICATION REVIEW.—

(1) Subject to the provisions of this subsection, records selected by the Historian for inclusion in the FRUS series shall be submitted to the respective originating agency for declassification review in accordance with that agency's procedures for such review, except that such declassification review shall be completed by the originating agency within 120 days after such records are submitted for review. If the originating agency determines that any such record is not declassifiable because of a continuing need to protect sources and methods for the collection of intelligence information or to protect other sensitive national security information, then the originating agency shall attempt to make such deletions in the text as will make the record declassifiable.

(2) If the Historian determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1) that publication in that condition could be misleading or lead to an inaccurate or incomplete historical record, then the Historian shall take steps to achieve a satisfactory resolution of the problem with the originating agency. Within 60 days of receiving a proposed solution from the Historian, the originating agency shall furnish the Historian a written response agreeing to the solution or explaining the reasons for the alteration or deletion.

(3) The Historian shall inform the Advisory Committee of any failure by an originating agency to complete its declassification review of a record within 120 days and of any steps taken under paragraph (2).

(4) If the Advisory Committee determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1), or if the Advisory Committee determines as a result of inspection of other documents under subsection (a)(3) that the selection of documents could be misleading or lead to

an inaccurate or incomplete historical record, then the Advisory Committee shall so advise the Secretary of State and submit recommendations to resolve the issue.

(5)(A) The Advisory Committee shall have full and complete access to the original text of any record in which deletions have been made. In the event that the head of any originating agency considers it necessary to deny access by the Advisory Committee to the original text of any record, that agency head shall promptly notify the Advisory Committee in writing, describing the nature of the record in question and the justification for withholding that record.

(B) The Historian shall provide the Advisory Committee with a complete list of the records described in subparagraph (A).

(6) If a record is deleted in whole or in part as a result of review under this subsection then a note to that effect shall be inserted at the appropriate place in the FRUS volume.

**SEC. 404.<sup>231</sup> DECLASSIFICATION OF STATE DEPARTMENT RECORDS.**

(a) **DEADLINE FOR DECLASSIFICATION.**—

(1) Except as provided in subsection (b), each classified record of permanent historical value (as determined by the Secretary of State and the Archivist of the United States) which was published, issued, or otherwise prepared by the Department of State (or any officer or employee thereof acting in an official capacity) shall be declassified not later than 30 years after the record was prepared, shall be transferred to the National Archives and Records Administration, and shall be made available at the National Archives for public inspection and copying.

(2) Nothing in this subsection may be construed to require the declassification of a record wholly prepared by a foreign government.

(b) **EXEMPTED RECORDS.**—Subsection (a) shall not apply to any record (or portion thereof) the publication of which the Secretary of State, in coordination with any agency that originated information in the records, determines—

(1) would compromise weapons technology important to the national defense of the United States or reveal sensitive information relating to the design of United States or foreign military equipment or relating to United States cryptologic systems or activities;

(2) would disclose the names or identities of living persons who provided confidential information to the United States and would pose a substantial risk of harm to such persons;

(3) would demonstrably impede current diplomatic negotiations or other ongoing official activities of the United States

<sup>231</sup> 22 U.S.C. 4354. Sec. 198(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 691), required:

“(c) COMPLIANCE.—

“(1) The Secretary of State shall ensure that the requirements of section 404 of the State Department Basic Authorities Act of 1956 (as amended by this section) are met not later than one year after the date of enactment of this Act. If the Secretary cannot reasonably meet the requirements of such section, he shall so notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, and describe how the Department of State intends to meet the requirements of that section. In no event shall full compliance with the requirements of such section take place later than 2 years after the date of enactment of this Act.”

Government or would demonstrably impair the national security of the United States; or

(4) would disclose matters that are related solely to the internal personnel rules and practices of the Department of State or are contained in personnel, medical, or similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(c) REVIEW.—

(1) The Advisory Committee shall review—

(A) the State Department's declassification procedures,

(B) all guidelines used in declassification, including those guidelines provided to the National Archives and Records Administration which are in effect on the date of enactment of this title, and

(C) by random sampling, records representative of all Department of State records published, issued, or otherwise prepared by the Department of State that remain classified after 30 years.

(2) In the event that the Secretary of State considers it necessary to deny access to records under paragraph (1)(C), the Secretary shall notify the Advisory Committee in writing, describing the nature of the records in question and the justification for withholding them.

(d)<sup>232</sup> ANNUAL REPORTS BY THE ADVISORY COMMITTEE.—The Advisory Committee shall annually submit to the Secretary of State and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives<sup>233</sup> a report setting forth its findings from the review conducted under subsection (c).

(e)<sup>234</sup> ANNUAL REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the compliance of the Department of State with the provisions of this title, including—

(A) the volumes published in the previous calendar year;

(B) the degree to which the Department is not in compliance with the deadline set forth in section 401(c); and

(C) the factors relevant to the inability of the Department to comply with the provisions of this title, including section 401(c).

(2) FORM OF REPORTS.—Each report required to be submitted by paragraph (1) shall be submitted in unclassified form, together with a classified annex if necessary.

<sup>232</sup>Sec. 205(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1363), struck out "REPORTING REQUIREMENT" and inserted in lieu thereof "ANNUAL REPORTS BY THE ADVISORY COMMITTEE".

<sup>233</sup>Sec. 205(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1363), inserted "and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives" after "Secretary of State".

<sup>234</sup>Sec. 205(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1363), amended and restated subsec. (e), which previously required a one-time report of the Secretary of State on compliance and procedures related to the section.

**SEC. 405.<sup>235</sup> RELATIONSHIP TO THE PRIVACY ACT AND THE FREEDOM OF INFORMATION ACT.**

(a) **PRIVACY ACT.**—Nothing in this title may be construed as requiring the public disclosure of records or portions of records protected under section 552a of title 5, United States Code (relating to the privacy of personal records).

(b) **FREEDOM OF INFORMATION ACT.**—

(1) Except as provided in paragraph (2), no record (or portion thereof) shall be excluded from publication in the FRUS series under section 403, or exempted from the declassification requirement of section 404, solely by virtue of the application of section 552(b) of title 5, United States Code (relating to the exemption of certain matters from freedom of information requirements).

(2) Records described in section 222(f) of the Immigration and Nationality Act (relating to visa records) shall be excluded from publication in the FRUS series under section 403 and, to the extent applicable, exempted from the declassification requirement of section 404.

**SEC. 406.<sup>236</sup> ADVISORY COMMITTEE.**

(a)<sup>237</sup> **ESTABLISHMENT.**—

(1) There is established on a permanent basis the Advisory Committee on Historical Diplomatic Documentation for the Department of State. The activities of the Advisory Committee shall be coordinated by the Office of the Historian of the Department of State.

(2) The Advisory Committee shall be composed of 9 members and an executive secretary. The Historian shall serve as executive secretary.

(3)(A) The members of the Advisory Committee shall be appointed by the Secretary of State from among distinguished historians, political scientists, archivists, international lawyers, and other social scientists who have a demonstrable record of substantial research pertaining to the foreign relations of the United States. No officer or employee of the United States Government shall be appointed to the Advisory Committee.

(B)(i) Six members of the Advisory Committee shall be appointed from lists of individuals nominated by the American Historical Association, the Organization of American Historians, the American Political Science Association, Society of American Archivists, the American Society of International Law, and the Society for Historians of American Foreign Relations. One member shall be appointed from each list.

(ii) If an organization does not submit a list of nominees under clause (i) in a timely fashion, the Secretary of State shall make an appointment from among the nominees on other lists.

(b) **TERMS OF SERVICE FOR APPOINTMENTS.**—

<sup>235</sup> 22 U.S.C. 4355.

<sup>236</sup> 22 U.S.C. 4356.

<sup>237</sup> Functions vested in the Secretary of State in this subsection were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(1) Except as provided in paragraph (2), members of the Advisory Committee shall be appointed for terms of three years.

(2) Of the members first appointed, as designated by the Secretary of State at the time of their appointment (after consultation with the appropriate organizations) three shall be appointed for terms of one year, three shall be appointed for terms of two years, and three shall be appointed for terms of three years.

(3) Each term of service under paragraph (1) shall begin on September 1 of the year in which the appointment is made.

(4) A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment. A member appointed to fill a vacancy occurring before the expiration of a term shall serve for the remainder of that term. A member may continue to serve when his or her term expires until a successor is appointed. A member may be appointed to a new term upon the expiration of his or her term.

(c) SELECTION OF CHAIRPERSON.—The Advisory Committee shall select, from among its members, a chairperson to serve a term of 1 year. A chairperson may be reelected upon expiration of his or her term as chairperson.

(d) MEETINGS.—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least quarterly or as frequently as may be necessary to carry out its duties.

(e) SECURITY CLEARANCES.—

(1) All members of the Advisory Committee shall be granted the necessary security clearances, subject to the standard procedures for granting such clearances.

(2) For purposes of any law or regulation governing access to classified records, a member of the Advisory Committee seeking access under this paragraph to a record shall be deemed to have a need to know.

(f) COMPENSATION.—

(1) Members of the Advisory Committee—

(A) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Advisory Committee; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(2) The Secretary of State is authorized to provide for necessary secretarial and staff assistance for the Advisory Committee.

(3) The Federal Advisory Committee Act shall not apply to the Advisory Committee to the extent that the provisions of this title are inconsistent with that Act.

**SEC. 407.<sup>238</sup> DEFINITIONS.**

For purposes of this title—

(1) the term “Advisory Committee” means the Advisory Committee on Historical Diplomatic Documentation for the Department of State;

(2) the term “Historian” means the Historian of the Department of State or any successor officer of the Department of State responsible for carrying out the functions of the Office of the Historian, Bureau of Public Affairs, of the Department of State, as in effect on the date of enactment of this title;

(3) the term “originating agency” means, with respect to a record, the department, agency, or entity of the United States (or any officer or employee thereof of acting in his official capacity) that originates, develops, publishes, issues, or otherwise prepares that record or receives that record from outside the United States Government; and

(4) the term “record” includes any written material (including any document, memorandum, correspondence, statistical data, book, or other papers), map, photograph, machine readable material, or other documentary material, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value in them, and such term does not include library or museum material made or acquired and preserved solely for reference or exhibition purposes, any extra copy of a document preserved only for convenience of reference, or any stocks of publications or of processed documents.

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<sup>238</sup> 22 U.S.C. 4357.

**c. 9/11 Commission Implementation Act of 2004**

**Title VII of Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004**

AN ACT To reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

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

\* \* \* \* \*

**TITLE VII—TITLE VII—IMPLEMENTATION OF 9/11 COMMISSION RECOMMENDATIONS**

**SEC. 7001.<sup>1</sup> SHORT TITLE.**

This title may be cited as the “9/11 Commission Implementation Act of 2004”.

**Subtitle A—Diplomacy, Foreign Aid, and the Military in the War on Terrorism**

**SEC. 7101.<sup>2</sup> FINDINGS.**

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

<sup>1</sup> 6 U.S.C. 101 note. See also in this volume, legislation and Executive Orders related to diplomatic security and anti-terrorism, beginning at page 1020.

<sup>2</sup> 22 U.S.C. 2656 note.



**SEC. 7102.<sup>3</sup> TERRORIST SANCTUARIES.**

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by Government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are often focusing on remote regions and failing states as locations to seek sanctuary.

(b) **SENSE OF CONGRESS ON UNITED STATES POLICY ON TERRORIST SANCTUARIES.**—It is the sense of Congress that it should be the policy of the United States—

(1) to identify foreign countries that are being used as terrorist sanctuaries;

(2) to assess current United States resources and tools being used to assist foreign governments to eliminate such sanctuaries;

(3) to develop and implement a coordinated strategy to prevent terrorists from using such foreign countries as sanctuaries; and

(4) to work in bilateral and multilateral fora to elicit the cooperation needed to identify and address terrorist sanctuaries that may exist today, but, so far, remain unknown to governments.

(c) **AMENDMENTS TO EXISTING LAW TO INCLUDE TERRORIST SANCTUARIES.**—

(1) **IN GENERAL.**—Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended—<sup>4</sup>

(A) by redesignating paragraph (5) as paragraph (6); and

(B) by inserting after paragraph (4) the following:

“(5)(A) As used in paragraph (1), the term ‘repeatedly provided support for acts of international terrorism’ shall include the recurring use of any part of the territory of the country as a sanctuary for terrorists or terrorist organizations.

“(B) In this paragraph—

“(i) the term ‘territory of a country’ means the land, waters, and airspace of the country; and

“(ii) the term ‘sanctuary’ means an area in the territory of a country—

“(I) that is used by a terrorist or terrorist organization—

<sup>3</sup> 22 U.S.C. 2656f note.

<sup>4</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. III.

“(aa) to carry out terrorist activities, including training, financing, and recruitment; or

“(bb) as a transit point; and

“(II) the government of which expressly consents to, or with knowledge, allows, tolerates, or disregards such use of its territory.”.

(2)<sup>5</sup> **RULE OF CONSTRUCTION.**—Nothing in this subsection or the amendments made by this subsection shall be construed as affecting any determination made by the Secretary of State pursuant to section 6(j) of the Export Administration Act of 1979 with respect to a country prior to the date of enactment of this Act.

(3)<sup>5</sup> **IMPLEMENTATION.**—The President shall implement the amendments made by paragraph (1) by exercising the authorities of the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(d)<sup>6</sup> **AMENDMENTS TO GLOBAL PATTERNS OF TERRORISM REPORT.**—\* \* \*

(4)<sup>7</sup> **EFFECTIVE DATE.**—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.

**SEC. 7103. UNITED STATES COMMITMENT TO THE FUTURE OF PAKISTAN.**

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against terrorism.

(2) Due to its location, topography, social conditions, and other factors, Pakistan can be attractive to extremists seeking refuge or opportunities to recruit or train, or a place from which to operate against Coalition Forces in Afghanistan.

(3) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

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

(1) help to ensure a promising, stable, and secure future for Pakistan over the long term;

(2) provide a comprehensive program of assistance to encourage and enable Pakistan—

(A) to continue and improve upon its commitment to combating extremists;

(B) to seek to resolve any outstanding difficulties with its neighbors and other countries in its region;

(C) to continue to make efforts to fully control its territory and borders;

<sup>5</sup> 50 U.S.C. app. 2405 note.

<sup>6</sup> For text of sec. 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as amended, see beginning at page 516.

<sup>7</sup> 22 U.S.C. 2656f note.

(D) to progress toward becoming a more effective and participatory democracy;

(E) to participate more vigorously in the global marketplace and to continue to modernize its economy;

(F) to take all necessary steps to halt the spread of weapons of mass destruction;

(G) to improve and expand access to education for all citizens; and

(H) to increase the number and level of exchanges between the Pakistani people and the American people; and

(3) continue to provide assistance to Pakistan at not less than the overall levels requested by the President for fiscal year 2005.

(c) EXTENSION OF PAKISTAN WAIVERS.—The Act entitled “An Act to authorize the President to exercise waivers of foreign assistance restrictions with respect to Pakistan through September 30, 2003, and for other purposes”, approved October 27, 2001 (Public Law 107–57; 115 Stat. 403), as amended by section 2213 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1232), is further amended—\* \* \*<sup>8</sup>

**SEC. 7104.<sup>9</sup> ASSISTANCE FOR AFGHANISTAN. \* \* \***

**SEC. 7105. THE RELATIONSHIP BETWEEN THE UNITED STATES AND SAUDI ARABIA.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, there have been problems in cooperation between the United States and Saudi Arabia.

(2) The Government of Saudi Arabia has not always responded promptly or fully to United States requests for assistance in the global war on Islamist terrorism.

(3) The Government of Saudi Arabia has not done all it can to prevent financial or other support from being provided to, or reaching, extremist organizations in Saudi Arabia or other countries.

(4) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, and the Government of Saudi Arabia is now pursuing al Qaeda and other terror groups operating inside Saudi Arabia.

(5) The United States must enhance its cooperation and strong relationship with Saudi Arabia based upon a shared and public commitment to political and economic reform, greater tolerance and respect for religious and cultural diversity and joint efforts to prevent funding for and support of extremist organizations in Saudi Arabia and elsewhere.

<sup>8</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I–B.

<sup>9</sup>22 U.S.C. 7501 note. Freestanding text of sec. 7104, the Afghanistan Freedom Support Act Amendments of 2004, may be found in *Legislation on Foreign Relations Through 2005*, vol. I–A. Sec. 7104 also amended the Afghanistan Freedom Support Act of 2002, for amended text see vol. I–A.

(b) SENSE OF CONGRESS.—It is the sense of Congress that there should be a more robust dialogue between the people and Government of the United States and the people and Government of Saudi Arabia in order to improve the relationship between the United States and Saudi Arabia.

**SEC. 7106. EFFORTS TO COMBAT ISLAMIST TERRORISM.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in countries with predominantly Muslim populations and influential broadcasters who reach Muslim audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

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

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of countries with predominantly Muslim populations to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Muslims; and

(4) the United States should work to defeat extremism in all its form, especially in nations with predominantly Muslim populations by providing assistance to governments, non-governmental organizations, and individuals who promote modernization.

**SEC. 7107. UNITED STATES POLICY TOWARD DICTATORSHIPS.**

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

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

(1) United States foreign policy should promote the importance of individual educational and economic opportunity, encourage widespread political participation, condemn violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must encourage the governments of all countries with predominantly Muslim populations, including those that are friends and allies of the United States, to promote the value of life and the importance of individual education and economic opportunity, encourage widespread political participation, condemn violence and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

**SEC. 7108.<sup>10</sup> PROMOTION OF FREE MEDIA AND OTHER AMERICAN VALUES.**

**(a) PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.—**

(1) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(A) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is neither convincingly presented nor widely understood.

(B) If the United States does not act to vigorously define its message in countries with predominantly Muslim populations, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(C) Recognizing that many Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Islamic world, including Iran and Afghanistan.

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

(A) the United States must do more to defend and promote its values and ideals to the broadest possible audience in countries with predominantly Muslim populations;

(B) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large Muslim audiences and should be robustly supported;

(C) the United States Government could and should do more to engage Muslim audiences in the struggle of ideas; and

(D) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

**(b) ENHANCING FREE AND INDEPENDENT MEDIA.—**

(1) **FINDINGS.**—Congress makes the following findings:

(A) Freedom of speech and freedom of the press are fundamental human rights.

(B) The United States has a national interest in promoting these freedoms by supporting free media abroad, which is essential to the development of free and democratic societies consistent with our own.

<sup>10</sup>22 U.S.C. 1431 note.

- (C) Free media is undermined, endangered, or non-existent in many repressive and transitional societies around the world, including in Eurasia, Africa, and the Middle East.
- (D) Individuals lacking access to a plurality of free media are vulnerable to misinformation and propaganda and are potentially more likely to adopt anti-United States views.
- (E) Foreign governments have a responsibility to actively and publicly discourage and rebut unprofessional and unethical media while respecting journalistic integrity and editorial independence.
- (2) STATEMENT OF POLICY.—It shall be the policy of the United States, acting through the Secretary of State, to—
- (A) ensure that the promotion of freedom of the press and freedom of media worldwide is a priority of United States foreign policy and an integral component of United States public diplomacy;
- (B) respect the journalistic integrity and editorial independence of free media worldwide; and
- (C) ensure that widely accepted standards for professional and ethical journalistic and editorial practices are employed when assessing international media.
- (c) ESTABLISHMENT OF MEDIA NETWORK.—
- (1) GRANTS FOR ESTABLISHMENT OF NETWORK.—The Secretary of State shall, utilizing amounts authorized to be appropriated by subsection (e)(2), make grants to the National Endowment for Democracy (NED) under the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.) for utilization by the Endowment to provide funding to a private sector group to establish and manage a free and independent media network as specified in paragraph (2).
- (2) MEDIA NETWORK.—The media network established using funds under paragraph (1) shall provide an effective forum to convene a broad range of individuals, organizations, and governmental participants involved in journalistic activities and the development of free and independent media in order to—
- (A) fund a clearinghouse to collect and share information concerning international media development and training;
- (B) improve research in the field of media assistance and program evaluation to better inform decisions regarding funding and program design for government and private donors;
- (C) explore the most appropriate use of existing means to more effectively encourage the involvement of the private sector in the field of media assistance; and
- (D) identify effective methods for the development of a free and independent media in societies in transition.
- (d) AUTHORIZATIONS OF APPROPRIATIONS.—
- (1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as may be necessary to carry out United States Government broadcasting activities consistent with this section under the United States Information and

Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

(2) GRANTS FOR MEDIA NETWORK.—In addition to the amounts authorized to be appropriated under paragraph (1), there are authorized to be appropriated for each of fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as may be necessary for grants under subsection (c)(1) for the establishment of the media network described in subsection (c)(2).

**SEC. 7109.<sup>11</sup> PUBLIC DIPLOMACY RESPONSIBILITIES OF THE DEPARTMENT OF STATE.**

(a) \* \* \*

(b) FUNCTIONS OF THE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.—

(1) AMENDMENT.—\* \* \*

(2) CONSULTATION.—The Under Secretary of State for Public Diplomacy, in carrying out the responsibilities described in section 1(b)(3) of such Act (as amended by paragraph (1)), shall consult with public diplomacy officers operating at United States overseas posts and in the regional bureaus of the Department of State.

**SEC. 7110.<sup>12</sup> PUBLIC DIPLOMACY TRAINING.**

(a) STATEMENT OF POLICY.—The following should be the policy of the United States:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) United States chiefs of mission should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and should be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training on public diplomacy and the tools and technology of mass communication.

(b) PERSONNEL.—

(1) QUALIFICATIONS.—In the recruitment, training, and assignment of members of the Foreign Service, the Secretary of State—

(A) should emphasize the importance of public diplomacy and applicable skills and techniques;

(B) should consider the priority recruitment into the Foreign Service, including at middle-level entry, of individuals with expertise and professional experience in public diplomacy, mass communications, or journalism; and

<sup>11</sup>Sec. 7109(a) and (b)(1) added a new sec. 60 to the State Department Basic Authorities Act of 1956, relating to public diplomatic responsibilities of the Department of State. See secs. 1 and 60 of that Act.

<sup>12</sup>22 U.S.C. 3922b.

(C) shall give special consideration to individuals with language facility and experience in particular countries and regions.

(2) **LANGUAGES OF SPECIAL INTEREST.**—The Secretary of State shall seek to increase the number of Foreign Service officers proficient in languages spoken in countries with predominantly Muslim populations. Such increase should be accomplished through the recruitment of new officers and incentives for officers in service.

(c) **PUBLIC DIPLOMACY SUGGESTED FOR PROMOTION IN FOREIGN SERVICE.**—Section 603(b) of the Foreign Service Act of 1980 (22 U.S.C. 4003(b)) is amended by adding at the end the following: “The precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—

(1) a willingness and ability to explain United States policies in person and through the media when occupying positions for which such willingness and ability is, to any degree, an element of the member’s duties, or

(2) other experience in public diplomacy.<sup>13</sup>

**SEC. 7111. PROMOTING DEMOCRACY AND HUMAN RIGHTS AT INTERNATIONAL ORGANIZATIONS.**

(a) **SUPPORT AND EXPANSION OF DEMOCRACY CAUCUS.**—

(1) **IN GENERAL.**—The President, acting through the Secretary of State and the relevant United States chiefs of mission, should—

(A) continue to strongly support and seek to expand the work of the democracy caucus at the United Nations General Assembly and the United Nations Human Rights Commission; and

(B) seek to establish a democracy caucus at the United Nations Conference on Disarmament and at other broad-based international organizations.

(2) **PURPOSES OF THE CAUCUS.**—A democracy caucus at an international organization should—

(A) forge common positions, including, as appropriate, at the ministerial level, on matters of concern before the organization and work within and across regional lines to promote agreed positions;

(B) work to revise an increasingly outmoded system of membership selection, regional voting, and decision-making; and

(C) establish a rotational leadership agreement to provide member countries an opportunity, for a set period of time, to serve as the designated president of the caucus, responsible for serving as its voice in each organization.

(b) **LEADERSHIP AND MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS.**—The President, acting through the Secretary of State, the relevant United States chiefs of mission, and, where appropriate, the Secretary of the Treasury, should use the voice, vote, and influence of the United States to—

<sup>13</sup> As enrolled. Should probably close quote at this point.



(1) where appropriate, reform the criteria for leadership and, in appropriate cases, for membership, at all United Nations bodies and at other international organizations and multilateral institutions to which the United States is a member so as to exclude countries that violate the principles of the specific organization;

(2) make it a policy of the United Nations and other international organizations and multilateral institutions of which the United States is a member that a member country may not stand in nomination for membership or in nomination or in rotation for a significant leadership position in such bodies if the member country is subject to sanctions imposed by the United Nations Security Council; and

(3) work to ensure that no member country stand in nomination for membership, or in nomination or in rotation for a significant leadership position in such organizations, or for membership on the United Nations Security Council, if the government of the member country has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism.

(c) INCREASED TRAINING IN MULTILATERAL DIPLOMACY.—

(1) STATEMENT OF POLICY.—It shall be the policy of the United States that training courses should be established for Foreign Service Officers and civil service employees of the State Department, including appropriate chiefs of mission, on the conduct of multilateral diplomacy, including the conduct of negotiations at international organizations and multilateral institutions, negotiating skills that are required at multilateral settings, coalition-building techniques, and lessons learned from previous United States multilateral negotiations.

(2) PERSONNEL.—

(A) IN GENERAL.—The Secretary shall ensure that the training described in paragraph (1) is provided at various stages of the career of members of the Service.

(B) ACTIONS OF THE SECRETARY.—The Secretary shall ensure that—

(i) officers of the Service receive training on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments as part of their training upon entry into the Service; and

(ii) officers of the Service, including chiefs of mission, who are assigned to United States missions representing the United States to international organizations and other multilateral institutions or who are assigned in Washington, D.C., to positions that have as their primary responsibility formulation of policy toward such organizations and institutions or toward participation in broad-based multilateral negotiations of international instruments, receive specialized training in the areas described in paragraph (1) prior to beginning of service for such assignment or, if receiving

such training at that time is not practical, within the first year of beginning such assignment.

(3) TRAINING FOR CIVIL SERVICE EMPLOYEES.—The Secretary shall ensure that employees of the Department of State who are members of the civil service and who are assigned to positions described in paragraph (2) receive training described in paragraph (1) prior to the beginning of service for such assignment or, if receiving such training at such time is not practical, within the first year of beginning such assignment.

**SEC. 7112.<sup>14</sup> EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) DECLARATION OF POLICY.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress declares that—

(1) the United States should commit to a long-term and sustainable investment in promoting engagement with people of all levels of society in countries with predominantly Muslim populations, particularly with youth and those who influence youth;

(2) such an investment should make use of the talents and resources in the private sector and should include programs to increase the number of people who can be exposed to the United States and its fundamental ideas and values in order to dispel misconceptions; and

(3) such programs should include youth exchange programs, young ambassadors programs, international visitor programs, academic and cultural exchange programs, American Corner programs, library programs, journalist exchange programs, sister city programs, and other programs related to people-to-people diplomacy.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States should significantly increase its investment in the people-to-people programs described in subsection (b).

(d) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Muslim world.

(e) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated in each of the fiscal years 2005 and 2006 for educational and cultural exchange programs, there shall be available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

<sup>14</sup>22 U.S.C. 2451 note.

**SEC. 7113.<sup>15</sup> PILOT PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS.**

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

(1) During the 2003–2004 school year, the Office of Overseas Schools of the Department of State is financially assisting 189 elementary and secondary schools in foreign countries.

(2) United States-sponsored elementary and secondary schools are located in more than 20 countries with predominantly Muslim populations in the Near East, Africa, South Asia, Central Asia, and East Asia.

(3) United States-sponsored elementary and secondary schools provide an American-style education in English, with curricula that typically include an emphasis on the development of critical thinking and analytical skills.

(b) STATEMENT OF POLICY.—The United States has an interest in increasing the level of financial support provided to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations in order to—

(1) increase the number of students in such countries who attend such schools;

(2) increase the number of young people who may thereby gain at any early age an appreciation for the culture, society, and history of the United States; and

(3) increase the number of young people who may thereby improve their proficiency in the English language.

(c) PILOT PROGRAM.—The Secretary of State, acting through the Director of the Office of Overseas Schools of the Department of State, may conduct a pilot program to make grants to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations for the purpose of providing full or partial merit-based scholarships to students from lower-income and middle-income families of such countries to attend such schools.

(d) DETERMINATION OF ELIGIBLE STUDENTS.—For purposes of the pilot program, a United States-sponsored elementary and secondary school that receives a grant under the pilot program may establish criteria to be implemented by such school to determine what constitutes lower-income and middle-income families in the country (or region of the country, if regional variations in income levels in the country are significant) in which such school is located.

(e) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to the Secretary of State pursuant to the authorization of appropriations in subsection (h) shall be used for the sole purpose of making grants under this section, and may not be used for the administration of the Office of Overseas Schools of the Department of State or for any other activity of the Office.

(f) VOLUNTARY PARTICIPATION.—Nothing in this section shall be construed to require participation in the pilot program by a United States-sponsored elementary or secondary school in a predominantly Muslim country.

<sup>15</sup>22 U.S.C. 2452 note.

(g) **REPORT.**—Not later than April 15, 2006, the Secretary of State shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the pilot program. The report shall assess the success of the program, examine any obstacles encountered in its implementation, and address whether it should be continued, and if so, provide recommendations to increase its effectiveness.

(h) **FUNDING.**—There are authorized to be appropriated to the Secretary of State for each of the fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as necessary to implement the pilot program under this section.

**SEC. 7114.<sup>16</sup> INTERNATIONAL YOUTH OPPORTUNITY FUND.**

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) **INTERNATIONAL YOUTH OPPORTUNITY FUND.**—

(1) **ESTABLISHMENT.**—The Secretary of State is authorized to establish through an existing international organization, such as the United Nations Educational, Science and Cultural Organization (UNESCO) or other similar body, an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East and other countries of strategic interest with predominantly Muslim populations.

(2) **INTERNATIONAL PARTICIPATION.**—The Secretary should seek the cooperation of the international community in establishing and generously supporting the Fund.

<sup>16</sup>22 U.S.C. 2228.

**SEC. 7115. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.**

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and countries with predominantly Muslim populations are drawing interest from other countries in the Middle East region, and countries with predominantly Muslim populations can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade.

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

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

**SEC. 7116. MIDDLE EAST PARTNERSHIP INITIATIVE.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for each of fiscal years 2005 and 2006, (unless otherwise authorized by Congress) such sums as may be necessary for the Middle East Partnership Initiative.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

**SEC. 7117.<sup>17</sup> COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.**

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach to counterterrorism.

(b) **IN GENERAL.**—The Secretary of State is authorized in consultation with relevant United States Government agencies, to negotiate on a bilateral or multilateral basis, as appropriate, international agreements under which parties to an agreement work in partnership to address and interdict acts of international terrorism.

(c) **INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.**—

(1) **SENSE OF CONGRESS.**—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive multilateral strategy to fight terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) **AUTHORITY.**—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for the following purposes:

(A) To meet annually, or more frequently as the President determines appropriate, to develop in common with such other governments important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, long-term issues that can contribute to strengthening stability and security in the Middle East.

<sup>17</sup> 22 U.S.C. 2656 note.

**SEC. 7118. FINANCING OF TERRORISM.**

(a) **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(2) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(3) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

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

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counterterrorism efforts.

**SEC. 7119. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.**

(a) **PERIOD OF DESIGNATION.**—Section 219(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)) is amended—\* \* \*<sup>18</sup>

(d)<sup>19</sup> **SAVINGS PROVISION.**—For purposes of applying section 219 of the Immigration and Nationality Act on or after the date of enactment of this Act, the term “designation”, as used in that section, includes all redesignations made pursuant to section 219(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(4)(B)) prior to the date of enactment of this Act, and such redesignations shall continue to be effective until revoked as provided in paragraph (5) or (6) of section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

**SEC. 7120. REPORT TO CONGRESS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this subtitle.

(b) **CONTENTS.**—The report required under this section shall include the following:

(1) **TERRORIST SANCTUARIES.**—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of the terrorist sanctuaries that exist;

(B) an outline of strategies, tactics, and tools for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to elicit the cooperation needed to identify and

<sup>18</sup>For amended text, see page 1355.

<sup>19</sup>8 U.S.C. 1189 note.

address terrorist sanctuaries that may exist unknown to governments; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of a United States strategy to engage with Pakistan and to support it over the long term, including—

(A) recommendations on the composition and levels of assistance required in future years, with special consideration of the proper balance between security assistance and other forms of assistance;

(B) a description of the composition and levels of assistance, other than security assistance, at present and in the recent past, structured to permit a comparison of current and past practice with that recommended for the future;

(C) measures that could be taken to ensure that all forms of foreign assistance to Pakistan have the greatest possible long-term positive impact on the welfare of the Pakistani people and on the ability of Pakistan to cooperate in global efforts against terror; and

(D) measures that could be taken to alleviate difficulties, misunderstandings, and complications in the relationship between the United States and Pakistan.

(3) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance, including a description of—

(A) steps that could usefully be taken to institutionalize and make more transparent government to government relationships between the United States and Saudi Arabia, including the utility of undertaking periodic, formal, and visible high-level dialogues between government officials of both countries to address challenges in the relationship between the 2 governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to increase the contribution of Saudi Arabia to the stability of the Middle East and the Islamic world, particularly to the Middle East peace process, by eliminating support from or within Saudi Arabia for extremist groups or tendencies;

(D) political and economic reform in Saudi Arabia and throughout the Islamic world;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Islamic world; and



- (F) ways to assist the Government of Saudi Arabia in reversing the impact of any financial, moral, intellectual, or other support provided in the past from Saudi sources to extremist groups in Saudi Arabia and other countries, and to prevent this support from continuing in the future.
- (4) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:
- (A) A description of specific goals related to winning this struggle of ideas.
  - (B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.
  - (C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.
  - (D) A description of any additional resources that may be necessary to help win this struggle of ideas.
  - (E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.
  - (F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.
- (5) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:
- (A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.
  - (B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with predominantly Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.
  - (C) An assessment of the major themes of biased or false media coverage of the United States in foreign countries and the actions taken to address this type of media coverage.
  - (D) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(E) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(6) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—  
A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in section 7111(b) without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(7) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with non-governmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with predominantly Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United States to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines might be eligible for assistance under the International Youth Opportunity Fund described in section 7114(b) and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with predominantly Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities that could be carried out as part of the International Youth Opportunity Fund to

help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with predominantly Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth Opportunity Fund.

(8) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a predominantly Muslim population, including a description of—

(A) efforts to integrate countries with predominantly Muslim populations into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

(c) FORM OF REPORT.—Any report or other matter that is required to be submitted to Congress (including a committee of Congress) under this section may contain a classified annex.

**SEC. 7121. CASE-ZABLOCKI ACT REQUIREMENTS.**

(a)–(d) \* \* \*<sup>20</sup>

(e) ENFORCEMENT OF REQUIREMENTS.—Section 139(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 is amended to read as follows: \* \* \*<sup>21</sup>

**SEC. 7122.<sup>22</sup> EFFECTIVE DATE.**

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

**Subtitle B—Terrorist Travel and Effective Screening**

**SEC. 7201. COUNTERTERRORIST TRAVEL INTELLIGENCE.**

(a)<sup>23</sup> FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific

<sup>20</sup> For amended text, see page 985.

<sup>21</sup> For amended text, see page 516.

<sup>22</sup> 1 U.S.C. 112a note.

<sup>23</sup> 8 U.S.C. 1776 note.

travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b)<sup>24</sup> STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the National Counterterrorism Center shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress should include a description of the actions taken to implement the strategy and an assessment regarding vulnerabilities within the United States and foreign travel systems that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators.

(2) COORDINATION.—The strategy shall be developed in coordination with all relevant Federal agencies.

(3) CONTENTS.—The strategy may address—

(A) a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods, and outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy;

(B) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel tactics, practices, patterns, and

<sup>24</sup> 50 U.S.C. 404o.

trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(C) the training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(D) the new technology and procedures required and actions to be taken to integrate existing counterterrorist travel document and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(E) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(F) the additional assistance to be given to the inter-agency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(G) the actions to be taken to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(H) the development and implementation of procedures to enable the National Counterterrorism Center, or its designee, to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(I) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(J) the feasibility of developing a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(K) the feasibility of digitally transmitting suspect passport information to a central cadre of specialists, either as an interim measure until such time as experts described under subparagraph (J) are available at consular, port of entry, and immigration benefits offices, or otherwise;

(L) the development of a mechanism to ensure the coordination and dissemination of terrorist travel intelligence and operational information among the Department of Homeland Security, the Department of State, the National Counterterrorism Center, and other appropriate agencies;

(M) granting consular officers and immigration adjudicators, as appropriate, the security clearances necessary to access law enforcement sensitive and intelligence databases; and

(N) how to integrate travel document screening for terrorism indicators into border screening, and how to integrate the intelligence community into a robust travel document screening process to intercept terrorists.

(c) FRONTLINE COUNTERTERRORIST TRAVEL TECHNOLOGY AND TRAINING.—

(1) TECHNOLOGY ACQUISITION AND DISSEMINATION PLAN.—

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to the maximum extent feasible, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents. To the extent possible, technologies acquired and deployed under this plan shall be compatible with systems used by the Department of Homeland Security to detect fraudulent documents and identify genuine documents.

(2) CONTENTS OF PLAN.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport or other documentation described in section 7209(b) submitted for identification purposes to a United States consular, border, or immigration official.

(d)<sup>25</sup> TRAINING PROGRAM.—

(1) REVIEW, EVALUATION, AND REVISION OF EXISTING TRAINING PROGRAMS.—The Secretary of Homeland Security shall—

(A) review and evaluate the training regarding travel and identity documents, and techniques, patterns, and trends associated with terrorist travel that is provided to personnel of the Department of Homeland Security;

(B) in coordination with the Secretary of State, review and evaluate the training described in subparagraph (A) that is provided to relevant personnel of the Department of State; and

(C) in coordination with the Secretary of State, develop and implement an initial training and periodic retraining program—

(i) to teach border, immigration, and consular officials (who inspect or review travel or identity documents as part of their official duties) how to effectively detect, intercept, and disrupt terrorist travel; and

<sup>25</sup> 8 U.S.C. 1776.

- (ii) to ensure that the officials described in clause (i) regularly receive the most current information on such matters and are periodically retrained on the matters described in paragraph (2).
- (2) REQUIRED TOPICS OF REVISED PROGRAMS.—The training program developed under paragraph (1)(C) shall include training in—
  - (A) methods for identifying fraudulent and genuine travel documents;
  - (B) methods for detecting terrorist indicators on travel documents and other relevant identity documents;
  - (C) recognition of travel patterns, tactics, and behaviors exhibited by terrorists;
  - (D) effective utilization of information contained in databases and data systems available to the Department of Homeland Security; and
  - (E) other topics determined to be appropriate by the Secretary of Homeland Security, in consultation with the Secretary of State or the Director of National Intelligence.
- (3) IMPLEMENTATION.—
  - (A) DEPARTMENT OF HOMELAND SECURITY.—
    - (i) IN GENERAL.—The Secretary of Homeland Security shall provide all border and immigration officials who inspect or review travel or identity documents as part of their official duties with the training described in paragraph (1)(C).
    - (ii) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, and annually thereafter for a period of 3 years, the Secretary of Homeland Security shall submit a report to Congress that—
      - (I) describes the number of border and immigration officials who inspect or review identity documents as part of their official duties, and the proportion of whom have received the revised training program described in paragraph (1)(C)(i);
      - (II) explains the reasons, if any, for not completing the requisite training described in paragraph (1)(C)(i);
      - (III) provides a timetable for completion of the training described in paragraph (1)(C)(i) for those who have not received such training; and
      - (IV) describes the status of periodic retraining of appropriate personnel described in paragraph (1)(C)(ii).
  - (B) DEPARTMENT OF STATE.—
    - (i) IN GENERAL.—The Secretary of State shall provide all consular officers who inspect or review travel or identity documents as part of their official duties with the training described in paragraph (1)(C).
    - (ii) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, and

annually thereafter for a period of 3 years, the Secretary of State shall submit a report to Congress that—

(I) describes the number of consular officers who inspect or review travel or identity documents as part of their official duties, and the proportion of whom have received the revised training program described in paragraph (1)(C)(i);

(II) explains the reasons, if any, for not completing the requisite training described in paragraph (1)(C)(i);

(III) provides a timetable for completion of the training described in paragraph (1)(C)(i) for those who have not received such training; and

(IV) describes the status of periodic retraining of appropriate personnel described in paragraph (1)(C)(ii).

(4) ASSISTANCE TO OTHERS.—The Secretary of Homeland Security may assist States, Indian tribes, local governments, and private organizations to establish training programs related to terrorist travel intelligence.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this subsection.

(e)<sup>26</sup> ENHANCING CLASSIFIED COUNTERTERRORIST TRAVEL EFFORTS.—

(1) IN GENERAL.—The Director of National Intelligence shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

**SEC. 7202.<sup>27</sup> ESTABLISHMENT OF HUMAN SMUGGLING AND TRAFFICKING CENTER.**

(a) ESTABLISHMENT.—There is established a Human Smuggling and Trafficking Center (referred to in this section as the “Center”).

(b) OPERATION.—The Secretary of State, the Secretary of Homeland Security, and the Attorney General shall operate the Center in accordance with the Memorandum of Understanding entitled, “Human Smuggling and Trafficking Center (HSTC), Charter”.

(c) FUNCTIONS.—In addition to such other responsibilities as the President may assign, the Center shall—

(1) serve as the focal point for interagency efforts to address terrorist travel;

(2) serve as a clearinghouse with respect to all relevant information from all Federal Government agencies in support of the United States strategy to prevent separate, but related,

<sup>26</sup> 50 U.S.C. 403-1 note.

<sup>27</sup> 8 U.S.C. 1777.



issues of clandestine terrorist travel and facilitation of migrant smuggling and trafficking of persons;

(3) ensure cooperation among all relevant policy, law enforcement, diplomatic, and intelligence agencies of the Federal Government to improve effectiveness and to convert all information available to the Federal Government relating to clandestine terrorist travel and facilitation, migrant smuggling, and trafficking of persons into tactical, operational, and strategic intelligence that can be used to combat such illegal activities; and

(4) prepare and submit to Congress, on an annual basis, a strategic assessment regarding vulnerabilities in the United States and foreign travel system that may be exploited by international terrorists, human smugglers and traffickers, and their facilitators.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to Congress a report regarding the implementation of this section, including a description of the staffing and resource needs of the Center.

(e) RELATIONSHIP TO THE NCTC.—As part of its mission to combat terrorist travel, the Center shall work to support the efforts of the National Counterterrorism Center.

#### **SEC. 7203. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.**

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by adding at the end the following: “All immigrant visa applications shall be reviewed and adjudicated by a consular officer.”

(2) NONIMMIGRANT VISAS.—Section 222(d) of the Immigration and Nationality Act (8 U.S.C. 1202(d)) is amended by adding at the end the following: “All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.”

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: \* \* \*<sup>28</sup>

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

<sup>28</sup>For amended text, see page 1073.

(A) **IN GENERAL.**—Not later than July 31, 2005, the Secretary of State, in coordination with the Secretary of Homeland Security, shall identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least 1 full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) **EXCEPTIONS.**—The Secretary of State is not required to assign or designate a specialist under subparagraph (A) at a diplomatic or consular post if an employee of the Department of Homeland Security, who has sufficient training and experience in the detection of fraudulent documents, is assigned on a full-time basis to such post under section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

**SEC. 7204.**<sup>29</sup> **INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS.**

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

(1) International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.

(2) The international terrorists who planned and carried out the attack on the World Trade Center on February 26, 1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.

(3) The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.

(4) Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.

(5) Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than 1 passport.

(6) Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner.

<sup>29</sup> 22 U.S.C. 2656 note.

(7) The National Commission on Terrorist Attacks Upon the United States, (commonly referred to as the 9/11 Commission), stated that “Targeting travel is at least as powerful a weapon against terrorists as targeting their money.”

(b) INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—

(1) INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS.—The President should lead efforts to track and curtail the travel of terrorists by supporting the drafting, adoption, and implementation of international agreements, and relevant United Nations Security Council resolutions to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment United Nations and other international anti-terrorism efforts.

(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President should seek, as appropriate, the adoption or full implementation of effective international measures to—

(A) share information on lost, stolen, and fraudulent passports and other travel documents for the purposes of preventing the undetected travel of persons using such passports and other travel documents that were obtained improperly;

(B) establish and implement a real-time verification system of passports and other travel documents with issuing authorities;

(C) share with officials at ports of entry in any such country information relating to lost, stolen, and fraudulent passports and other travel documents;

(D) encourage countries—

(i) to criminalize—

(I) the falsification or counterfeiting of travel documents or breeder documents for any purpose;

(II) the use or attempted use of false documents to obtain a visa or cross a border for any purpose;

(III) the possession of tools or implements used to falsify or counterfeit such documents;

(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

(V) the facilitation of travel by a terrorist; and

(VI) attempts to commit, including conspiracies to commit, the crimes specified in subclauses (I) through (V);

(ii) to impose significant penalties to appropriately punish violations and effectively deter the crimes specified in clause (i); and

(iii) to limit the issuance of citizenship papers, passports, identification documents, and similar documents to persons—

(I) whose identity is proven to the issuing authority;

(II) who have a bona fide entitlement to or need for such documents; and

- (III) who are not issued such documents principally on account of a disproportional payment made by them or on their behalf to the issuing authority;
- (E) provide technical assistance to countries to help them fully implement such measures; and
- (F) permit immigration and border officials—
- (i) to confiscate a lost, stolen, or falsified passport at ports of entry;
  - (ii) to permit the traveler to return to the sending country without being in possession of the lost, stolen, or falsified passport; and
  - (iii) to detain and investigate such traveler upon the return of the traveler to the sending country.
- (3) INTERNATIONAL CIVIL AVIATION ORGANIZATION.—The United States shall lead efforts to track and curtail the travel of terrorists by supporting efforts at the International Civil Aviation Organization to continue to strengthen the security features of passports and other travel documents.
- (c) REPORT.—
- (1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and at least annually thereafter, the President shall submit to the appropriate congressional committees a report on progress toward achieving the goals described in subsection (b).
  - (2) TERMINATION.—Paragraph (1) shall cease to be effective when the President certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved.
- SEC. 7205. INTERNATIONAL STANDARDS FOR TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET FOR INTERNATIONAL TRAVEL DOCUMENTS AND NAME-BASED WATCHLIST SYSTEMS.**
- (a) FINDINGS.—Congress makes the following findings:
- (1) The current lack of a single convention for translating Arabic names enabled some of the 19 hijackers of aircraft used in the terrorist attacks against the United States that occurred on September 11, 2001, to vary the spelling of their names to defeat name-based terrorist watchlist systems and to make more difficult any potential efforts to locate them.
  - (2) Although the development and utilization of terrorist watchlist systems using biometric identifiers will be helpful, the full development and utilization of such systems will take several years, and name-based terrorist watchlist systems will always be useful.
- (b) SENSE OF CONGRESS.—It is the sense of Congress that the President should seek to enter into an international agreement to modernize and improve standards for the transliteration of names into the Roman alphabet in order to ensure 1 common spelling for such names for international travel documents and name-based watchlist systems.

**SEC. 7206. IMMIGRATION SECURITY INITIATIVE.**

(a) IN GENERAL.—Section 235A(b) of the Immigration and Nationality Act (8 U.S.C. 1225a(b)) is amended—

(1) in the subsection heading, by inserting “AND IMMIGRATION SECURITY INITIATIVE” after “PROGRAM”;

(2) by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(3) by adding at the end the following: “Beginning not later than December 31, 2006, the number of airports selected for an assignment under this subsection shall be at least 50.”

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out the amendments made by subsection (a)—

(1) \$25,000,000 for fiscal year 2005;

(2) \$40,000,000 for fiscal year 2006; and

(3) \$40,000,000 for fiscal year 2007.

**SEC. 7207. CERTIFICATION REGARDING TECHNOLOGY FOR VISA WAIVER PARTICIPANTS.**

Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

**SEC. 7208.<sup>30</sup> BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) DEFINITION.—In this section, the term “entry and exit data system” means the entry and exit system required by applicable sections of—

(1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208);

(2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–205);

(3) the Visa Waiver Permanent Program Act (Public Law 106–396);

(4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173); and

(5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56).

(c) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

<sup>30</sup> 8 U.S.C. 1365b.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit data system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) **COLLECTION OF BIOMETRIC EXIT DATA.**—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) **INTEGRATION AND INTEROPERABILITY.**—

(1) **INTEGRATION OF DATA SYSTEM.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully integrate all databases and data systems that process or contain information on aliens, which are maintained by—

(A) the Department of Homeland Security, at—

(i) the United States Immigration and Customs Enforcement;

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) **INTEROPERABLE COMPONENT.**—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) **INTEROPERABLE DATA SYSTEM.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine—

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) **MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.**—

(1) **POLICIES AND PROCEDURES.**—

(A) **ESTABLISHMENT.**—The Secretary of Homeland Security shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(B) **TRAINING.**—The Secretary shall develop training on the rules, guidelines, policies, and procedures established under subparagraph (A), and on immigration law and procedure. All personnel authorized to access information maintained in the databases and data system shall receive such training.

(2) DATA COLLECTED FROM FOREIGN NATIONALS.—The Secretary of Homeland Security, the Secretary of State, and the Attorney General, after consultation with directors of the relevant intelligence agencies, shall standardize the information and data collected from foreign nationals, and the procedures utilized to collect such data, to ensure that the information is consistent and valuable to officials accessing that data across multiple agencies.

(3) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data and for limiting access to the information in the databases or data systems to authorized personnel.

(4) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors in a timely and effective manner;

(ii) determining which government officer provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors;

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems;

(C) strictly limit the agency personnel authorized to enter data into the system;

(D) identify classes of information to be designated as temporary or permanent entries, with corresponding expiration dates for temporary entries; and

(E) identify classes of prejudicial information requiring additional authority of supervisory personnel before entry.

(5) CENTRALIZING AND STREAMLINING CORRECTION PROCESS.—

(A) IN GENERAL.—The President, or agency director designated by the President, shall establish a clearinghouse bureau in the Department of Homeland Security, to centralize and streamline the process through which members of the public can seek corrections to erroneous or inaccurate information contained in agency databases, which is related to immigration status, or which otherwise impedes lawful admission to the United States.

(B) TIME SCHEDULES.—The process described in subparagraph (A) shall include specific time schedules for reviewing data correction requests, rendering decisions on such requests, and implementing appropriate corrective action in a timely manner.



(g) INTEGRATED BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.—The biometric entry and exit data system shall facilitate efficient immigration benefits processing by—

(1) ensuring that the system's tracking capabilities encompass data related to all immigration benefits processing, including—

(A) visa applications with the Department of State;

(B) immigration related filings with the Department of Labor;

(C) cases pending before the Executive Office for Immigration Review; and

(D) matters pending or under investigation before the Department of Homeland Security;

(2) utilizing a biometric based identity number tied to an applicant's biometric algorithm established under the entry and exit data system to track all immigration related matters concerning the applicant;

(3) providing that—

(A) all information about an applicant's immigration related history, including entry and exit history, can be queried through electronic means; and

(B) database access and usage guidelines include stringent safeguards to prevent misuse of data;

(4) providing real-time updates to the information described in paragraph (3)(A), including pertinent data from all agencies referred to in paragraph (1); and

(5) providing continuing education in counterterrorism techniques, tools, and methods for all Federal personnel employed in the evaluation of immigration documents and immigration-related policy.

(h) ENTRY-EXIT SYSTEM GOALS.—The Department of Homeland Security shall operate the biometric entry and exit system so that it—

(1) serves as a vital counterterrorism tool;

(2) screens travelers efficiently and in a welcoming manner;

(3) provides inspectors and related personnel with adequate real-time information;

(4) ensures flexibility of training and security protocols to most effectively comply with security mandates;

(5) integrates relevant databases and plans for database modifications to address volume increase and database usage; and

(6) improves database search capacities by utilizing language algorithms to detect alternate names.

(i) DEDICATED SPECIALISTS AND FRONT LINE PERSONNEL TRAINING.—In implementing the provisions of subsections (g) and (h), the Department of Homeland Security and the Department of State shall—

(1) develop cross-training programs that focus on the scope and procedures of the entry and exit data system;

(2) provide extensive community outreach and education on the entry and exit data system's procedures;

(3) provide clear and consistent eligibility guidelines for applicants in low-risk traveler programs; and

(4) establish ongoing training modules on immigration law to improve adjudications at our ports of entry, consulates, and embassies.

(j) COMPLIANCE STATUS REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, the Secretary of State, the Attorney General, and the head of any other department or agency subject to the requirements of this section, shall issue individual status reports and a joint status report detailing the compliance of the department or agency with each requirement under this section.

(k) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(A) Expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority.

(B) The process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—In this subsection, the term “registered traveler program” means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PROGRAM.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) PARTICIPATION.—The registered traveler program shall include as many participants as practicable by—

(i) minimizing the cost of enrollment;

(ii) making program enrollment convenient and easily accessible; and

(iii) providing applicants with clear and consistent eligibility guidelines.

(C) INTEGRATION.—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) REVIEW AND EVALUATION.—In developing the registered traveler program, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and

(iv) review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the registered traveler program.

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

**SEC. 7209.<sup>31</sup> TRAVEL DOCUMENTS.**

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification.

(2) The planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities.

(3) Additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented not later than January 1, 2008, and shall seek to expedite the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k)).

(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

(1) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

<sup>31</sup> 8 U.S.C. 1185 note.

(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

(A) where the Secretary of Homeland Security determines that the alternative documentation that is the basis for the waiver of the documentary requirement is sufficient to denote identity and citizenship;

(B) in the case of an unforeseen emergency in individual cases; or

(C) in the case of humanitarian or national interest reasons in individual cases.

(d) **TRANSIT WITHOUT VISA PROGRAM.**—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

**SEC. 7210. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.**

(a)<sup>32</sup> **FINDINGS.**—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits.

(2) The further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

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

(1) the Federal Government should exchange terrorist information with trusted allies;

(2) the Federal Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable, the Federal Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the Federal Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the Federal Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other Federal agencies, should implement the initiatives called for in this subsection.

(c) **REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.**—

<sup>32</sup> 8 U.S.C. 1225a note.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other Federal agencies, shall submit to the appropriate committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) CONTENTS.—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

(d) PREINSPECTION AT FOREIGN AIRPORTS.—

(1) IN GENERAL.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

“(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established before September 30, 1996, or pursuant to paragraph (1).”.

(2) REPORT.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Foreign Relations of the Senate;

(D) the Committee on International Relations of the House of Representatives;

(E) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(F) the Select Committee on Homeland Security of the House of Representatives (or any successor committee).

**SEC. 7211.<sup>33</sup> MINIMUM STANDARDS FOR BIRTH CERTIFICATES.**

(a) DEFINITION.—In this section, the term “birth certificate” means a certificate of birth—

(1) for an individual (regardless of where born)—

(A) who is a citizen or national of the United States at birth; and

(B) whose birth is registered in the United States; and

(2) that—

<sup>33</sup> 5 U.S.C. 301 note.

- (A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or
- (B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.
- (b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—
- (1) IN GENERAL.—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.
- (2) STATE CERTIFICATION.—
- (A) IN GENERAL.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.
- (B) FREQUENCY.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.
- (C) COMPLIANCE.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.
- (D) AUDITS.—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.
- (3) MINIMUM STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—
- (A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;
- (B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;
- (C) shall establish standards for the processing of birth certificate applications to prevent fraud;
- (D) may not require a single design to which birth certificates issued by all States must conform; and
- (E) shall accommodate the differences between the States in the manner and form in which birth records are

stored and birth certificates are produced from such records.

(4) CONSULTATION WITH GOVERNMENT AGENCIES.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

- (A) the Secretary of Homeland Security;
- (B) the Commissioner of Social Security;
- (C) State vital statistics offices; and
- (D) other appropriate Federal agencies.

(5) EXTENSION OF EFFECTIVE DATE.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(A) IN GENERAL.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

- (i) computerizing their birth and death records;
- (ii) developing the capability to match birth and death records within each State and among the States; and
- (iii) noting the fact of death on the birth certificates of deceased persons.

(B) ALLOCATION OF GRANTS.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

**SEC. 7212. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS. \* \* \***

**SEC. 7213. SOCIAL SECURITY CARDS AND NUMBERS. \* \* \***

**SEC. 7214. PROHIBITION OF THE DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS. \* \* \***

**SEC. 7215.<sup>34</sup> TERRORIST TRAVEL PROGRAM.**

The Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center, and consistent with the strategy developed under section 7201, shall establish a program to oversee the implementation of the Department's responsibilities with respect to terrorist travel, including the analysis, coordination, and dissemination of terrorist travel intelligence and operational information—

(1) among appropriate subdivisions of the Department of Homeland Security, including—

- (A) the Bureau of Customs and Border Protection;
- (B) United States Immigration and Customs Enforcement;
- (C) United States Citizenship and Immigration Services;
- (D) the Transportation Security Administration; and
- (E) any other subdivision, as determined by the Secretary; and

(2) between the Department of Homeland Security and other appropriate Federal agencies.

**SEC. 7216. INCREASE IN PENALTIES FOR FRAUD AND RELATED ACTIVITY. \* \* \***

**SEC. 7217. STUDY ON ALLEGEDLY LOST OR STOLEN PASSPORTS.**

(a) **IN GENERAL.**—Not later than May 31, 2005, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report, containing the results of a study on the subjects described in subsection (b), to—

- (1) the Committee on the Judiciary of the Senate;
- (2) the Committee on the Judiciary of the House of Representatives;
- (3) the Committee on Foreign Relations of the Senate;
- (4) the Committee on International Relations of the House of Representatives;
- (5) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (6) the Select Committee on Homeland Security of the House of Representatives (or any successor committee).

<sup>34</sup> 6 U.S.C. 123.



(b) **CONTENTS.**—The study referred to in subsection (a) shall examine the feasibility, cost, potential benefits, and relative importance to the objectives of tracking suspected terrorists' travel, and apprehending suspected terrorists, of establishing a system, in coordination with other countries, through which border and visa issuance officials have access in real-time to information on newly issued passports to persons whose previous passports were allegedly lost or stolen.

(c) **INCENTIVES.**—The study described in subsection (b) shall make recommendations on incentives that might be offered to encourage foreign nations to participate in the initiatives described in subsection (b).

**SEC. 7218.<sup>35</sup> ESTABLISHMENT OF VISA AND PASSPORT SECURITY PROGRAM IN THE DEPARTMENT OF STATE.**

(a) **ESTABLISHMENT.**—There is established, within the Bureau of Diplomatic Security of the Department of State, the Visa and Passport Security Program (in this section referred to as the “Program”).

(b) **PREPARATION OF STRATEGIC PLAN.**—

(1) **IN GENERAL.**—The Assistant Secretary for Diplomatic Security, in coordination with the appropriate officials of the Bureau of Consular Affairs, the coordinator for counterterrorism, the National Counterterrorism Center, and the Department of Homeland Security, and consistent with the strategy mandated by section 7201, shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations, within the United States and in foreign countries, that are involved in the fraudulent production, distribution, use, or other similar activity—

(A) of a United States visa or United States passport;

(B) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(C) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(2) **EMPHASIS.**—The strategic plan shall—

(A) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in section 219 of the Immigration and Nationality Act (8 U.S.C. 1189));

(B) require the development of a strategic training course under the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) to train participants in the identification of fraudulent documents and the forensic detection of such documents which may be used to obtain unlawful entry into the United States; and

<sup>35</sup> 22 U.S.C. 4807.

(C) determine the benefits and costs of providing technical assistance to foreign governments to ensure the security of passports, visas, and related documents and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents to obtain such passports and visas, and other types of travel documents.

(c) PROGRAM.—

(1) INDIVIDUAL IN CHARGE.—

(A) DESIGNATION.—The Assistant Secretary for Diplomatic Security shall designate an individual to be in charge of the Program.

(B) QUALIFICATION.—The individual designated under subparagraph (A) shall have expertise and experience in the investigation and prosecution of visa and passport fraud.

(2) PROGRAM COMPONENTS.—The Program shall include the following:

(A) ANALYSIS OF METHODS.—Analyze, in coordination with other appropriate government agencies, methods used by terrorists to travel internationally, particularly the use of false or altered travel documents to illegally enter foreign countries and the United States, and consult with the Bureau of Consular Affairs and the Secretary of Homeland Security on recommended changes to the visa issuance process that could combat such methods, including the introduction of new technologies into such process.

(B) IDENTIFICATION OF INDIVIDUALS AND DOCUMENTS.—Identify, in cooperation with the Human Trafficking and Smuggling Center, individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents, and ensure that the appropriate agency is notified for further investigation and prosecution or, in the case of such individuals abroad for which no further investigation or prosecution is initiated, ensure that all appropriate information is shared with foreign governments in order to facilitate investigation, arrest, and prosecution of such individuals.

(C) IDENTIFICATION OF FOREIGN COUNTRIES NEEDING ASSISTANCE.—Identify foreign countries that need technical assistance, such as law reform, administrative reform, prosecutorial training, or assistance to police and other investigative services, to ensure passport, visa, and related document security and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents.

(D) INSPECTION OF APPLICATIONS.—Randomly inspect visa and passport applications for accuracy, efficiency, and fraud, especially at high terrorist threat posts, in order to prevent a recurrence of the issuance of visas to those who submit incomplete, fraudulent, or otherwise irregular or incomplete applications.

(d) REPORT.—Not later than 90 days after the date on which the strategy required under section 7201 is submitted to Congress, the Assistant Secretary for Diplomatic Security shall submit to Congress a report containing—

(1) a description of the strategic plan prepared under subsection (b); and

(2) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

**SEC. 7219.<sup>36</sup> EFFECTIVE DATE.**

Notwithstanding any other provision of this Act, this subtitle shall take effect on the date of enactment of this Act.

**SEC. 7220. IDENTIFICATION STANDARDS.\* \* \***

**Subtitle C—National Preparedness**

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**Subtitle D—Homeland Security**

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**Subtitle E—Public Safety Spectrum**

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**Subtitle F—Presidential Transition**

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**Subtitle G—Improving International Standards and Cooperation to Fight Terrorist Financing**

**SEC. 7701.<sup>37</sup> IMPROVING INTERNATIONAL STANDARDS AND COOPERATION TO FIGHT TERRORIST FINANCING.**

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

(1) The global war on terrorism and cutting off terrorist financing is a policy priority for the United States and its partners, working bilaterally and multilaterally through the United Nations, the United Nations Security Council and its committees, such as the 1267 and 1373 Committees, the Financial Action Task Force (FATF), and various international financial institutions, including the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), and the regional multilateral development banks, and other multilateral fora.

(2) The international financial community has become engaged in the global fight against terrorist financing. The Financial Action Task Force has focused on the new threat posed by terrorist financing to the international financial system, resulting in the establishment of the FATF's Eight Special Recommendations on Terrorist Financing as the international

<sup>36</sup> 8 U.S.C. 1202 note.

<sup>37</sup> 31 U.S.C. 5311 note.

standard on combating terrorist financing. The Group of Seven and the Group of Twenty Finance Ministers are developing action plans to curb the financing of terror. In addition, other economic and regional fora, such as the Asia-Pacific Economic Cooperation (APEC) Forum, and the Western Hemisphere Financial Ministers, have been used to marshal political will and actions in support of combating the financing of terrorism (CFT) standards.

(3) FATF's Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing are the recognized global standards for fighting money laundering and terrorist financing. The FATF has engaged in an assessment process for jurisdictions based on their compliance with these standards.

(4) In March 2004, the IMF and IBRD Boards agreed to make permanent a pilot program of collaboration with the FATF to assess global compliance with the FATF Forty Recommendations on Money Laundering and the Eight Special Recommendations on Terrorist Financing. As a result, anti-money laundering (AML) and combating the financing of terrorism (CFT) assessments are now a regular part of their Financial Sector Assessment Program (FSAP) and Offshore Financial Center assessments, which provide for a comprehensive analysis of the strength of a jurisdiction's financial system. These reviews assess potential systemic vulnerabilities, consider sectoral development needs and priorities, and review the state of implementation of and compliance with key financial codes and regulatory standards, among them the AML and CFT standards.

(5) To date, 70 FSAPs have been conducted, with over 24 of those incorporating AML and CFT assessments. The international financial institutions (IFIs), the FATF, and the FATF-style regional bodies together are expected to assess AML and CFT regimes in up to 40 countries or jurisdictions per year. This will help countries and jurisdictions identify deficiencies in their AML and CFT regimes and help focus technical assistance efforts.

(6) Technical assistance programs from the United States and other nations, coordinated with the Department of State and other departments and agencies, are playing an important role in helping countries and jurisdictions address shortcomings in their AML and CFT regimes and bringing their regimes into conformity with international standards. Training is coordinated within the United States Government, which leverages multilateral organizations and bodies and international financial institutions to internationalize the conveyance of technical assistance.

(7) In fulfilling its duties in advancing incorporation of AML and CFT standards into the IFIs as part of the IFIs' work on protecting the integrity of the international monetary system, the Department of the Treasury, under the guidance of the Secretary of the Treasury, has effectively brought together all of the key United States Government agencies. In particular, United States Government agencies continue to work together

to foster broad support for this important undertaking in various multilateral fora, and United States Government agencies recognize the need for close coordination and communication within our own Government.

(b) **SENSE OF CONGRESS REGARDING SUCCESS IN MULTILATERAL ORGANIZATIONS.**—It is the sense of Congress that the Secretary of the Treasury should continue to promote the dissemination of international AML and CFT standards, and to press for full implementation of the FATF 40 + 8 Recommendations by all countries in order to curb financial risks and hinder terrorist financing around the globe. The efforts of the Secretary in this regard should include, where necessary or appropriate, multilateral action against countries whose counter-money laundering regimes and efforts against the financing of terrorism fall below recognized international standards.

**SEC. 7702.<sup>37</sup> DEFINITIONS.**

In this subtitle—

(1) the term “international financial institutions” has the same meaning as in section 1701(c)(2) of the International Financial Institutions Act;

(2) the term “Financial Action Task Force” means the international policy-making and standard-setting body dedicated to combating money laundering and terrorist financing that was created by the Group of Seven in 1989; and

(3) the terms “Interagency Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System” and “Interagency Paper” mean the interagency paper prepared by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Securities and Exchange Commission that was announced in the Federal Register on April 8, 2003.

**SEC. 7703. EXPANDED REPORTING AND TESTIMONY REQUIREMENTS FOR THE SECRETARY OF THE TREASURY.**

(a) **REPORTING REQUIREMENTS.**—Section 1503(a) of the International Financial Institutions Act (22 U.S.C. 262o–2(a)) is amended by adding at the end the following: \* \* \*<sup>38</sup>

(b) **TESTIMONY.**—Section 1705(b) of the International Financial Institutions Act (22 U.S.C. 262r–4(b)) is amended—\* \* \*<sup>38</sup>

**SEC. 7704.<sup>37</sup> COORDINATION OF UNITED STATES GOVERNMENT EFFORTS.**

The Secretary of the Treasury, or the designee of the Secretary, as the lead United States Government official to the Financial Action Task Force (FATF), shall continue to convene the interagency United States Government FATF working group. This group, which includes representatives from all relevant Federal agencies, shall meet at least once a year to advise the Secretary on policies to be pursued by the United States regarding the development of common international AML and CFT standards, to assess the adequacy and implementation of such standards, and to recommend to the Secretary improved or new standards, as necessary.

<sup>38</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. III.

**Subtitle H—Emergency Financial Preparedness**

\* \* \* \* \*

#### **d. Global Anti-Semitism Review Act of 2004**

**Public Law 108-332 [S. 2292], 118 Stat. 1282, approved October 16, 2004**

AN ACT To require a report on acts of anti-Semitism around the world.

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

##### **SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Global Anti-Semitism Review Act of 2004”.

##### **SEC. 2.<sup>2</sup> FINDINGS.**

Congress makes the following findings:

(1) Acts of anti-Semitism in countries throughout the world, including some of the world’s strongest democracies, have increased significantly in frequency and scope over the last several years.

(2) During the last 3 months of 2003 and the first 3 months of 2004, there were numerous instances of anti-Semitic violence around the world, including the following incidents:

(A) In Putrajaya, Malaysia, on October 16, 2003, former Prime Minister Mahatir Mohammad told the 57 national leaders assembled for the Organization of the Islamic Conference that Jews “rule the world by proxy”, and called for a “final victory” by the world’s 1.3 billion Muslims, who, he said, “cannot be defeated by a few million Jews.”

(B) In Istanbul, Turkey, on November 15, 2003, simultaneous car bombs exploded outside two synagogues filled with worshippers, killing 24 people and wounding more than 250 people.

(C) In Australia on January 5, 2004, poison was used to ignite, and burn anti-Semitic slogans into, the lawns of the Parliament House in the state of Tasmania.

(D) In St. Petersburg, Russia, on February 15, 2004, vandals desecrated approximately 50 gravestones in a Jewish cemetery, painting the stones with swastikas and anti-Semitic graffiti.

(E) In Toronto, Canada, over the weekend of March 19 through March 21, 2004, vandals attacked a Jewish school, a Jewish cemetery, and area synagogues, painting swastikas and anti-Semitic slogans on the walls of a synagogue and on residential property in a nearby, predominantly Jewish, neighborhood.

(F) In Toulon, France, on March 23, 2004, a Jewish synagogue and community center were set on fire.

<sup>1</sup>22 U.S.C. 2651 note.

<sup>2</sup>22 U.S.C. 2731 note.

(3) Anti-Semitism in old and new forms is also increasingly emanating from the Arab and Muslim world on a sustained basis, including through books published by government-owned publishing houses in Egypt and other Arab countries.

(4) In November 2002, state-run television in Egypt broadcast the anti-Semitic series entitled “Horseman Without a Horse”, which is based upon the fictitious conspiracy theory known as the Protocols of the Elders of Zion. The Protocols have been used throughout the last century by despots such as Adolf Hitler to justify violence against Jews.

(5) In November 2003, Arab television featured an anti-Semitic series, entitled “Ash-Shatat” (or “The Diaspora”), which depicts Jewish people hatching a plot for Jewish control of the world.

(6) The sharp rise in anti-Semitic violence has caused international organizations such as the Organization for Security and Cooperation in Europe (OSCE) to elevate, and bring renewed focus to, the issue, including the convening by the OSCE in June 2003 of a conference in Vienna dedicated solely to the issue of anti-Semitism.

(7) The OSCE convened a conference again on April 28–29, 2004, in Berlin, to address the problem of anti-Semitism with the United States delegation led by former Mayor of New York City, Ed Koch.

(8) The United States Government has strongly supported efforts to address anti-Semitism through bilateral relationships and interaction with international organizations such as the OSCE, the European Union, and the United Nations.

(9) Congress has consistently supported efforts to address the rise in anti-Semitic violence. During the 107th Congress, both the Senate and the House of Representatives passed resolutions expressing strong concern with the sharp escalation of anti-Semitic violence in Europe and calling on the Department of State to thoroughly document the phenomenon.

(10) Anti-Semitism has at times taken the form of vilification of Zionism, the Jewish national movement, and incitement against Israel.

#### **SEC. 3. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) the United States Government should continue to strongly support efforts to combat anti-Semitism worldwide through bilateral relationships and interaction with international organizations such as the OSCE, the European Union, and the United Nations; and

(2) the Department of State should thoroughly document acts of anti-Semitism that occur around the world.

#### **SEC. 4. REPORTS.**

Not later than November 15, 2004, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a one-time report on acts of anti-Semitism around the world, including a description of—



(1) acts of physical violence against, or harassment of, Jewish people, and acts of violence against, or vandalism of, Jewish community institutions, such as schools, synagogues, or cemeteries, that occurred in each country;

(2) the responses of the governments of those countries to such actions;

(3) the actions taken by such governments to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people;

(4) the efforts by such governments to promote anti-bias and tolerance education; and

(5) instances of propaganda in government and nongovernment media that attempt to justify or promote racial hatred or incite acts of violence against Jewish people.

**SEC. 5. AUTHORIZATION FOR ESTABLISHMENT OF OFFICE TO MONITOR AND COMBAT ANTI-SEMITISM.**

The State Department Basic Authorities Act of 1956 is amended by adding after section 58 (22 U.S.C. 2730) the following new section: \* \* \*<sup>3</sup>

**SEC. 6. INCLUSION IN DEPARTMENT OF STATE ANNUAL REPORTS OF INFORMATION CONCERNING ACTS OF ANTI-SEMITISM IN FOREIGN COUNTRIES.**

(a) INCLUSION IN COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—\* \* \*<sup>4</sup>

(b) INCLUSION IN ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—Section 102(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(A)) is amended—\* \* \*<sup>5</sup>

(c)<sup>6</sup> EFFECTIVE DATE OF INCLUSIONS.—The amendments made by subsections (a) and (b) shall apply beginning with the first report under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) and section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6312(b)) submitted more than 180 days after the date of the enactment of this Act.

<sup>3</sup>Sec. 5 added a new sec. 59 to the State Department Basic Authorities Act of 1956, relating to monitoring and combating anti-semitism; for text see page 64.

<sup>4</sup>Sec. 6(a) amended the Foreign Assistance Act of 1961 at sec. 116 and 502B, relating to annual human rights reports. For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>5</sup>Sec. 6(a) amended the International Religious Freedom Act of 1998 at sec. 102. For amended text, see page 1269.

<sup>6</sup>22 U.S.C. 2151n note.

### **e. Northern Uganda Crisis Response Act**

**Public Law 108-283 [S. 2264], 118 Stat. 912, approved August 2, 2004**

AN ACT To require a report on the conflict in Uganda, and for other purposes.

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

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Northern Uganda Crisis Response Act”.

#### **SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The United States and the Republic of Uganda enjoy a strong bilateral relationship and continue to work closely together in fighting the human immunodeficiency virus and acquired immune deficiency syndrome (“HIV/AIDS”) pandemic and combating international terrorism.

(2) For more than 17 years, the Government of Uganda has been engaged in a conflict with the Lord’s Resistance Army that has inflicted hardship and suffering on the people of northern and eastern Uganda.

(3) The members of the Lord’s Resistance Army have used brutal tactics during this conflict, including abducting and forcing individuals into sexual servitude, and forcing a large number of children, estimated to be between 16,000 and 26,000 children, in Uganda to serve in such Army’s military forces.

(4) The Secretary of State has designated the Lord’s Resistance Army as a terrorist organization and placed the Lord’s Resistance Army on the Terrorist Exclusion list pursuant to section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

(5) According to Human Rights Watch, since the mid-1990s the only known sponsor of the Lord’s Resistance Army has been the Government of Sudan, though such Government denies providing assistance to the Lord’s Resistance Army.

(6) More than 1,000,000 people have been displaced from their homes in Uganda as a result of the conflict.

(7) The conflict has resulted in a lack of security for the people of Uganda, and as a result of such lack, each night more than 18,000 children leave their homes and flee to the relative safety of town centers, creating a massive “night commuter” phenomenon that leaves already vulnerable children subject to exploitation and abuse.

(8) Individuals who have been displaced by the conflict in Uganda often suffer from acute malnutrition and the mortality rate for children in northern Uganda who have been displaced is very high.

(9) In the latter part of 2003, humanitarian and human rights organizations operating in northern Uganda reported an increase in violence directed at their efforts and at civilians, including a sharp increase in child abductions.

(10) The Government of Uganda's military efforts to resolve this conflict, including the arming and training of local militia forces, have not ensured the security of civilian populations in the region to date.

(11) The continued instability and lack of security in Uganda has severely hindered the ability of any organization or governmental entity to deliver regular humanitarian assistance and services to individuals who have been displaced or otherwise negatively affected by the conflict.

**SEC. 3. SENSE OF CONGRESS.**

It is the sense of Congress that the Government of the United States should—

(1) work vigorously to support ongoing efforts to explore the prospects for a peaceful resolution of the conflict in northern and eastern Uganda;

(2) work with the Government of Uganda and the international community to make available sufficient resources to meet the immediate relief and development needs of the towns and cities in Uganda that are supporting large numbers of people who have been displaced by the conflict;

(3) urge the Government of Uganda and the international community to assume greater responsibility for the protection of civilians and economic development in regions in Uganda affected by the conflict, and to place a high priority on providing security, economic development, and humanitarian assistance to the people of Uganda;

(4) work with the international community, the Government of Uganda, and civil society in northern and eastern Uganda to develop a plan whereby those now displaced may return to their homes or to other locations where they may become economically productive;

(5) urge the leaders and members of the Lord's Resistance Army to stop the abduction of children, and urge all armed forces in Uganda to stop the use of child soldiers, and seek the release of all individuals who have been abducted;

(6) make available increased resources for assistance to individuals who were abducted during the conflict, child soldiers, and other children affected by the conflict;

(7) work with the Government of Uganda, other countries, and international organizations to ensure that sufficient resources and technical support are devoted to the demobilization and reintegration of rebel combatants and abductees forced by their captors to serve in non-combatant support roles;

(8) cooperate with the international community to support civil society organizations and leaders in Uganda, including Acholi religious leaders, who are working toward a just and lasting resolution to the conflict;

(9) urge the Government of Uganda to improve the professionalism of Ugandan military personnel currently stationed in

northern and eastern Uganda, with an emphasis on respect for human rights, accountability for abuses, and effective civilian protection;

(10) work with the international community to assist institutions of civil society in Uganda to increase the capacity of such institutions to monitor the human rights situation in northern Uganda and to raise awareness of abuses of human rights that occur in that area;

(11) urge the Government of Uganda to permit international human rights monitors to establish a presence in northern and eastern Uganda;

(12) monitor the creation of civilian militia forces in northern and eastern Uganda and publicize any concerns regarding the recruitment of children into such forces or the potential that the establishment of such forces will invite increased targeting of civilians in the conflict or exacerbate ethnic tension and violence; and

(13) make clear that the relationship between the Government of Sudan and the Government of the United States cannot improve unless no credible evidence indicates that authorities of the Government of Sudan are complicit in efforts to provide weapons or other support to the Lord's Resistance Army.

#### **SEC. 4. REPORT.**

(a) **REQUIREMENTS.**—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees on the conflict in Uganda.

(b) **CONTENT.**—The report required by subsection (a) shall include a description of the following:

(1) The individuals or entities that are providing financial and material support for the Lord's Resistance Army, including a description of any such support provided by the Government of Sudan or by senior officials of such Government.

(2) The activities of the Lord's Resistance Army that create obstacles that prohibit the provision of humanitarian assistance or the protection of the civilian population in Uganda.

(3) The practices employed by the Ugandan People's Defense Forces in northern and eastern Uganda to ensure that children and civilians are protected, that civilian complaints are addressed, and that any member of the armed forces that abuses a civilian is held accountable for such abuse.

(4) The actions carried out by the Government of the United States, the Government of Uganda, or the international community to protect civilians, especially women and children, who have been displaced by the conflict in Uganda, including women and children that leave their homes and flee to cities and towns at night in search of security from sexual exploitation and gender-based violence.

(c) **FORM OF REPORT.**—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means

the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

## **f. Foreign Relations Authorization Act, Fiscal Year 2003**

**Partial text of Public Law 107-228 [H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

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

NOTE.—This Act amends several State Department and foreign relations-related laws that appear elsewhere in this volume. See the Act to Establish a Commission on Security and Cooperation in Europe, beginning at page 1755; Asia Foundation Act, page 1422; Foreign Affairs Reform and Restructuring Act of 1998, page 873; Foreign Service Act of 1980, page 706; Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996, page 1473; International Center Act, page 1314; International Religious Freedom Act of 1998, page 1263; Migration and Refugee Assistance Act of 1962, page 1333; Mutual Educational and Cultural Exchange Act of 1961, page 1557; Omnibus Diplomatic Security and Antiterrorism Act of 1986, page 1101; State Department Basic Authorities Act of 1956, page 7; Trafficking Victims Protection Act of 2000 and Victims of Trafficking and Violence Protection Act of 2000, volume I-A; Vietnam Education Foundation Act of 2000, page 1595; and various Foreign Relations Authorizations Acts, beginning at page 221.

### **SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 2003”.

### **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into two divisions as follows:

(1) DIVISION A.—Department of State Authorization Act, Fiscal Year 2003.

(2) DIVISION B.—Security Assistance Act of 2002.

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

<sup>1</sup> 22 U.S.C. 2651 note.

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### SEC. 3.<sup>2</sup> DEFINITIONS.

In this Act:

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

<sup>2</sup> 22 U.S.C. 2651 note.

(2) DEPARTMENT.—The term “Department” means the Department of State.

(3) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of State.

## DIVISION A—DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEAR 2003

### SEC. 101.<sup>2</sup> SHORT TITLE.

This division may be cited as the “Department of State Authorization Act, Fiscal Year 2003”.

## TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

### Subtitle A—Department of State

#### SEC. 111. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1)<sup>3</sup> DIPLOMATIC AND CONSULAR PROGRAMS.—

<sup>3</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 86), provided the following:

#### “DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of the United States Information and Educational Exchange Act of 1948, as amended; representation to certain international organizations in which the United States participates pursuant to treaties ratified pursuant to the advice and consent of the Senate or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$3,269,258,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the ‘Emergencies in the Diplomatic and Consular Service’ appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That, of the amount made available under this heading, \$292,693,000 shall be available only for public diplomacy international information programs: *Provided further*, That, of the amount made available under this heading, \$500,000 shall be available only for grants to the participating organizations in the War Against Trafficking Alliance for activities and services related to preparation, execution and follow-up for an international conference on sex trafficking: *Provided further*, That the Secretary shall appoint an advisory panel, reporting directly to the Secretary, to assess policy goals and program priorities with regard to United States relations with the countries of Sub-Saharan Africa and to advise the Secretary of any related findings and recommendations: *Provided further*, That this panel shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App): *Provided further*, That funds available under this heading may be available for a United States Government interagency task force to examine, coordinate and oversee United States participation in the United Nations headquarters renovation project: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People’s Republic of China unless, at least 15 days in advance, the Committees on Appropriations of the House of Representatives and the Senate are notified of such proposed action.

“In addition, not to exceed \$1,343,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs and from fees from educational advising and counseling and exchange visitor programs; and, in addition, not to exceed

Continued

(A) AUTHORIZATION OF APPROPRIATIONS.—For “Diplomatic and Consular Programs”, \$4,030,023,000 for the fiscal year 2003.

(B) WORLDWIDE SECURITY UPGRADES.—Of the amount authorized to be appropriated by subparagraph (A), \$564,000,000 for the fiscal year 2003 is authorized to be appropriated for worldwide security upgrades.

(C) BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.—Of the amount authorized to be appropriated by subparagraph (A), \$20,000,000 for the fiscal year 2003 is authorized to be appropriated for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor.

(D) RECRUITMENT OF MINORITY GROUPS.—Of the amount authorized to be appropriated by subparagraph (A), \$2,000,000 for the fiscal year 2003 is authorized to be appropriated for the recruitment of members of minority groups for careers in the Foreign Service and international affairs.

(2)<sup>4</sup> CAPITAL INVESTMENT FUND.—For “Capital Investment Fund”, \$200,000,000 for the fiscal year 2003.

(3)<sup>5</sup> EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE.—

(A) IN GENERAL.—For “Embassy Security, Construction and Maintenance”, \$555,000,000 for the fiscal year 2003, in addition to amounts otherwise authorized to be appropriated for such purpose by section 604 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-470).

(B) AMENDMENT OF THE NANCE-DONOVAN FOREIGN RELATIONS AUTHORIZATION ACT.—Section 604(a)(4) of that Act (113 Stat. 1501A-453) is amended by striking “\$900,000,000” and inserting “\$1,000,000,000”.

\$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

“In addition, for the costs of worldwide security upgrades, \$553,000,000, to remain available until expended.”

<sup>4</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 87), provided the following:

“CAPITAL INVESTMENT FUND

“For necessary expenses of the Capital Investment Fund, \$183,311,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.”

<sup>5</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 87), provided the following:

“EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

“For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), preserving, maintaining, repairing, and planning for buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Harry S Truman Building, and carrying out the Diplomatic Security Construction Program as authorized, \$508,500,000, to remain available until expended as authorized, of which not to exceed \$25,000 may be used for domestic and overseas representation as authorized: *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture, furnishings, or generators for other departments and agencies.

“In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, \$755,000,000, to remain available until expended.”

(4)<sup>6</sup> REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$9,000,000 for the fiscal year 2003.

(5)<sup>7</sup> PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$11,000,000 for the fiscal year 2003.

(6)<sup>8</sup> EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$15,000,000 for the fiscal year 2003.

(7)<sup>9</sup> REPATRIATION LOANS.—For “Repatriation Loans”, \$1,250,000 for the fiscal year 2003.

(8)<sup>10</sup> PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$18,817,000 for the fiscal year 2003.

(9)<sup>11</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$30,800,000 for the fiscal year 2003.

(b) AVAILABILITY OF FUNDS FOR PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—The amount appropriated pursuant to subsection (a)(5) is authorized to remain available through September 30, 2004.

**SEC. 112. UNITED STATES EDUCATIONAL, CULTURAL, AND PUBLIC DIPLOMACY PROGRAMS.**

The following amounts are authorized to be appropriated for the Department to carry out public diplomacy programs of the Depart-

<sup>6</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 87), provided the following:

“REPRESENTATION ALLOWANCES

“For representation allowances as authorized, \$6,485,000.”.

<sup>7</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 87), provided the following:

“PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

“For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, \$11,000,000, to remain available until September 30, 2004.”.

<sup>8</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 88), provided the following:

“EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

“For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, \$6,500,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.”.

<sup>9</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 88), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$612,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with the Diplomatic and Consular Programs account under Administration of Foreign Affairs.”.

<sup>10</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 88), provided the following:

“PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

“For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8, \$18,450,000.”.

<sup>11</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 86), provided the following:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General, \$29,264,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.”.

ment under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Foreign Affairs Reform and Restructuring Act of 1998, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$135,000,000 for the fiscal year 2003.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amount authorized to be appropriated by clause (i), \$5,000,000 for the fiscal year 2003 is authorized to be available to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

(iii) NEW CENTURY SCHOLARS INITIATIVE—HIV/AIDS.—Of the amount authorized to be appropriated under clause (i), \$1,000,000 for the fiscal year 2003 is authorized to be available for HIV/AIDS research and mitigation strategies under the Health Issues in a Border-Less World academic program of the New Century Scholars Initiative.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For other educational and cultural exchange programs authorized by law, \$125,000,000 for the fiscal year 2003.

(ii) TIBETAN EXCHANGES.—Of the amount authorized to be appropriated by clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for “Ngawang Choephel Exchange Programs” (formerly known as “programs of educational and cultural exchange between the United States and the people of Tibet”) under section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319).

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amount authorized to be appropriated by clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for “East Timorese Scholarships”.

(iv) MONTENEGRO PARLIAMENTARY DEVELOPMENT.—Of the amount authorized to be appropriated by clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for a program of parliamentary development and exchanges in Montenegro.

(v) SOUTH PACIFIC EXCHANGES.—Of the amount authorized to be appropriated under clause (i), \$750,000



for the fiscal year 2003 is authorized to be available for “South Pacific Exchanges”.

(vi)<sup>12</sup> ISRAEL-ARAB PEACE PARTNERS PROGRAM.—Of the amount authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2003 is authorized to be available for people-to-people activities (with a focus on young people) to support the Middle East peace process involving participants from Israel, the Palestinian Authority, Arab countries, and the United States, to be known as the “Israel-Arab Peace Partners Program”.

(vii) SUDANESE SCHOLARSHIPS.—Of the amount authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for scholarships for students from southern Sudan for secondary or postsecondary education in the United States, to be known as “Sudanese Scholarships”.

(2)<sup>13</sup> NATIONAL ENDOWMENT FOR DEMOCRACY.—

(A) IN GENERAL.—For the “National Endowment for Democracy”, \$42,000,000 for the fiscal year 2003.

(B) REAGAN-FASCELL DEMOCRACY FELLOWS.—Of the amount authorized to be appropriated under subparagraph (A), \$1,000,000 for the fiscal year 2003 is authorized to be available for a fellowship program known as the “Reagan-Fascell Democracy Fellows”, for democracy activists and scholars from around the world at the International Forum for Democratic Studies in Washington, D.C., to study, write, and exchange views with other activists and scholars and with Americans.

(3)<sup>14</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, \$15,000,000 for the fiscal year 2003.

<sup>12</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 90), provided the following:

“ISRAELI ARAB SCHOLARSHIP PROGRAM

“For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2003, to remain available until expended.”

<sup>13</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 91), provided the following:

“NATIONAL ENDOWMENT FOR DEMOCRACY

“For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$42,000,000, to remain available until expended.”

<sup>14</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 90), provided the following:

“EAST-WEST CENTER

“To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$18,000,000, of which \$2,500,000 shall remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.”

(4) DANTE B. FASCELL NORTH-SOUTH CENTER.—For the “Dante B. Fascell North-South Center”, \$2,500,000 for the fiscal year 2003.

**SEC. 113. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.**

(a)<sup>15</sup> ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under the heading “Contributions to International Organizations” \$891,378,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.—Of the amount authorized to be appropriated under the heading “Contributions to International Organizations” for fiscal year 2003, and for each fiscal year thereafter, such sums as may be necessary are authorized for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b)<sup>16</sup> CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—There is authorized to be appropriated under the heading “Contributions for International Peacekeeping Activities” \$725,981,000 for the fiscal year 2003 for the Department to carry

<sup>15</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 88), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$866,000,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.”

<sup>16</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 88), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$673,710,000, of which 15 percent shall remain available until September 30, 2004: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) **PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.**—None of the funds made available for the 2002–2003 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations may be available for the United States proportionate share of any framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, and the International Criminal Court.

(d) **FOREIGN CURRENCY EXCHANGE RATES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to the amount authorized to be appropriated by subsection (a), there is authorized to be appropriated such sums as may be necessary for the fiscal year 2003 to offset adverse fluctuations in foreign currency exchange rates.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated under this subsection may be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to the appropriate congressional committees that such amounts are necessary due to such fluctuations.

(e)<sup>17</sup> **REFUND OF EXCESS CONTRIBUTIONS.**—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the organization or agency concerned its proportionate share of the amount by which the total contributions to the organization or agency exceed the expenditures of the regular assessed budget of the organization or agency.

**SEC. 114.<sup>18</sup> INTERNATIONAL COMMISSIONS.**

The following amounts are authorized to be appropriated under “International Commissions” for the Department to carry out the

<sup>17</sup> 22 U.S.C. 287e note.

<sup>18</sup> For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108–7; 117 Stat. 89), provided the following:

“INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

“INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

“For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

“SALARIES AND EXPENSES

“For salaries and expenses, not otherwise provided for, \$25,482,000.

“CONSTRUCTION

“For detailed plan preparation and construction of authorized projects, \$5,450,000, to remain available until expended, as authorized.

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided, for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Co-

Continued

authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions, and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A) for “Salaries and Expenses”, \$28,387,000 for the fiscal year 2003; and

(B) for “Construction”, \$9,517,000 for the fiscal year 2003.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$1,157,000 for the fiscal year 2003.

(3) INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$7,544,000 for the fiscal year 2003.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$19,780,000 for the fiscal year 2003.

**SEC. 115.<sup>19</sup> MIGRATION AND REFUGEE ASSISTANCE.**

(a) IN GENERAL.—There is authorized to be appropriated for the Department for “Migration and Refugee Assistance” for authorized activities, \$820,000,000 for the fiscal year 2003.

(b) REFUGEES RESETTLING IN ISRAEL.—Of the amount authorized to be appropriated by subsection (a), \$60,000,000 is authorized to be available for the fiscal year 2003 for the resettlement of refugees in Israel.

operation Commission as authorized by Public Law 103-182, \$9,472,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

“INTERNATIONAL FISHERIES COMMISSIONS

“For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$17,100,000: *Provided*, That the United States’ share of such expenses may be advanced to the respective commissions pursuant to 31 U.S.C. 3324.”

<sup>19</sup>Appropriations for Migration and Refugee Assistance are administered by the State Department and provided for in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 2003 appropriations levels and conditions were provided in title II of division E of Public Law 108-7 (117 Stat. 159):

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$787,000,000, which shall remain available until expended: *Provided*, That not more than \$16,565,000 may be available for administrative expenses: *Provided further*, That not less than \$60,000,000 of the funds made available under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$26,000,000, to remain available until expended.”

(c) **TIBETAN REFUGEES IN INDIA AND NEPAL.**—Of the amount authorized to be appropriated by subsection (a), \$2,000,000 for the fiscal year 2003 is authorized to be available for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(d) **HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.**—Of the amount authorized to be appropriated by subsection (a), \$2,000,000 for the fiscal year 2003 is authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(e) **AVAILABILITY OF FUNDS.**—Funds appropriated pursuant to this section are authorized to remain available until expended.

**SEC. 116. GRANTS TO THE ASIA FOUNDATION.**

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164; 22 U.S.C. 4403) is amended to read as follows: \* \* \*

**Subtitle B—United States International Broadcasting Activities**

**SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, and the Foreign Affairs Reform and Restructuring Act of 1998, and to carry out other authorities in law consistent with such purposes:

(1)<sup>20</sup> **INTERNATIONAL BROADCASTING OPERATIONS.**—

(A) **IN GENERAL.**—For “International Broadcasting Operations”, \$485,823,000 for the fiscal year 2003.

(B) **ALLOCATION OF FUNDS.**—Of the amount authorized to be appropriated by subparagraph (A) for the fiscal year 2003, there is authorized to be available for Radio Free Asia \$35,000,000 for the fiscal year 2003.

<sup>20</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 91), provided the following:

“BROADCASTING BOARD OF GOVERNORS

“INTERNATIONAL BROADCASTING OPERATIONS

“For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, \$468,898,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.”

(2)<sup>21</sup> BROADCASTING CAPITAL IMPROVEMENTS.—For “Broadcasting Capital Improvements”, \$13,740,000 for the fiscal year 2003.

(3)<sup>22</sup> BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$25,923,000 for the fiscal year 2003.

(b) CONTINUATION OF ADDITIONAL AUTHORIZATION FOR BROADCASTING TO THE PEOPLE’S REPUBLIC OF CHINA AND NEIGHBORING COUNTRIES.—Section 701 of Public Law 106-286 (22 U.S.C. 7001) is amended—

(1) in subsection (a) by striking “2001” and inserting “2003”; and

(2) in subsection (b)(1), by striking “2001 and 2002” and inserting “2001, 2002, and 2003”.

(c) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR MIDDLE EAST RADIO NETWORK OF VOICE OF AMERICA.—In addition to such amounts as are made available for the Middle East Radio Network of Voice of America pursuant to the authorization of appropriations under subsection (a), there is authorized to be appropriated \$20,000,000 for the fiscal year 2003 for the Middle East Radio Network of Voice of America.

## TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

### Subtitle A—Basic Authorities and Activities

#### SEC. 201. EMERGENCY EVACUATION SERVICES.

Section 4(b)(2)(A) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671(b)(2)(A)) is amended to read as follows:  
\* \* \*

#### SEC. 202. SPECIAL AGENT AUTHORITIES.

(a) GENERAL AUTHORITY.—Section 37(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)) is amended—  
\* \* \*

(b) AGREEMENTS.—Section 37(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(b)) is amended—\* \* \*

(c)<sup>23</sup> IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY.—(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities

<sup>21</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 91), provided the following:

“BROADCASTING CAPITAL IMPROVEMENTS

“For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$12,740,000, to remain available until expended, as authorized.”

<sup>22</sup>For fiscal year 2003, the Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108-7; 117 Stat. 91), provided the following:

“BROADCASTING TO CUBA

“For necessary expenses to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$24,996,000, to remain available until expended.”

<sup>23</sup>22 U.S.C. 2709 note.

Act of 1956, as amended by subsection (a), may not be exercised until the date on which the Secretary—

(A) submits the agreement required by subsection (b)(2) of section 37 of such Act to the appropriate congressional committees; and

(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act, may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register.

**SEC. 203. INTERNATIONAL LITIGATION FUND.**

Section 38 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) is amended by adding at the end the following new subsection: \* \* \*

**SEC. 204. STATE DEPARTMENT RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NONNATURAL CAUSES.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section: \* \* \*

**SEC. 205. FOREIGN RELATIONS HISTORICAL SERIES.** \* \* \*

(a) ANNUAL REPORTS BY THE ADVISORY COMMITTEE.—Section 404(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4354(d)) is amended—\* \* \*

(b) ANNUAL REPORTS BY THE SECRETARY.—Section 404(e) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4354(e)) is amended \* \* \*

**SEC. 206. EXPANSION OF ELIGIBILITY FOR AWARD OF CERTAIN CONSTRUCTION CONTRACTS.**

(a) IN GENERAL.—Section 11(b)(4)(A) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 302(b)(4)(A)) is amended \* \* \*

(b) CONFORMING AMENDMENT.—Section 402(c)(2)(D) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4852(c)(2)(D)) is amended \* \* \*

**SEC. 207. INTERNATIONAL CHANCERY CENTER.**

Section 1 of the Act of October 8, 1968 (Public Law 90-553, as amended; commonly known as the “International Center Act”) is amended—\* \* \*

**SEC. 208. TRAVEL TO GREAT LAKES FISHERIES MEETINGS.**

Section 4(c) of the Great Lakes Fisheries Act of 1956 (16 U.S.C. 933(c)) is amended—

(1) by striking “five” and inserting “ten”; and

(2) by striking “each” and inserting “the annual”.

**SEC. 209.<sup>24</sup> CORRECTION OF FISHERMEN’S PROTECTIVE ACT OF 1967.**

Section 7(a)(3) of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1977(a)(3)) is amended \* \* \*

<sup>24</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. IV.

**SEC. 210. USE OF FUNDS RECEIVED BY THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.**

Section 5 of the Act entitled “An Act providing for a study regarding the equitable use of the waters of the Rio Grande below Fort Quitman, Texas, in cooperation with the United States of Mexico”, approved May 13, 1924 (22 U.S.C. 277d), is amended by inserting “, the North American Development Bank, or the Border Environment Cooperation Commission” after “United Mexican States”.

**SEC. 211. FEE COLLECTIONS RELATING TO INTERCOUNTRY ADOPTIONS AND AFFIDAVITS OF SUPPORT.**

(a)<sup>25</sup> ADOPTION FEES.—Section 403(b) of the Intercountry Adoption Act of 2000 (Public Law 106-279) is amended—\* \* \*

(b) AFFIDAVIT OF SUPPORT FEES.—Section 232 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-425) is amended—\* \* \*

**SEC. 212. ANNUAL REPORTS ON COMPLIANCE WITH THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.**

Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277; 112 Stat. 2681-846) is amended \* \* \*

**SEC. 213.<sup>26</sup> REPEAL OF PROVISION REGARDING HOUSING FOR FOREIGN AGRICULTURAL ATTACHES.**

Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-34) is repealed.

**SEC. 214. UNITED STATES POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL.**

(a) CONGRESSIONAL STATEMENT OF POLICY.—The Congress maintains its commitment to relocating the United States Embassy in Israel to Jerusalem and urges the President, pursuant to the Jerusalem Embassy Act of 1995 (Public Law 104-45; 109 Stat. 398), to immediately begin the process of relocating the United States Embassy in Israel to Jerusalem.

(b) LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.—None of the funds authorized to be appropriated by this Act may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplo-

<sup>25</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. II-B.

<sup>26</sup> Sec. 738 of Public Law 106-387 read as follows:

“SEC. 738. Hereafter, notwithstanding any other provision of law, no housing or residence in a foreign country purchased by an agent or instrumentality of the United States, for the purpose of housing the agricultural attache, shall be sold or disposed of without the approval of the Foreign Agricultural Service of the United States Department of Agriculture, including property purchased using foreign currencies generated under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) and used or occupied by agricultural attaches of the Foreign Agricultural Service: *Provided*, That the Department of State/Office of Foreign Buildings may sell such properties with the concurrence of the Foreign Agricultural Service if the proceeds are used to acquire suitable properties of appropriate size for Foreign Agricultural Service agricultural attaches: *Provided further*, That the Foreign Agricultural Service shall have the right to occupy such residences in perpetuity with costs limited to appropriate maintenance expenses.”.



matic facility is under the supervision of the United States Ambassador to Israel.

(c) **LIMITATION ON USE OF FUNDS FOR PUBLICATIONS.**—None of the funds authorized to be appropriated by this Act may be available for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

(d) **RECORD OF PLACE OF BIRTH AS ISRAEL FOR PASSPORT PURPOSES.**—For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary shall, upon the request of the citizen or the citizen's legal guardian, record the place of birth as Israel.

**SEC. 215. REPORT CONCERNING EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.**

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

(1) Israel is a friend and ally of the United States whose security is vital to regional stability and United States interests.

(2) Israel currently maintains diplomatic relations with approximately 160 countries. Approximately 30 countries do not have any diplomatic relations with Israel.

(3) The State of Israel has been actively seeking to establish formal relations with a number of countries.

(4) The United States should assist its ally, Israel, in its efforts to establish diplomatic relations.

(5) After more than 50 years of existence, Israel deserves to be treated as an equal nation by its neighbors and the world community.

(b) **REPORT CONCERNING UNITED STATES EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.**—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that includes the following information (in classified or unclassified form, as appropriate):

(1) Actions taken by the United States to encourage other countries to establish full diplomatic relations with Israel.

(2) Specific responses solicited and received by the Secretary from countries that do not maintain full diplomatic relations with Israel with respect to the status of negotiations to enter into diplomatic relations with Israel.

(3) Other measures being undertaken, and measures that will be undertaken, by the United States to ensure and promote Israel's full participation in the world diplomatic community.

**SEC. 216. CONTINUATION OF REPORTING REQUIREMENTS.**

(a) **REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.**—Section 2801(b)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended \* \* \*

(b) **REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**—Section 2802(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus

Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended \* \* \*

(c) REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.—Section 805(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 805(a) of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-470) is amended \* \* \*

### **Subtitle B—Educational, Cultural, and Public Diplomacy Authorities**

#### **SEC. 221. FULBRIGHT-HAYS ACT AUTHORITIES.**

Section 112(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(d)) is amended—\* \* \*

#### **SEC. 222. EXTENSION OF REQUIREMENT FOR SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is amended \* \* \*

#### **SEC. 223. PLAN FOR ACHIEVEMENT OF PUBLIC DIPLOMACY OBJECTIVES.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

- (1) Full integration of public diplomacy policy into overall policy formulation and implementation.
- (2) Closer communication and policy coordination between public diplomacy officers and other officers in the regional bureaus of the Department and at overseas posts.
- (3) The creation of channels of direct communication between the public diplomacy officers in regional bureaus of the Department and the Under Secretary of State for Public Diplomacy.
- (4) Minimizing any adverse consequences of public diplomacy officers in country posts reporting to the regional bureaus of the Department.

#### **SEC. 224.<sup>27</sup> ADVISORY COMMITTEE ON CULTURAL DIPLOMACY.**

(a) ESTABLISHMENT.—There is established an Advisory Committee on Cultural Diplomacy (in this section referred to as the “Advisory Committee”), which shall be composed of nine members, as follows:

- (1) The Under Secretary of State for Public Diplomacy, who shall serve as Chair.
- (2) The Assistant Secretary of State for Educational and Cultural Affairs.
- (3) Seven members appointed pursuant to subsection (c).

(b) DUTIES.—The Advisory Committee shall advise the Secretary on programs and policies to advance the use of cultural diplomacy in United States foreign policy. The Advisory Committee shall, in particular, provide advice to the Secretary on—

<sup>27</sup> 22 U.S.C. 2451 note.

- (1) increasing the presentation abroad of the finest of the creative, visual, and performing arts of the United States; and
- (2) strategies for increasing public-private partnerships to sponsor cultural exchange programs that promote the national interests of the United States.

(c) APPOINTMENTS.—The members of the Advisory Committee shall be appointed by the Secretary, not more than four of whom shall be from the same political party, from among distinguished Americans with a demonstrated record of achievement in the creative, visual, and performing arts, or international affairs. No officer or employee of the United States shall be appointed to the Advisory Committee.

(d) VACANCIES.—A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment.

(e) MEETINGS.—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least twice each year or as frequently as may be necessary to carry out its duties.

(f) ADMINISTRATIVE SUPPORT.—The Secretary is authorized to provide the Advisory Committee with necessary administrative support from among the staff of the Bureau of Educational and Cultural Affairs of the Department.

(g) COMPENSATION.—Members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(h) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Advisory Committee to the extent that the provisions of this section are inconsistent with that Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department such sums as may be necessary to carry out this section.

(j) TERMINATION.—The Advisory Committee shall terminate September 30, 2005.

**SEC. 225. ALLOCATION OF FUNDS FOR “AMERICAN CORNERS” IN THE RUSSIAN FEDERATION.**

(a) FINDING.—Congress finds that joint ventures with host libraries in the Russian Federation known as “American Corners” are an effective means—

- (1) to provide information about United States history, government, society, and values;
- (2) to provide access to computers and the Internet; and
- (3) to leverage United States assistance and exchange programs in the Russian Federation.

(b) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by section 112(1)(B) of this Act for the fiscal year 2003, \$500,000 is authorized to be available for “American Corner” centers operating in the Russian Federation.

**SEC. 226. REPORT RELATING TO COMMISSION ON SECURITY AND COOPERATION IN EUROPE.**

Section 5 of the Act entitled “An Act to establish a Commission on Security and Cooperation in Europe” (22 U.S.C. 3005) is amended to read as follows: \* \* \*

**SEC. 227.<sup>28</sup> AMENDMENTS TO THE VIETNAM EDUCATION FOUNDATION ACT OF 2000.**

(a) **PURPOSES OF THE ACT.**—Section 202 of the Vietnam Education Foundation Act of 2000 (title II of division B of H.R. 5666, as enacted by section 1(a)(4) of Public Law 106-554 and contained in appendix D of that Act; 114 Stat. 2763A-255) is amended—

\* \* \*

(b) **ELECTION OF THE CHAIR.**—Section 205(c) of such Act is amended \* \* \*

(c) **DUTIES OF THE BOARD.**—Section 205(e) of such Act is amended \* \* \*

(d) **TREATMENT OF PRESIDENTIAL APPOINTEES TO THE BOARD OF DIRECTORS.**—Section 205 of such Act is amended—\* \* \*

(e) **TRAVEL REGULATIONS.**—Section 205 of such Act, as amended by subsection (d), is further amended \* \* \*

(f) **VACANCIES.**—Section 205(b) of such Act is amended \* \* \*

(g) **ENGLISH PROFICIENCY.**—Section 206(a)(2) of such Act is amended \* \* \*

(h) **SELECTION CRITERIA.**—Section 206(b) of such Act is amended—\* \* \*

(i) **ANNUAL REPORT.**—Such Act is amended—

(1) in section 207(d), \* \* \*

(2) in section 209(b)—\* \* \*

(j) **COMPENSATION OF EXECUTIVE DIRECTOR.**—Section 208(d) of such Act is amended \* \* \*

(k) **CLERICAL CORRECTIONS.**—Such Act is amended—

(1) in section 206(d)—\* \* \*

(2) in section 206(e)—\* \* \*

(3) in section 208(a), \* \* \*

(4) in section 208(d), \* \* \*

(5) in section 209(a)(5), \* \* \*

**SEC. 228.<sup>29</sup> ETHICAL ISSUES IN INTERNATIONAL HEALTH RESEARCH.**

(a) **IN GENERAL.**—The Secretary shall make available funds for international exchanges to provide opportunities to researchers in developing countries to participate in activities related to ethical issues in human subject research, as described in subsection (c).

(b) **COORDINATION WITH OTHER PROGRAMS.**—The Secretary shall coordinate programs conducted pursuant to this section with similar programs that may be conducted by the United States Agency for International Development and other Federal agencies as part of United States international health programs, particularly with respect to research and treatment of infectious diseases.

(c) **ETHICAL ISSUES IN HUMAN SUBJECT RESEARCH.**—For purposes of subsection (a), the phrase “activities related to ethical issues in human subject research” includes courses of study, conferences, and fora on development of and compliance with international eth-

<sup>28</sup> 22 U.S.C. 2452 note.

<sup>29</sup> 22 U.S.C. 2464.

ical standards for clinical trials involving human subjects, particularly with respect to responsibilities of researchers to individuals and local communities participating in such trials, and on management and monitoring of such trials based on such international ethical standards.

**SEC. 229. CONFORMING AMENDMENTS.**

Section 112(g) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(g)) is amended—\* \* \*

**Subtitle C—Consular Authorities**

**SEC. 231. REPORT ON VISA ISSUANCE TO INADMISSIBLE ALIENS.**

Section 51(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723(a)) is amended—\* \* \*

**SEC. 232.<sup>30</sup> DENIAL OF ENTRY INTO UNITED STATES OF CHINESE AND OTHER NATIONALS ENGAGED IN COERCED ORGAN OR BODILY TISSUE TRANSPLANTATION.**

(a) DENIAL OF ENTRY.—Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary shall direct consular officers not to issue a visa to any person whom the Secretary finds, based on credible and specific information, to have been directly involved with the coercive transplantation of human organs or bodily tissue, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such practices.

(b) EXCEPTION.—The prohibitions in subsection (a) do not apply to an applicant who is a head of state, head of government, or cabinet-level minister.

(c) WAIVER.—The Secretary may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—

(1) determines that it is important to the national interest of the United States to do so; and

(2) not later than 30 days after the issuance of a visa, provides written notification to the appropriate congressional committees containing a justification for the waiver.

**SEC. 233.<sup>31</sup> PROCESSING OF VISA APPLICATIONS.**

(a) IN GENERAL.—It shall be the policy of the Department to process each visa application from an alien classified as an immediate relative or as a K-1 nonimmigrant within 30 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service. In the case of an immigrant visa application where the petitioner is a relative other than an immediate relative, it should be the policy of the Department to process such an application within 60 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service.

(b) DEFINITIONS.—In this section:

(1) IMMEDIATE RELATIVE.—The term “immediate relative” has the meaning given the term in section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)).

<sup>30</sup> 8 U.S.C. 1182f.

<sup>31</sup> 8 U.S.C. 1201 note.

(2) K-1 NONIMMIGRANT.—The term “K-1 nonimmigrant” means a nonimmigrant alien described in section 101(a)(15)(K)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)(i)).

**SEC. 234. MACHINE READABLE VISAS.**

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) is amended by adding at the end the following: \* \* \*

**Subtitle D—Migration and Refugees**

**SEC. 241. PROHIBITION ON FUNDING THE INVOLUNTARY RETURN OF REFUGEES.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by section 204 of this Act, is further amended by adding at the end the following new section: \* \* \*

**SEC. 242. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL ORGANIZATION FOR MIGRATION.**

Section 2(a) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(a)) is amended to read as follows: \* \* \*

**SEC. 243. REPORT ON OVERSEAS REFUGEE PROCESSING.**

(a) REPORT ON OVERSEAS REFUGEE PROCESSING.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on overseas processing of refugees for admission to the United States.

(b) CONTENTS.—The report shall include the following detailed information:

(1) United States procedures for the identification of refugees who are particularly vulnerable or whose individual circumstances otherwise suggest an urgent need for resettlement, including the extent to which the Department now insists on referral by the United Nations High Commissioner for Refugees as a prerequisite to consideration of such refugees for resettlement in the United States, together with a plan for the expanded use of alternatives to such referral, including the use of field-based nongovernmental organizations to identify refugees in urgent need of resettlement.

(2) The extent to which the Department makes use in overseas refugee processing of the designation of groups of refugees who are of special concern to the United States, together with the reasons for any decline in such use over the last 10 years and a plan for making more generous use of such categories in the future.

(3) The extent to which the United States currently provides opportunities for resettlement in the United States of individuals who are close family members of citizens or lawful residents of the United States, together with the reasons for any decline in the extent of such provision over the last 10 years and a plan for expansion of such opportunities in the future.

(4) The extent to which opportunities for resettlement in the United States are currently provided to “urban refugees” and others who do not currently reside in refugee camps, together with a plan for increasing such opportunities, particularly for

refugees who are in urgent need of resettlement, who are members of refugee groups of special interest to the United States, or who are close family members of United States citizens or lawful residents.

(5) The Department's assessment of the feasibility and desirability of modifying the Department's current list of refugee priorities to create an additional category for refugees whose need for resettlement is based on a long period of residence in a refugee camp with no immediate prospect of safe and voluntary repatriation to their country of origin or last permanent residence.

(6) The extent to which the Department uses private voluntary agencies to assist in the identification of refugees for admission to the United States, including the Department's assessment of the advantages and disadvantages of private voluntary agencies, the reasons for any decline in the Department's use of voluntary agencies over the last 10 years, and a plan for the expanded use of such agencies.

(7) The extent to which the per capita reception and placement grant to voluntary agencies assisting in resettlement of refugees has increased over the last 10 years commensurate with the cost to such agencies of providing such services.

(8) An estimate of the cost of each change in current practice or procedure discussed in the report, together with an estimate of any increase in the annual refugee admissions ceiling that would be necessary to implement each change.

### **TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE**

#### **Subtitle A—Organizational Matters**

##### **SEC. 301.<sup>32</sup> COMPREHENSIVE WORKFORCE PLAN.**

(a) **WORKFORCE PLAN.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a comprehensive workforce plan for the Department for the fiscal years 2003 through 2007. The plan shall consider personnel needs in both the Civil Service and the Foreign Service and expected domestic and overseas personnel allocations. The workforce plan should set forth—

- (1) the detailed mission of the Department;
- (2) the definition of work to be done;
- (3) a description of cyclical personnel needs based on expected retirements and attrition; and
- (4) a statement of the time required to hire, train, and deploy new personnel.

(b) **DOMESTIC STAFFING MODEL.**—Not later than one year after the date of the enactment of this Act, the Secretary shall compile and submit to the appropriate congressional committees a domestic staffing model for the Department.

<sup>32</sup> 22 U.S.C. 2651a note.

**SEC. 302.<sup>33</sup> “RIGHTSIZING” OVERSEAS POSTS.****(a) “RIGHTSIZING” AT THE DEPARTMENT OF STATE.—**

(1) **IN GENERAL.**—The Secretary shall establish a task force within the Department on the issue of “rightsizing” overseas posts.

(2) **PRELIMINARY REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that outlines the status, plans, and activities of the task force. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

(A) The objectives of the task force.

(B) Measures for achieving the objectives under subparagraph (A).

(C) Identification of the official of the Department with primary responsibility for the issue of “rightsizing”.

(D) The plans of the Department for the reallocation of staff and resources based on changing needs at overseas posts and in the metropolitan Washington, D.C., area.

(3) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the task force established under paragraph (1).

**(b) INTERAGENCY WORKING GROUP.—**

(1) **ESTABLISHMENT.**—The Secretary shall establish an interagency working group on the issue of “rightsizing” the overseas presence of the United States Government.

(2) **PRELIMINARY REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report which outlines the status, plans, and activities of the interagency working group. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

(A) The objectives of the working group.

(B) Measures for achieving the objectives under subparagraph (A).

(C) Identification of the official of each agency with primary responsibility for the issue of “rightsizing”.

(3) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the working group established under paragraph (1).

**SEC. 303. QUALIFICATIONS OF CERTAIN OFFICERS OF THE DEPARTMENT OF STATE.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended—\* \* \*

<sup>33</sup>22 U.S.C. 2651a note.



**Subtitle B—Personnel Matters****SEC. 311. THOMAS JEFFERSON STAR FOR FOREIGN SERVICE.**

Section 36A of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708a) is amended—\* \* \*

**SEC. 312. PRESIDENTIAL RANK AWARDS.**

(a) COMPARABLE PAYMENTS.—Section 405(b)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(3)) is amended \* \* \*

(b)<sup>34</sup> EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2002.

**SEC. 313. FOREIGN SERVICE NATIONAL SAVINGS FUND.**

Section 408(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3968(a)(1)) is amended \* \* \*

**SEC. 314. CLARIFICATION OF SEPARATION FOR CAUSE.**

(a) IN GENERAL.—Section 610(a) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)) is amended—\* \* \*

(b) CONFORMING AMENDMENTS.—Section 1106(8) of the Foreign Service Act of 1980 (22 U.S.C. 4136(8)) is amended—\* \* \*

**SEC. 315. DEPENDENTS ON FAMILY VISITATION TRAVEL.**

(a) IN GENERAL.—Section 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(8)) is amended \* \* \*

(b)<sup>35</sup> PROMULGATION OF GUIDANCE.—The Secretary shall promulgate guidance for the implementation of the amendment made by subsection (a) to ensure its implementation in a manner which does not substantially increase the total amount of travel expenses paid or reimbursed by the Department for travel under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

(c)<sup>35</sup> EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which guidance for implementation of such amendment is issued by the Secretary.

**SEC. 316. HEALTH EDUCATION AND DISEASE PREVENTION PROGRAMS.**

Section 904(b) of the Foreign Service Act of 1980 (22 U.S.C. 4084(b)) is amended \* \* \*

**SEC. 317. CORRECTION OF TIME LIMITATION FOR GRIEVANCE FILING.**

Section 1104(a) of the Foreign Service Act of 1980 (22 U.S.C. 4134(a)) is amended \* \* \*

**SEC. 318. TRAINING AUTHORITIES.**

Section 2205 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of Public Law 105-277; 112 Stat. 2681-808) is amended—\* \* \*

**SEC. 319. UNACCOMPANIED AIR BAGGAGE.**

Section 5924(4)(B) of title 5, United States Code, is amended by inserting after the first sentence the following: “At the election of the employee, in lieu of the transportation of the baggage of a dependent from the dependent’s school, the costs incurred to store the baggage at or in the vicinity of the school during the dependent’s annual trip between the school and the employee’s duty station may be paid or reimbursed to the employee, except that the

<sup>34</sup> 22 U.S.C. 3965 note.

<sup>35</sup> 22 U.S.C. 4801 note.

amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.”.

**SEC. 320. EMERGENCY MEDICAL ADVANCE PAYMENTS.**

Section 5927 of title 5, United States Code, is amended—

(1) by amending subsection (a)(3) to read as follows:

“(3) to an employee compensated pursuant to section 408 of the Foreign Service Act of 1980, who—

“(A) pursuant to United States Government authorization is located outside the country of employment; and

“(B) requires medical treatment outside the country of employment in circumstances specified by the President in regulations.”; and

(2) in subsection (b), by striking “appointed” and inserting “hired”.

**SEC. 321.<sup>36</sup> RETIREMENT CREDIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD.**

(a) RETIREMENT CREDIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD.—Subject to subsection (b)(1), credit under chapter 84 of title 5, United States Code, shall be allowed for any service performed by an individual if or to the extent that—

(1) it was performed by such individual—

(A) after December 31, 1988, and before May 24, 1998;

(B) at a United States diplomatic mission, consular post (other than a consular agency), or other Foreign Service post abroad; and

(C) under a temporary appointment pursuant to sections 309 and 311 of the Foreign Service Act of 1980 (22 U.S.C. 3949 and 3951);

(2) at the time of performing such service, such individual would have satisfied all eligibility requirements under regulations of the Department (as in effect on the date of the enactment of this Act) for a family member limited noncareer appointment (within the meaning of such regulations, as in effect on such date of enactment), except that, in applying this paragraph, an individual not employed by the Department while performing such service shall be treated as if then so employed;

(3) such service would have been creditable under section 8411(b)(3) of such title 5 if—

(A) the service had been performed before January 1, 1989; and

(B) the deposit requirements of section 8411(f) of such title 5 had been met with respect to such service;

(4) such service would not otherwise be creditable under the Federal Employees’ Retirement System or any other retirement system for employees of the United States Government (disregarding title II of the Social Security Act); and

(5) the total amount of service performed by such individual (satisfying paragraphs (1) through (4)) is not less than 90 days.

(b) REQUIREMENTS.—

<sup>36</sup>5 U.S.C. 8411 note.

(1) REQUIREMENTS OF THE INDIVIDUAL.—In order to receive credit under chapter 84 of title 5, United States Code, for any service described in subsection (a), the individual who performed such service (or, if deceased, any person who is or would be eligible for a survivor annuity under the Federal Employees' Retirement System based on the service of such individual)—

(A) shall file a written application with the Office of Personnel Management not later than 36 months after the effective date of the regulations prescribed to carry out this section (as specified in those regulations); and

(B) shall remit to the Office (for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund) the total amount that, under section 8422 of such title 5, should have been deducted from the basic pay of such individual for such service if such service had then been creditable under such chapter 84.

(2) GOVERNMENT CONTRIBUTIONS.—

(A) IN GENERAL.—In addition to any other payment that it is required to make under chapter 84 of title 5, United States Code, a department, agency, or other instrumentality of the United States shall remit to the Office of Personnel Management (for deposit in the Treasury of the United States to the credit of the Fund) the amount described in subparagraph (B).

(B) AMOUNT DESCRIBED.—The amount described in this subparagraph is, with respect to a remittance under paragraph (1), the total amount of Government contributions that would, under section 8423 of title 5, United States Code, have been required of the instrumentality involved (to the extent that it was the employing entity during the period of service to which such remittance relates) in connection with such service.

(C) SPECIAL RULE.—If an amount cannot be remitted under this paragraph because an instrumentality has ceased to exist, such amount shall instead be treated as part of the supplemental liability referred to in section 8423(b)(1) (A) or (B) of title 5, United States Code (whichever would be appropriate).

(3) RELATED REQUIREMENTS.—Any remittance under paragraph (1) or (2)—

(A) shall be made in such time, form, and manner as the Office of Personnel Management may by regulation require; and

(B) shall be computed with interest (in accordance with section 8334(e) of title 5, United States Code, and such requirements as the Office may by regulation prescribe).

(4) NOTIFICATION AND ASSISTANCE REQUIREMENTS.—

(A) IN GENERAL.—The Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited under this section, or to have any annuity com-

puted or recomputed under this section, of their entitlement to such credit, computation, or recomputation.

(B) ASSISTANCE TO INDIVIDUALS.—The Office shall, on request, assist any individual referred to in subparagraph (A) in obtaining from any department, agency, or other instrumentality of the United States such information in the possession of such instrumentality as may be necessary to verify the entitlement of such individual to have any service credited, or to have any annuity computed or recomputed, pursuant to this section.

(C) ASSISTANCE FROM INSTRUMENTALITIES.—Any department, agency, or other instrumentality of the United States that possesses any information with respect to any service described in subsection (a) shall, at the request of the Office, furnish such information to the Office.

(c) DEFINITIONS.—In this section:

(1) ABROAD.—The term “abroad” has the meaning given such term under section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902).

(2) BASIC PAY.—The term “basic pay” has the meaning given such term under section 8401 of title 5, United States Code.

(3) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—The term “Civil Service Retirement and Disability Fund” or “Fund” means the Civil Service Retirement and Disability Fund under section 8348 of title 5, United States Code.

(4) TEMPORARY APPOINTMENT.—The term “temporary appointment” means an appointment that is limited by its terms to a period of one year or less.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to permit or require the making of any contributions to the Thrift Savings Fund that would not otherwise have been permitted or required had this section not been enacted.

(e) APPLICABILITY.—

(1) ANNUITIES COMMENCING ON OR AFTER EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—An annuity or survivor annuity—

(A) which is based on the service of an individual who performed service described in subsection (a), and

(B) which commences on or after the effective date of the regulations prescribed to carry out this section (as determined under subsection (b)(1)(A)),

shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

(2) ANNUITIES WITH COMMENCEMENT DATE PRECEDING EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—

(A) RECOMPUTATION CASES.—An annuity or survivor annuity—

(i) which is based on the service of an individual who performed service described in subsection (a), and

(ii) which commences before the effective date referred to in paragraph (1)(B),

shall (subject to subsection (b)(1)) be recomputed taking into account all service described in subsection (a) that was performed by such individual.

(B) OTHER CASES.—An annuity or survivor annuity—

(i) which is based on the service of an individual who performed service described in subsection (a),

(ii) the requirements for entitlement which could not be met without taking into account service described in subsection (a), and

(iii) which (if service described in subsection (a) had been taken into account, and an appropriate application been submitted) would have commenced before the effective date referred to in paragraph (1)(B),

shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

(C) RETROACTIVE EFFECT.—Any computation or recomputation of an annuity or survivor annuity pursuant to this paragraph shall—

(i) if pursuant to subparagraph (A), be effective as of the commencement date of the annuity or survivor annuity involved; and

(ii) if pursuant to subparagraph (B), be effective as of the commencement date that would have applied if application for the annuity or survivor annuity involved had been submitted on the earliest date possible in order for it to have been approved.

(D) LUMP-SUM PAYMENT.—Any amounts which by virtue of subparagraph (C) are payable for any months preceding the first month (on or after the effective date referred to in paragraph (1)(B)) as of which annuity or survivor annuity payments become payable fully reflecting the computation or recomputation under subparagraph (A) or (B) (as the case may be) shall be payable in the form of a lump-sum payment.

(E) ORDER OF PRECEDENCE.—Section 8424(d) of title 5, United States Code, shall apply in the case of any payment under subparagraph (D) payable to an individual who has died.

(f) IMPLEMENTATION.—The Office of Personnel Management, in consultation with the Secretary, shall prescribe such regulations and take such action as may be necessary and appropriate to implement this section.

**SEC. 322. COMPUTATION OF FOREIGN SERVICE RETIREMENT ANNUITIES AS IF WASHINGTON, D.C., LOCALITY-BASED COMPARABILITY PAYMENTS WERE MADE TO OVERSEAS-STATIONED FOREIGN SERVICE MEMBERS.**

(a) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) COMPUTATION OF ANNUITIES.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)) is amended \* \* \*

(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)) is amended—\* \* \*

(b) FOREIGN SERVICE PENSION SYSTEM.—

(1) COMPUTATION OF ANNUITIES.—Section 855(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(a)) is amended \* \* \*

(2) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—Section 856(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)(2)) is amended \* \* \*

(c) EFFECTIVE DATES.—

(1)<sup>37</sup> COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.

(2)<sup>38</sup> GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.

**SEC. 323. PLAN FOR IMPROVING RECRUITMENT OF VETERANS INTO THE FOREIGN SERVICE.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department to improve the recruitment of veterans for the career Foreign Service. The plan shall—

(1) address personnel issues relevant to such recruitment efforts; and

(2) include proposals for improving coordination between the Department and the Departments of Defense, Transportation, and Veterans Affairs in promoting the recruitment of veterans to the career Foreign Service.

(b) DEFINITION.—In this section, the term “veterans” has the meaning given that term in section 101(2) of title 38, United States Code.

**SEC. 324.<sup>39</sup> REPORT CONCERNING MINORITY EMPLOYMENT.**

On April 1, 2003, and April 1, 2004, the Secretary shall submit a comprehensive report to Congress, with respect to the preceding calendar year, concerning the employment of members of minority groups at the Department, including the Civil Service and the Foreign Service. The report shall include the following data (reported in terms of real numbers and percentages and not as ratios):

(1) For the last preceding Foreign Service examination and promotion cycles for which such information is available—

(A) the numbers and percentages of members of all minority groups taking the written Foreign Service examination;

(B) the numbers and percentages of members of all minority groups successfully completing and passing the written Foreign Service examination;

(C) the numbers and percentages of members of all minority groups successfully completing and passing the oral Foreign Service examination;

<sup>37</sup> 22 U.S.C. 4046 note.

<sup>38</sup> 22 U.S.C. 4045 note.

<sup>39</sup> 22 U.S.C. 2651a note.

(D) the numbers and percentages of members of all minority groups entering the junior officer class of the Foreign Service;

(E) the numbers and percentages of members of all minority groups who are Foreign Service officers at each grade; and

(F) the numbers and percentages of members of all minority groups promoted to each grade of the Foreign Service.

(2) For the last preceding year for Civil Service employment at the Department for which such information is available—

(A) numbers and percentages of members of all minority groups entering the Civil Service;

(B) the number and percentages of members of all minority groups who are Civil Service employees at each grade of the Civil Service; and

(C) the number of and percentages of members of all minority groups promoted at each grade of the Civil Service.

**SEC. 325.<sup>39</sup> USE OF FUNDS AUTHORIZED FOR MINORITY RECRUITMENT.**

(a) CONDUCT OF RECRUITMENT ACTIVITIES.—

(1) IN GENERAL.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) shall be used only for activities directly related to minority recruitment, such as recruitment materials designed to target members of minority groups and the travel expenses of recruitment trips to colleges, universities, and other institutions or locations.

(2) LIMITATION.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) may not be used to pay salaries of employees of the Department.

(b) RECRUITMENT ACTIVITIES AT ACADEMIC INSTITUTIONS.—The Secretary shall expand the recruitment efforts of the Department to include not less than 25 percent of the part B institutions (as defined under section 322 of the Higher Education Act of 1965) in the United States and not less than 25 percent of the Hispanic-serving institutions (as defined in section 502(a)(5) of such Act) in the United States.

(c) EVALUATION OF RECRUITMENT EFFORTS.—The Secretary shall establish a database relating to efforts to recruit members of minority groups into the Foreign Service and the Civil Service and shall report to the appropriate congressional committees on the evaluation of efforts to recruit such individuals, including an analysis of the information collected in the database created under this subsection. Such report shall be included in each of the two reports required under section 324.

**SEC. 326. ASSIGNMENTS AND DETAILS OF PERSONNEL TO THE AMERICAN INSTITUTE IN TAIWAN.**

Section 503 of the Foreign Service Act of 1980 (22 U.S.C. 3983) is amended—\* \* \*

**SEC. 327. ANNUAL REPORTS ON FOREIGN LANGUAGE COMPETENCE.**

Section 702(c) of the Foreign Service Act of 1980 (22 U.S.C. 4022(c)) is amended—\* \* \*

**SEC. 328. TRAVEL OF CHILDREN OF MEMBERS OF THE FOREIGN SERVICE ASSIGNED ABROAD.**

Section 901(15) of the Foreign Service Act of 1980 (22 U.S.C. 4081(15)) is amended \* \* \*

**TITLE IV—INTERNATIONAL ORGANIZATIONS**

**SEC. 401. PAYMENT OF THIRD INSTALLMENT OF ARREARAGES.**

(a)<sup>40</sup> **IN GENERAL.**—The United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-475) is amended \* \* \*

(b) **CONFORMING AMENDMENT.**—The undesignated paragraph under the heading “ARREARAGE PAYMENTS” in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as contained in section 1000 of division B of the Consolidated Appropriations Act, 2000; Public Law 106-113) is amended—

(1) in the first proviso, by striking “the share of the total of all assessed contributions for any designated specialized agency of the United Nations does not exceed 22 percent for any single member of the agency, and”; and

(2) by inserting after “respective agencies:” the following: “*Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated with respect to a designated specialized agency of the United Nations until such time as the share of the total of all assessed contributions for that designated specialized agency does not exceed 22 percent for any member of the agency.”

(c)<sup>40</sup> **TRANSMITTAL OF CERTIFICATIONS TO CONGRESS.**—Section 912(c) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-477) is amended \* \* \*

**SEC. 402. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS PEACEKEEPING OPERATIONS IN CALENDAR YEARS 2001 THROUGH 2004.**

(a) **IN GENERAL.**—Section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note) is amended—\* \* \*

(b) **CONFORMING AMENDMENTS TO PUBLIC LAW 92-544.**—Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (22 U.S.C. 287e note) is amended—

(1) in the next to the last sentence of the undesignated paragraph under the heading “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS” in Public Law 92-544 (22 U.S.C. 287e note), by striking “After” and inserting “Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), after”; and

(2) in the last sentence of the undesignated paragraph under the heading “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS” in Public Law 92-544 (22 U.S.C. 287e note)—

<sup>40</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. II-B.



(A) by striking “Appropriations are authorized” and inserting “Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), appropriations are authorized”; and

(B) by striking “(other than United Nations peacekeeping operations) conducted” and inserting “conducted by or under the auspices of the United Nations or”.

**SEC. 403.<sup>41</sup> LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.**

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:  
\* \* \*

**SEC. 404. PROMOTION OF SOUND FINANCIAL PRACTICES BY THE UNITED NATIONS.**

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

(1) In the early 1980s, the United States Government began to pay United States assessments to certain international organizations in the last quarter of the calendar year in which they were due. This practice allowed the United States to pay its annual assessment to the United Nations and other international organizations with the next fiscal year’s appropriations, taking advantage of the fact that international organizations operate on calendar years. It also allowed the United States to reduce budgetary outlays, making the United States budget deficit appear smaller.

(2) The United States, which is assessed 22 percent of the United Nations regular budget, now pays its dues at least 10 months late, and often later depending on when the relevant appropriation is enacted.

(3) This practice causes the United Nations to operate throughout much of the year without a significant portion of its operating budget. By midyear, the budget is usually depleted, forcing the United Nations to borrow from its separate peacekeeping budget (the organization is prohibited from external borrowing). As a result, countries that contribute to United Nations peacekeeping missions are not reimbursed on a timely basis.

(4) For years, the United States has been encouraging the United Nations and other international organizations to engage in sound, fiscally responsible budgetary practices. In fact, many of the conditions in United States law for paying nearly \$1,000,000,000 in debt to the United Nations and other international organizations are aimed at this goal. But late payment of United States dues forces the United Nations and other international organizations to engage in budgetary practices that are neither sound nor responsible.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should initiate a process to synchronize the payment of its assessments to the United Nations and other international organizations over a multiyear period so that the United States can

<sup>41</sup> See the United Nations Participation Act of 1945, sec. 11, as added by sec. 403, in *Legislation on Foreign Relations Through 2005*, vol. II-B.

resume paying its dues to such international organizations at the beginning of each calendar year.

(c) **AUTHORIZATION OF APPROPRIATIONS.—**

(1) **IN GENERAL.**—In addition to amounts otherwise available for the purpose of payment of the United States assessed contributions to the United Nations and other international organizations, there are authorized to be appropriated such sums as may be necessary to carry out the policy described in subsection (b).

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 405. REPORTS TO CONGRESS ON UNITED NATIONS ACTIVITIES.**

(a)<sup>42</sup> **AMENDMENTS TO UNITED NATIONS PARTICIPATION ACT.**—Section 4 of the United Nations Participation Act (22 U.S.C. 287b) is amended—\* \* \*

(b) **CONFORMING AMENDMENTS.**—

(1) Section 2 of Public Law 81-806 (22 U.S.C. 262a) is amended by striking the last sentence.

(2) Section 409 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), is amended by striking subsection (d).

**SEC. 406. USE OF SECRET BALLOTS WITHIN THE UNITED NATIONS.**

Not later than 120 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees containing a detailed analysis, and a determination based on such analysis, on whether the use of secret ballots within the United Nations and the specialized agencies of the United Nations serves the interests of the United States.

**SEC. 407. SENSE OF CONGRESS RELATING TO MEMBERSHIP OF THE UNITED STATES IN UNESCO.**

It is the sense of Congress that the President, having announced that the United States will rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO), should submit a report to the appropriate congressional committees—

(1) describing the merits of renewing the membership and participation of the United States in UNESCO; and

(2) detailing the projected costs of United States membership in UNESCO.

**SEC. 408.<sup>43</sup> UNITED STATES MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS AND INTERNATIONAL NARCOTICS CONTROL BOARD.**

The United States, in connection with its voice and vote in the United Nations General Assembly and the United Nations Economic and Social Council, shall make every reasonable effort—

(1) to secure a seat for the United States on the United Nations Commission on Human Rights;

(2) to secure a seat for a United States national on the United Nations International Narcotics Control Board; and

<sup>42</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. II-B.

<sup>43</sup>22 U.S.C. 287 note.

(3) to prevent membership on the Human Rights Commission by any member nation the government of which, in the judgment of the Secretary, based on the Department's Annual Country Reports on Human Rights and the Annual Report on International Report on Religious Freedom, consistently violates internationally recognized human rights or has engaged in or tolerated particularly severe violations of religious freedom in that country.

**SEC. 409. PLAN FOR ENHANCED DEPARTMENT OF STATE EFFORTS TO PLACE UNITED STATES CITIZENS IN POSITIONS OF EMPLOYMENT IN THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committee a report containing a plan that provides for—

- (1) proposals to reverse the decline in recent years in funding and personnel resources devoted to the placement of United States citizens in positions within the United Nations system;
- (2) steps to intensify coordinated, high-level diplomatic efforts to place United States citizens in senior posts in the United Nations Secretariat and the specialized agencies of the United Nations; and
- (3) appropriate mechanisms to address the underrepresentation, relative to the United States share of assessed contributions to the United Nations, of United States citizens in junior positions within the United Nations and its specialized agencies.

**TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES**<sup>44</sup>

\* \* \* \* \*

**TITLE VI—MISCELLANEOUS PROVISIONS**

**Subtitle A—Middle East Peace Commitments Act of 2002**<sup>45</sup>

\* \* \* \* \*

**Subtitle B—Tibet Policy**

**SEC. 611.**<sup>46</sup> **SHORT TITLE.**

This subtitle may be cited as “Tibetan Policy Act of 2002”.

**SEC. 612.**<sup>46</sup> **STATEMENT OF PURPOSE.**

The purpose of this subtitle is to support the aspirations of the Tibetan people to safeguard their distinct identity.

**SEC. 613.**<sup>46</sup> **TIBET NEGOTIATIONS.**

(a) **POLICY.**—

- (1) **IN GENERAL.**—The President and the Secretary should encourage the Government of the People's Republic of China to

<sup>44</sup>For title V, relating to U.S. international broadcasting activities, see beginning at page 1701.

<sup>45</sup>For the Middle East Peace Commitments Act of 2002, and other related legislation from previous years, see *Legislation on Foreign Relations Through 2005*, vol. I-B.

<sup>46</sup>22 U.S.C. 6901 note.

enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet.

(2) COMPLIANCE.—After such an agreement is reached, the President and the Secretary should work to ensure compliance with the agreement.

(b) PERIODIC REPORTS.—Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the President shall transmit to the appropriate congressional committees a report on—

(1) the steps taken by the President and the Secretary in accordance with subsection (a)(1); and

(2) the status of any discussions between the People's Republic of China and the Dalai Lama or his representatives.

**SEC. 614.<sup>46</sup> REPORTING ON TIBET.**

Whenever a report is transmitted to Congress under section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) or under section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)), Tibet shall be included in such report as a separate section.

**SEC. 615.<sup>47</sup> CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA.**

Section 302(h) of the U.S.-China Relations Act of 2000 (Public Law 106-286), relating to the Congressional-Executive Commission on the People's Republic of China, is amended—\* \* \*

**SEC. 616.<sup>46</sup> ECONOMIC DEVELOPMENT IN TIBET.**

(a) DECLARATIONS OF POLICY.—It is the policy of the United States to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet. In support of this policy, the United States shall use its voice and vote to support projects designed in accordance with the principles contained in subsection (d) that are designed to raise the standard of living for the Tibetan people and assist Tibetans to become self-sufficient.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to support projects in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

(c) EXPORT-IMPORT BANK AND TDA.—The Export-Import Bank of the United States and the Trade and Development Agency should support projects proposed to be funded or otherwise supported by such entities in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

(d) TIBET PROJECT PRINCIPLES.—Projects in Tibet supported by international financial institutions, other international organizations, nongovernmental organizations, and the United States entities referred to in subsection (c), should—

<sup>47</sup>For text of the U.S.-China Relations Act of 2000, as amended, see *Legislation on Foreign Relations Through 2005*, vol. III.

- (1) be implemented only after conducting a thorough assessment of the needs of the Tibetan people through field visits and interviews;
- (2) be preceded by cultural and environmental impact assessments;
- (3) foster self-sufficiency and self-reliance of Tibetans;
- (4) promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages;
- (5) respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques;
- (6) be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits;
- (7) be implemented by development agencies prepared to use Tibetan as the working language of the projects;
- (8) neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and
- (9) neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

**SEC. 617.<sup>46</sup> RELEASE OF PRISONERS AND ACCESS TO PRISONS.**

The President and the Secretary, in meetings with representatives of the Government of the People's Republic of China, should—

- (1) request the immediate and unconditional release of all those held prisoner for expressing their political or religious views in Tibet;
- (2) seek access for international humanitarian organizations to prisoners in Tibet to ensure that prisoners are not being mistreated and are receiving necessary medical care; and
- (3) seek the immediate medical parole of Tibetan prisoners known to be in serious ill health.

**SEC. 618.<sup>46</sup> ESTABLISHMENT OF A UNITED STATES BRANCH OFFICE IN LHASA, TIBET.**

The Secretary should make best efforts to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet.

**SEC. 619.<sup>46</sup> REQUIREMENT FOR TIBETAN LANGUAGE TRAINING.**

The Secretary shall ensure that Tibetan language training is available to Foreign Service officers, and that every effort is made to ensure that a Tibetan-speaking Foreign Service officer is assigned to a United States post in the People's Republic of China responsible for monitoring developments in Tibet.

**SEC. 620.<sup>46</sup> RELIGIOUS PERSECUTION IN TIBET.**

(a) **HIGH-LEVEL CONTACTS.**—Pursuant to section 105 of the International Religious Freedom Act of 1998 (22 U.S.C. 6414), the United States Ambassador to the People's Republic of China should—

- (1) meet with the 11th Panchen Lama, who was taken from his home on May 17, 1995, and otherwise ascertain information concerning his whereabouts and well-being; and

(2) request that the Government of the People's Republic of China release the 11th Panchen Lama and allow him to pursue his religious studies without interference and according to tradition.

(b) **PROMOTION OF INCREASED ADVOCACY.**—Pursuant to section 108(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6417(a)), it is the sense of Congress that representatives of the United States Government in exchanges with officials of the Government of the People's Republic of China should call for and otherwise promote the cessation of all interference by the Government of the People's Republic of China or the Communist Party in the religious affairs of the Tibetan people.

**SEC. 621.<sup>46</sup> UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.**

(a) **UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.**—There shall be within the Department a United States Special Coordinator for Tibetan Issues (in this section referred to as the “Special Coordinator”).

(b) **CONSULTATION.**—The Secretary shall consult with the chairmen and ranking minority members of the appropriate congressional committees prior to the designation of the Special Coordinator.

(c) **CENTRAL OBJECTIVE.**—The central objective of the Special Coordinator is to promote substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives.

(d) **DUTIES AND RESPONSIBILITIES.**—The Special Coordinator shall—

(1) coordinate United States Government policies, programs, and projects concerning Tibet;

(2) vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing for improved respect for human rights;

(3) maintain close contact with religious, cultural, and political leaders of the Tibetan people, including regular travel to Tibetan areas of the People's Republic of China, and to Tibetan refugee settlements in India and Nepal;

(4) consult with Congress on policies relevant to Tibet and the future and welfare of the Tibetan people;

(5) make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet; and

(6) take all appropriate steps to ensure adequate resources, staff, and bureaucratic support to fulfill the duties and responsibilities of the Special Coordinator.

**Subtitle C—East Timor Transition to Independence Act of 2002**

**SEC. 631.<sup>48</sup> SHORT TITLE.**

This subtitle may be cited as the “East Timor Transition to Independence Act of 2002”.

<sup>48</sup> 22 U.S.C. 2656 note.

**SEC. 632.<sup>48</sup> BILATERAL ASSISTANCE.**

(a) **AUTHORITY.**—The President, acting through the Administrator of the United States Agency for International Development, is authorized to—

- (1) support the development of civil society, including non-governmental organizations in East Timor;
- (2) promote the development of an independent news media;
- (3) support job creation, including support for small business and microenterprise programs, environmental protection, sustainable development, development of East Timor's health care infrastructure, educational programs, and programs strengthening the role of women in society;
- (4) promote reconciliation, conflict resolution, and prevention of further conflict with respect to East Timor, including establishing accountability for past gross human rights violations;
- (5) support the voluntary and safe repatriation and reintegration of refugees into East Timor;
- (6) support political party development, voter education, voter registration, and other activities in support of free and fair elections in East Timor; and
- (7) promote the development of the rule of law.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

- (1) **IN GENERAL.**—There is authorized to be appropriated to the President to carry out this section \$25,000,000 for the fiscal year 2003.
- (2) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

**SEC. 633.<sup>48</sup> MULTILATERAL ASSISTANCE.**

The Secretary of the Treasury shall instruct the United States executive director at each international financial institution to which the United States is a member to use the voice, vote, and influence of the United States to support economic and democratic development in East Timor.

**SEC. 634.<sup>48</sup> TRADE AND INVESTMENT ASSISTANCE.**

(a) **OPIC.**—The President should initiate negotiations with the Government of East Timor to enter into a new agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to East Timor in order to expand United States investment in East Timor, emphasizing partnerships with local East Timorese enterprises.

(b) **TRADE AND DEVELOPMENT AGENCY.**—

- (1) **IN GENERAL.**—The Director of the Trade and Development Agency is authorized to carry out projects in East Timor under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421).
- (2) **AUTHORIZATION OF APPROPRIATIONS.**—
  - (A) **IN GENERAL.**—There are authorized to be appropriated to the Trade and Development Agency to carry out this subsection \$1,000,000 for fiscal year 2003.
  - (B) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(c) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to East Timor to the extent such activities are requested and to the extent there is a reasonable assurance of repayment.

**SEC. 635.<sup>48</sup> GENERALIZED SYSTEM OF PREFERENCES.**

As soon as possible after the enactment of this Act, the United States Trade Representative and the Commissioner of Customs should send an assessment team to East Timor to compile a list of duty-free eligible products so that the Government of East Timor can begin the process of applying for General System of Preference benefits.

**SEC. 636.<sup>48</sup> AUTHORITY FOR RADIO BROADCASTING.**

The Broadcasting Board of Governors should broadcast to East Timor in an appropriate language or languages.

**SEC. 637.<sup>48</sup> SECURITY ASSISTANCE FOR EAST TIMOR.**

(a) STUDY AND REPORT.—

(1) STUDY.—The President shall conduct a study to determine—

(A) the extent to which East Timor's security needs can be met by the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

(B) the extent to which international military education and training (IMET) assistance will enhance professionalism of the armed forces of East Timor, provide training in human rights, and promote respect for human rights and humanitarian law; and

(C) the terms and conditions under which such defense articles or training, as appropriate, should be provided.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains the findings of the study conducted under paragraph (1).

(b) AUTHORIZATION OF ASSISTANCE.—

(1) IN GENERAL.—Beginning on the date on which Congress receives the report transmitted under subsection (a)(2), or the date on which Congress receives the certification transmitted under paragraph (2), whichever occurs later, the President is authorized—

(A) to transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) to East Timor in accordance with such section; and

(B) to provide military education and training under chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) for the armed forces of East Timor in accordance with such chapter.

(2) CERTIFICATION.—A certification described in this paragraph is a certification that—

(A) East Timor has established an independent armed forces; and

(B) the assistance proposed to be provided pursuant to paragraph (1)—

(i) is in the national security interests of the United States; and



(ii) will promote both human rights in East Timor and the professionalization of the armed forces of East Timor.

**SEC. 638.<sup>48</sup> REPORTING REQUIREMENT.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, and every 12 months thereafter for the next five years, the Secretary shall prepare and transmit to the appropriate congressional committees a report that contains the information described in subsection (b).

(b) **INFORMATION.**—The report required by subsection (a) shall include—

(1) developments in East Timor’s political and economic situation in the period covered by the report, including an evaluation of any elections which have occurred in East Timor and the refugee reintegration process in East Timor;

(2) in the initial report, a 3-year plan for United States foreign assistance to East Timor in accordance with section 632, prepared by the Administrator of the United States Agency for International Development, which outlines the goals for United States foreign assistance to East Timor during the 3-year period;

(3) a description of the activities undertaken in East Timor by the International Bank for Reconstruction and Development, the Asian Development Bank, and other international financial institutions, and an evaluation of the effectiveness of these activities;

(4) an assessment of the status of United States trade and investment relations with East Timor, including a detailed analysis of any trade and investment-related activity supported by the Overseas Private Investment Corporation, the Export-Import Bank of the United States, or the Trade and Development Agency during the period of time since the previous report;

(5) a comprehensive study and report on local agriculture in East Timor, emerging opportunities for producing, processing, and exporting indigenous agricultural products, and recommendations for appropriate technical assistance from the United States; and

(6) statistical data drawn from other sources on economic growth, health, education, and distribution of resources in East Timor.

**Subtitle D—Clean Water for the Americas Partnership**

**SEC. 641.<sup>49</sup> SHORT TITLE.**

This subtitle may be cited as the “Clean Water for the Americas Partnership Act of 2002”.

**SEC. 642.<sup>49</sup> DEFINITIONS.**

In this subtitle:

(1) **JOINT PROJECT.**—The term “joint project” means a project between a United States association or nonprofit entity and a

<sup>49</sup> 22 U.S.C. 2151p note.

Latin American or Caribbean association or nongovernmental organization.

(2) **LATIN AMERICAN OR CARIBBEAN NONGOVERNMENTAL ORGANIZATION.**—The term “Latin American or Caribbean nongovernmental organization” includes any institution of higher education, any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the region.

(3) **REGION.**—The term “region” refers to the region comprised of the member countries of the Organization of American States (other than the United States and Canada).

(4) **UNITED STATES ASSOCIATION.**—The term “United States association” means a business league described in section 501(c)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(6)), and exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)).

(5) **UNITED STATES NONPROFIT ENTITY.**—The term “United States nonprofit entity” includes any institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the United States.

**SEC. 643.<sup>49</sup> ESTABLISHMENT OF PROGRAM.**

The President is authorized to establish a program which shall be known as the “Clean Water for the Americas Partnership”.

**SEC. 644.<sup>49</sup> ENVIRONMENTAL ASSESSMENT.**

The President is authorized to conduct a comprehensive assessment of the environmental problems in the region to determine—

- (1) which environmental problems threaten human health the most, particularly the health of the urban poor;
- (2) which environmental problems are most threatening, in the long-term, to the region’s natural resources;
- (3) which countries have the most pressing environmental problems; and
- (4) whether and to what extent there is a market for United States environmental technology, practices, knowledge, and innovations in the region.

**SEC. 645.<sup>49</sup> ESTABLISHMENT OF TECHNOLOGY AMERICA CENTERS.**

(a) **AUTHORITY TO ESTABLISH.**—The President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, is authorized to establish Technology America Centers (TEAMs) in the region to serve the entire region and, where appropriate, to establish TEAMs in urban areas of the region to focus on urban environmental problems.

(b) **FUNCTIONS.**—The TEAMs would link United States private sector environmental technology firms with local partners, both public and private, by providing logistic and information support to United States firms seeking to find local partners and opportunities for environmental projects. TEAMs should emphasize assisting United States small businesses.

(c) **LOCATION.**—In determining whether to locate a TEAM in a country, the President, acting through the Director General of the

United States and Foreign Commercial Service of the Department of Commerce, shall take into account the country's need for logistic and informational support and the opportunities presented for United States firms in the country. A TEAM may be located in a country without regard to whether a mission of the United States Agency for International Development is established in that country.

**SEC. 646.<sup>49</sup> PROMOTION OF WATER QUALITY, WATER TREATMENT SYSTEMS, AND ENERGY EFFICIENCY.**

Subject to the availability of appropriations, the President is authorized to provide matching grants to United States associations and United States nonprofit entities for the purpose of promoting water quality, water treatment systems, and energy efficiency in the region. The grants shall be used to support joint projects, including professional exchanges, academic fellowships, training programs in the United States or in the region, cooperation in regulatory review, development of training materials, the establishment and development in the region of local chapters of the associations or nonprofit entities, and the development of online exchanges.

**SEC. 647.<sup>49</sup> GRANTS FOR PREFEASIBILITY STUDIES WITHIN A DESIGNATED SUBREGION.**

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Director of the Trade and Development Agency is authorized to make grants for prefeasibility studies for water projects in any country within a single subregion or in a single country designated under paragraph (2).

(2) DESIGNATION OF SUBREGION.—The Director of the Trade and Development Agency shall designate in advance a single subregion or a single country for purposes of paragraph (1).

(b) MATCHING REQUIREMENT.—The Director of the Trade and Development Agency may not make any grant under this section unless there are made available non-Federal contributions in an amount equal to not less than 25 percent of the amount of Federal funds provided under the grant.

(c) LIMITATION PER SINGLE PROJECT.—With respect to any single project, grant funds under this section shall be available only for the prefeasibility portion of that project.

(d) DEFINITIONS.—In this section:

(1) PREFEASIBILITY.—The term “prefeasibility” means, with respect to a project, not more than 25 percent of the design phase of the project.

(2) SUBREGION.—The term “subregion” means an area within the region and includes areas such as Central America, the Andean region, and the Southern cone.

**SEC. 648.<sup>49</sup> CLEAN WATER TECHNICAL SUPPORT COMMITTEE.**

(a) IN GENERAL.—The President is authorized to establish a Clean Water Technical Support Committee (in this section referred to as the “Committee”) to provide technical support and training services for individual water projects.

(b) COMPOSITION.—The Committee shall consist of international investors, lenders, water service providers, suppliers, advisers, and

others with a direct interest in accelerating development of water projects in the region.

(c) **FUNCTIONS.**—Members of the Committee shall act as field advisers and may form specialized working groups to provide in-country training and technical assistance, and shall serve as a source of technical support to resolve barriers to project development.

**SEC. 649.<sup>49</sup> AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the President \$10,000,000 for each of the fiscal years 2003, 2004, and 2005 to carry out this subtitle.

(b) **AVAILABILITY OF FUNDS.**—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

**SEC. 650.<sup>49</sup> REPORT.**

Eighteen months after the establishment of the program pursuant to section 643, the President shall submit a report to the appropriate congressional committees containing—

- (1) an assessment of the progress made in carrying out the program established under this subtitle; and
- (2) any recommendations for the enactment of legislation to make changes in the program established under this subtitle.

**SEC. 651.<sup>49</sup> TERMINATION DATE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), the authorities of this subtitle shall terminate 3 years after the date of establishment of the program described in section 643.

(b) **EXCEPTION.**—In lieu of the termination date specified in subsection (a), the termination required by that subsection shall take effect five years after the date of establishment of the program described in section 643 if, prior to the termination date specified in subsection (a), the President determines and certifies to the appropriate congressional committees that it would be in the national interest of the United States to continue the program described in such section 643 for an additional 2-year period.

**SEC. 652.<sup>49</sup> EFFECTIVE DATE.**

This subtitle shall take effect 90 days after the date of enactment of this Act.

**Subtitle E—Freedom Investment Act of 2002**

**SEC. 661.<sup>50</sup> SHORT TITLE.**

This subtitle may be cited as the “Freedom Investment Act of 2002”.

**SEC. 662.<sup>51</sup> PURPOSES.**

The purposes of this subtitle are the following:

- (1) To underscore that promoting and protecting human rights is in the national interests of the United States and is consistent with American values and beliefs.
- (2) To establish a goal of devoting one percent of the funds available to the Department under “Diplomatic and Consular Programs”, other than such funds that will be made available for worldwide security upgrades and information resource

<sup>50</sup> 22 U.S.C. 2151 note.

<sup>51</sup> 22 U.S.C. 2151n-2 note.

management, to enhance the ability of the United States to promote respect for human rights and the protection of human rights defenders.

**SEC. 663. HUMAN RIGHTS ACTIVITIES AT THE DEPARTMENT OF STATE.**

(a) INCREASING RESOURCES AND IMPORTANCE OF HUMAN RIGHTS.—It is the sense of Congress that—

(1) the budget for the Bureau of Democracy, Human Rights, and Labor for fiscal years 2003 and 2004 should be substantially increased so that beginning in fiscal year 2005, and each fiscal year thereafter, not less than 1 percent of the amounts made available to the Department under the heading “Diplomatic and Consular Programs”, other than amounts made available for worldwide security upgrades and information resource management, should be made available for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor; and

(2) any assignment of an individual to a political officer position at a United States mission abroad that has the primary responsibility for monitoring human rights developments in a foreign country should be made upon the recommendation of the Assistant Secretary of State for Democracy, Human Rights, and Labor in conjunction with the head of the Department’s regional bureau having primary responsibility for that country.

(b) PLAN RELATED TO HUMAN RIGHTS ACTIVITIES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

(1) Improving the integration of human rights policy into the Department’s overall policy formulation and implementation.

(2) Achieving closer communication and policy coordination between the Bureau of Democracy, Human Rights, and Labor and the regional bureaus of the Department, both within the United States and at overseas posts.

(3) Assigning individuals recommended by the Bureau of Democracy, Human Rights, and Labor, in conjunction with the relevant Department regional bureau, to political officer positions at United States missions abroad that have the primary responsibility for monitoring human rights developments in foreign countries.

**SEC. 664.<sup>52</sup> HUMAN RIGHTS AND DEMOCRACY FUND.**

(a) ESTABLISHMENT OF FUND.—There is established a Human Rights and Democracy Fund (in this section referred to as the “Fund”) to be administered by the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(b) PURPOSES OF FUND.—The purposes of the Fund shall be—

- (1) to support defenders of human rights;
- (2) to assist the victims of human rights violations;
- (3) to respond to human rights emergencies;

<sup>52</sup> 22 U.S.C. 2151n-2.

(4) to promote and encourage the growth of democracy, including the support for nongovernmental organizations in foreign countries; and

(5) to carry out such other related activities as are consistent with paragraphs (1) through (4).

(c) FUNDING.—

(1) IN GENERAL.—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2003, \$21,500,000 is authorized to be available to the Fund for carrying out the purposes described in subsection (b). Amounts made available to the Fund under this paragraph shall also be deemed to have been made available under section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)).

(2) ALLOCATION OF FUNDS FOR THE DOCUMENTATION CENTER OF CAMBODIA.—Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, \$1,000,000 is authorized to be available for the Documentation Center of Cambodia for the purpose of collecting, cataloguing, and disseminating information about the atrocities committed by the Khmer Rouge against the Cambodian people.

(3) FATHER JOHN KAISER MEMORIAL FUND.—Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, \$500,000 is authorized to be available to advance the extraordinary work and values of Father John Kaiser with respect to solving ethnic conflict and promoting government accountability and respect for human rights. The amount made available under this paragraph may be referred to as the “Father John Kaiser Memorial Fund”.

**SEC. 665.<sup>53</sup> REPORTS ON ACTIONS TAKEN BY THE UNITED STATES TO ENCOURAGE RESPECT FOR HUMAN RIGHTS.**

(a) SECTION 116 REPORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—\* \* \*

(b) SECTION 502B REPORT.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended \* \* \*

(c)<sup>54</sup> SEPARATE REPORT.—The information to be included in the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 pursuant to the amendments made by subsections (a) and (b) may be submitted by the Secretary as a separate report. If the Secretary elects to submit such information as a separate report, such report shall be submitted not later than 30 days after the date of submission of the report required by section 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

**Subtitle F—Elimination and Streamlining of Reporting Requirements**

**SEC. 671. ELIMINATION OF CERTAIN REPORTING REQUIREMENTS.**

The following provisions of law are hereby repealed:

<sup>53</sup> For text of the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 2005*, vol. I–A.

<sup>54</sup> 22 U.S.C. 2151n note.

(1) ECONOMIC POLICY AND TRADE PRACTICES.—Section 2202 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4711).

(2) ANNUAL REPORTS ON ECONOMIC AND SOCIAL GROWTH.—Section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (22 U.S.C. 2394 note).

(3) REPORTING REQUIREMENTS REGARDING CERTAIN LEASES OF REAL PROPERTY.—Section 488(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291g(3)); relating to reporting requirements regarding certain leases of real property).

(4) REPORTING REQUIREMENTS REGARDING PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.—Section 324 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 324 of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-437).

**SEC. 672. BIENNIAL REPORTS ON PROGRAMS TO ENCOURAGE GOOD GOVERNANCE.**

(a)<sup>55</sup> CONVERSION OF ANNUAL REPORTS TO BIENNIAL REPORTS.—Section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)) is amended—\* \* \*

(b)<sup>56</sup> TRANSITION.—The first biennial report under section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)), as amended by subsection (a), is required to be submitted not later than two years after the date of submission of the last annual report required under such section 133 (as in effect before the date of enactment of this Act).

**Subtitle G—Other Matters**

**SEC. 681. AMENDMENTS TO THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998.**

(a) VIOLATIONS OF RELIGIOUS FREEDOM.—Section 102(b)(1)(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(B)) is amended \* \* \*

(b) ESTABLISHMENT OF STAGGERED TERMS OF MEMBERS OF COMMISSION.—Section 201(c) of such Act (22 U.S.C. 6431(c)) is amended \* \* \*

(c) ELECTION OF CHAIR OF COMMISSION.—Section 201(d) of such Act (22 U.S.C. 6431(d)) is amended \* \* \*

(d) VACANCIES.—Section 201(g) of such Act (22 U.S.C. 6431(g)) is amended \* \* \*

(e) AUTHORIZATIONS OF APPROPRIATIONS.—Section 207(a) of such Act (22 U.S.C. 6435(a)) is amended \* \* \*

(f) PROCUREMENT OF NONGOVERNMENTAL SERVICES.—The third sentence of section 208(c)(1) of such Act (22 U.S.C. 6435a(c)(1)) is amended \* \* \*

<sup>55</sup>For sec. 133(d) of the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>56</sup>22 U.S.C. 2152c note.

(g) REVISED TERMINATION DATE OF COMMISSION.—Section 209 of the International Religious Freedom Act of 1998 (22 U.S.C. 6436) is amended \* \* \*

**SEC. 682. AMENDMENTS TO THE VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000.**

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—Section 107(a)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7105(a)(1)) is amended \* \* \*

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 113 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7110) is amended—\* \* \*

**SEC. 683.<sup>57</sup> ANNUAL HUMAN RIGHTS COUNTRY REPORTS ON CHILD SOLDIERS.**

(a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)), as amended by section 665(a) of this Act, is further amended—\* \* \*

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended \* \* \*

**SEC. 684. EXTENSION OF AUTHORITY FOR CAUCUS ON INTERNATIONAL NARCOTICS CONTROL.**

Section 814(i) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93) is amended \* \* \*

**SEC. 685. PARTICIPATION OF SOUTH ASIAN COUNTRIES IN INTERNATIONAL LAW ENFORCEMENT.**

The Secretary shall ensure, where practicable, that appropriate government officials from countries in the South Asia region shall be eligible to attend courses at the International Law Enforcement Academy located in Bangkok, Thailand, and Budapest, Hungary, consistent with other provisions of law, with the goal of enhancing regional cooperation in the fight against transnational crime.

**SEC. 686. PAYMENT OF ANTI-TERRORISM JUDGMENTS.**

Section 2002(a)(2)(A)(ii) of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386; 114 Stat. 1542) is amended \* \* \*

**SEC. 687.<sup>58</sup> REPORTS ON PARTICIPATION BY SMALL BUSINESSES IN PROCUREMENT CONTRACTS OF USAID.**

(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Administrator shall submit to the designated congressional committees a report that contains the following:

- (1) For each of the fiscal years 2000, 2001, and 2002:
  - (A) The total number of the contracts that were awarded by the Agency to—
    - (i) all small businesses;
    - (ii) small business concerns owned and controlled by socially and economically disadvantaged individuals;

<sup>57</sup> For the Foreign Assistance Act of 1961, as amended, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>58</sup> 22 U.S.C. 2352 note.



(iii) small business concerns owned and controlled by women;

(iv) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and

(v) qualified HUBZone small business concerns.

(B) The percentage of all contracts awarded by the Agency that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(C) Of all contracts awarded by the Agency for performance in the United States, the percentage of the contracts that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(D) To the extent available—

(i) the total number of grant and cooperative agreements that were made by the Agency to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A);

(ii) the percentage of all grant and cooperative agreements awarded by the Agency that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts; and

(iii) of all grant and cooperative agreements made by the Agency to entities in the United States, the percentage of the grant and cooperative agreements that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(E) To the extent available—

(i) the total dollar amount of all subcontracts entered into with the small businesses in each category specified in clauses (i) through (v) of subparagraph (A) by the prime contractors for contracts entered into by the Agency; and

(ii) the percentage of all contracts entered into by the Agency that were performed under subcontracts described in clause (i), as computed on the basis of dollar amounts.

(2) An analysis of any specific industries or sectors that are underrepresented by small businesses in the awarding of contracts by the Agency and, to the extent such information is available, such analysis pertaining to the making of grants and cooperative agreements by the Agency.

(3) A specific plan of outreach, including measurable achievement milestones, to increase the total number of contracts that are awarded by the Agency, and the percentage of all contracts awarded by the Agency (computed on the basis of dollar amount) that are awarded, to—

(A) all small businesses;  
(B) small business concerns owned and controlled by socially and economically disadvantaged individuals;  
(C) small business concerns owned and controlled by women;  
(D) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and  
(E) qualified HUBZone small business concerns,  
in order to meet the statutory and voluntary targets established by the Agency and the Small Business Administration, with a particular focus on the industries or sectors identified in paragraph (2).

(4) Any other information the Administrator determines appropriate.

(b) **PLAN TO INCREASE SMALL BUSINESS CONTRACTING.**—The plan required for the report under subsection (a)(3) shall include the following matters:

(1) Proposals and milestones that apply to all contracts entered into by or on behalf of the Agency in Washington, D.C., and proposals and milestones that apply to all contracts entered into by or on behalf of the Agency by offices outside Washington, D.C.

(2) Proposals and milestones of the Agency to increase the amount of subcontracting to businesses described in such subsection (a)(3) by the prime contractors of the Agency.

(3) With the milestones described in paragraph (2), a description of how the Administrator plans to use the failure of a prime contractor to meet goals as a ranking factor for evaluating any other submission from the contractor for future contracts by the Agency.

(c) **ANNUAL REPORTS.**—Not later than January 31, 2004, January 31, 2005, and January 31, 2006, the Administrator shall submit to the designated congressional committees a report for the preceding fiscal year that contains a description of the percentage of total contract and grant and cooperative agreement dollar amounts that were entered into by the Agency, and the total number of contracts and grants and cooperative agreements that were awarded by the Agency, to small businesses in each category specified in clauses (i) through (v) of subsection (a)(1)(A) during such fiscal year. The report for a fiscal year shall include, separately stated for contracts and grant and cooperative agreements entered into by the Agency, the percentage of the contracts and grant and cooperative agreements, respectively, that were awarded to small businesses in each such category, as computed on the basis of dollar amounts. The report shall also include a description of achievements toward measurable milestones for direct contracts of the Agency entered into by offices outside of Washington, D.C., and for subcontracting by prime contractors of the Agency.

(d) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the United States Agency for International Development.

(2) **AGENCY.**—The term “Agency” means the United States Agency for International Development.

(3) DESIGNATED CONGRESSIONAL COMMITTEES.—The term “designated congressional committees” means—

(A) the Committee on International Relations and the Committee on Small Business of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Small Business of the Senate.

**SEC. 688.<sup>59</sup> PROGRAM TO IMPROVE BUILDING CONSTRUCTION AND PRACTICES IN LATIN AMERICAN COUNTRIES.**

(a) IN GENERAL.—The President, acting through the Administrator of the United States Agency for International Development, is authorized, under such terms and conditions as the President may determine, to carry out a program to improve building construction codes and practices in Ecuador, El Salvador, and other Latin American countries (in this section referred to as the “program”).

(b) PROGRAM DESCRIPTION.—

(1) IN GENERAL.—The program shall be in the form of grants to, or contracts with, organizations described in paragraph (2) to support the following activities:

(A) TRAINING.—Training of appropriate professionals in Latin America from both the public and private sectors to enhance their understanding of building and housing codes and standards.

(B) TRANSLATION AND DISTRIBUTION.—Translating and distributing in the region detailed construction manuals, model building codes, and publications from organizations described in paragraph (2), including materials that address zoning, egress, fire and life safety, plumbing, sewage, sanitation, electrical installation, mechanical installation, structural engineering, and seismic design.

(C) OTHER ASSISTANCE.—Offering other relevant assistance as needed, such as helping government officials develop seismic micro-zonation maps or draft pertinent legislation, to implement building codes and practices that will help improve the resistance of buildings and housing in the region to seismic activity and other natural disasters.

(2) COVERED ORGANIZATIONS.—Grants and contracts provided under this section shall be carried out through United States organizations with expertise in the areas described in paragraph (1), including the American Society of Testing Materials, the Underwriters Laboratories, the American Society of Mechanical Engineers, the American Society of Civil Engineers, the American Society of Heating, Refrigeration, and Air Conditioning Engineers, the International Association of Plumbing and Mechanical Officials, the International Code Council, and the National Fire Protection Association.

**SEC. 689. SENSE OF CONGRESS RELATING TO HIV/AIDS AND UNITED NATIONS PEACEKEEPING OPERATIONS.**

It is the sense of the Congress that the President should direct the Secretary and the United States Representative to the United Nations to urge the United Nations to adopt an HIV/AIDS mitiga-

<sup>59</sup>22 U.S.C. 2152e.

tion strategy as a component of United Nations peacekeeping operations.

**SEC. 690. SENSE OF CONGRESS RELATING TO MAGEN DAVID ADOM SOCIETY.**

(a) FINDINGS.—Congress finds the following:

(1) It is the mission of the International Red Cross and Red Crescent Movement to prevent and alleviate human suffering wherever it may be found, without discrimination.

(2) The International Red Cross and Red Crescent Movement is a worldwide institution in which all national Red Cross and Red Crescent societies have equal status.

(3) The Magen David Adom Society is the national humanitarian society in the State of Israel.

(4) Since 1949 the Magen David Adom Society has been refused admission into the International Red Cross and Red Crescent Movement and has been relegated to observer status without a vote because it has used the Red Shield of David, the only such national organization denied membership in the Movement.

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

(1) the International Committee of the Red Cross should immediately recognize the Magen David Adom Society;

(2) the Federation of Red Cross and Red Crescent Societies should grant full membership to the Magen David Adom Society immediately following recognition by the International Committee of the Red Cross of the Magen David Adom Society as a full member of the International Committee of the Red Cross;

(3) the Red Shield of David should be accorded the same protections under international law as the Red Cross and the Red Crescent; and

(4) the United States should continue to press for full membership for the Magen David Adom Society in the International Red Cross Movement.

**SEC. 691. SENSE OF CONGRESS REGARDING THE LOCATION OF PEACE CORPS OFFICES ABROAD.**

It is the sense of the Congress that, to the degree permitted by security considerations, the Secretary should give favorable consideration to requests by the Director of the Peace Corps that the Secretary exercise his authority under section 606(a)(2)(B) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)) to waive certain requirements of that Act in order to permit the Peace Corps to maintain offices in foreign countries at locations separate from the United States embassy.

**SEC. 692. SENSE OF CONGRESS RELATING TO RESOLUTION OF THE TAIWAN STRAIT ISSUE.**

It is the sense of the Congress that Taiwan is a mature democracy that fully respects human rights and it is the policy of the United States that any resolution of the Taiwan Strait issue must be peaceful and include the assent of the people of Taiwan.

**SEC. 693. SENSE OF CONGRESS RELATING TO DISPLAY OF THE AMERICAN FLAG AT THE AMERICAN INSTITUTE IN TAIWAN.**

It is the sense of the Congress that the American Institute in Taiwan and the residence of the director of the American Institute in Taiwan should publicly display the flag of the United States in the same manner as United States embassies, consulates, and official residences throughout the world.

**SEC. 694.<sup>60</sup> REPORTS ON ACTIVITIES IN COLOMBIA.****(a) REPORT ON REFORM ACTIVITIES.—**

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary shall submit to the appropriate congressional committees a report on the status of activities funded or authorized, in whole or in part, by the Department or the Department of Defense in Colombia to promote alternative development, recovery and resettlement of internally displaced persons, judicial reform, the peace process, and human rights.

**(2) CONTENTS.**—Each such report shall contain the following:

(A) A summary of activities described in paragraph (1) during the previous 12-month period.

(B) An estimated timetable for the conduct of such activities in the subsequent 12-month period.

(C) An explanation of any delay in meeting timetables contained in the previous report submitted in accordance with this subsection.

(D) An assessment of steps to be taken to correct any delays in meeting such timetables.

**(b) REPORT ON CERTAIN COUNTERNARCOTICS ACTIVITIES.—**

(1) **DECLARATION OF POLICY.**—It is the policy of the United States to encourage the transfer of counternarcotics activities carried out in Colombia by United States businesses that have entered into agreements with the Department or the Department of Defense to conduct such activities, to Colombian nationals, in particular personnel of the Colombian antinarcotics police, when properly qualified personnel are available.

(2) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary shall submit to the appropriate congressional committees a report on the activities of United States businesses that have entered into agreements in the previous 12-month period with the Department or the Department of Defense to carry out counternarcotics activities in Colombia.

**(3) CONTENTS.**—Each such report shall contain the following:

(A) The name of each United States business described in paragraph (2) and description of the counternarcotics activities carried out by the business in Colombia.

(B) The total value of all payments by the Department and the Department of Defense to each such business for such activities.

<sup>60</sup> 22 U.S.C. 2291 note.

(C) A written statement justifying the decision by the Department and the Department of Defense to enter into an agreement with each such business for such activities.

(D) An assessment of the risks to personal safety and potential involvement in hostilities incurred by employees of each such business as a result of their activities in Colombia.

(E) A plan to provide for the transfer of the counter-narcotics activities carried out by such United States businesses to Colombian nationals, in particular personnel of the Colombian antinarcotics police.

(4) DEFINITION.—In this subsection, the term “United States business” means any person (including any corporation, partnership, or other organization) that is subject to the jurisdiction of the United States or organized under the laws of the United States, but does not include any person (including any corporation, partnership, or other organization) that performs contracts involving personal services.

**SEC. 695. REPORT ON UNITED STATES-SPONSORED ACTIVITIES IN COLOMBIA.**

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

(1) Heroin originating from Colombia is beginning to dominate the illicit market of that narcotic in the United States partly because law enforcement has struggled to interdict effectively what is often voluminous importations of small quantities of Colombia’s inexpensive and pure heroin.

(2) Destruction of opium, from which heroin is derived, at its source in Colombia is traditionally one of the best strategies to combat the heroin crisis in the United States, according to Federal law enforcement officials.

(3) There is a growing alarm concerning the spillover effect of Plan Colombia on Ecuador, a frontline state. The northern region of Ecuador, including the Sucumbios province, is an area of particular concern.

(4) As a result of Plan Colombia-related activities, drug traffickers, guerrillas, and paramilitary groups have made incursions from Colombia into Ecuador, increasing the level of violence and delinquency in the border region.

(b) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees which sets forth a statement of policy and comprehensive strategy for United States activities in Colombia related to—

(1) the eradication of all opium cultivation at its source in Colombia; and

(2) the impact of Plan Colombia on Ecuador and the other adjacent countries to Colombia.

**SEC. 696. REPORT ON EXTRADITION POLICY AND PRACTICE.**

Not later than May 1, 2003, the Secretary shall submit a report to the appropriate congressional committees on extradition practice between the United States and governments of foreign countries with which the United States has an extradition relationship. The report shall include—

- (1) an aggregate list, by country, of—
  - (A) the number of extradition requests made by the United States to that country in 2002; and
  - (B) the number of fugitives extradited by that country to the United States in 2002;
- (2) an aggregate list, by country, of—
  - (A) the number of extradition requests made by that country to the United States in 2002; and
  - (B) the number of fugitives extradited by the United States to that country in 2002;
- (3) any other relevant information regarding difficulties the United States has experienced in obtaining the extradition of fugitives (including a discussion of the unwillingness of treaty partners to extradite nationals or where fugitives may face capital punishment or life imprisonment); and
- (4) a summary of the Department's efforts in 2002 to negotiate new or revised extradition treaties, and its agenda for such negotiations in 2003.

**SEC. 697. SPECIAL COURT FOR SIERRA LEONE.**

(a) **FINDING.**—Congress finds that prompt establishment of a Special Court for Sierra Leone is an important step in restoring a credible system of justice and accountability for the crimes committed in Sierra Leone and would contribute to the process of national reconciliation in that country.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should support the Truth and Reconciliation Commission in Sierra Leone, including through assistance in the collection of human rights data relevant to the Commission's work.

(c) **ALLOCATION OF FUNDS.**—Of the amounts made available to the Department of State for fiscal year 2003, there is authorized to be available \$5,000,000 to support the Special Court for Sierra Leone.

(d) **EXTENSION OF REWARDS PROGRAM.**—Section 102 of Public Law 105-323, as amended (22 U.S.C. 2708 note), is further amended—\* \* \*

**SEC. 698. UNITED STATES ENVOY FOR PEACE IN SUDAN.**

There should continue to be a United States Envoy for Peace in Sudan until the full implementation of a comprehensive settlement to the conflict in Sudan that is acceptable to the parties to the conflict.

**SEC. 699.<sup>61</sup> TRANSFER OF PROSCRIBED WEAPONS TO PERSONS OR ENTITIES IN THE WEST BANK AND GAZA.**

(a) **DETERMINATION REGARDING TRANSFERS.**—If the President determines, based on a preponderance of the evidence, that a foreign person or entity has knowingly transferred proscribed weapons to Palestinian entities in the West Bank or Gaza, then, for the period specified in subsection (b), no assistance may be provided to the person or entity under part II of the Foreign Assistance Act of 1961 and no sales of defense articles or defense services may be made

<sup>61</sup> 22 U.S.C. 2301 note.

to the person or entity under section 23 of the Arms Export Control Act.

(b) DURATION OF PROHIBITION.—The period referred to in subsection (a) is the period commencing on the date on which a notification of a determination under subsection (a) is submitted to the appropriate congressional committees and ending on the date that is two years after such date.

(c) REPORT.—In conjunction with the report required under title VIII of the P.L.O. Commitments Compliance Act of 1989 (Public Law 101-246), the President shall submit a report to the appropriate congressional committees on transfers reviewed pursuant to subsection (a).

(d) DEFINITION.—In this section, the term “proscribed weapons” means arms, ammunition, and equipment the transfer of which is not in compliance with the Agreement on the Gaza Strip and the Jericho Area of May 4, 1994, its annexes, or subsequent agreements between Israel and the PLO, or Palestinian Authority, as appropriate.

**SEC. 700. SENSE OF CONGRESS RELATING TO ARSENIC CONTAMINATION IN DRINKING WATER IN BANGLADESH.**

(a) FINDINGS.—Congress finds that—

(1) beginning in 1993, naturally occurring inorganic arsenic contamination of water began to be confirmed in Bangladesh in tube-wells installed in the 1970s, when standard water testing did not include arsenic tests;

(2) because health effects of ingesting arsenic-contaminated drinking water appear slowly, preventative measures are critical to preventing future contamination in the Bangladeshi population; and

(3) health effects of exposure to arsenic include skin lesions, skin cancer, and mortality from internal cancers.

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

(1) work with appropriate United States Government agencies, national laboratories, universities in the United States, the Government of Bangladesh, international financial institutions and organizations, and international donors to identify a long-term solution to the arsenic-contaminated drinking water problem in Bangladesh, including drawing arsenic out of the existing tube-wells and finding alternate sources of water; and

(2) submit a report to the appropriate congressional committees on proposals to bring about arsenic-free drinking water to Bangladeshis and to facilitate treatment for those who have already been affected by arsenic-contaminated drinking water in Bangladesh.

**SEC. 701. POLICING REFORM AND HUMAN RIGHTS IN NORTHERN IRELAND.**

(a) CONGRESSIONAL STATEMENT OF POLICY.—Congress—

(1) supports independent judicial public inquiries into the murders of defense attorneys Patrick Finucane and Rosemary Nelson as a way to instill confidence in the Police Service of Northern Ireland; and



- (2) continues to urge the United Kingdom to take appropriate action to protect defense lawyers and human rights defenders in Northern Ireland.
- (b) DECOMMISSIONING WEAPONS.—Congress—
- (1) calls on the Irish Republican Army to continue and complete the decommissioning of all their arms and explosives; and
- (2) calls for—
- (A) the decommissioning of all weapons held by paramilitaries on all sides, such as the Provisional Irish Republican Army (PIRA), the Real Irish Republican Army (RIRA), the Continuity Irish Republican Army (CIRA), the Loyalist Volunteer Force (LVF), the Orange Volunteers (OV), the Red Hand Defenders (RHD), the Ulster Defense Association/Ulster Freedom Fighters (UDA/UFF), the Ulster Volunteer Force (UVF); and
- (B) the immediate cessation of paramilitary punishment attacks and exiling.
- (c) SUPPORT FOR GLOBAL WAR ON TERRORISM.—Congress recognizes the United Kingdom's commitment to support the United States in a global war on terrorism.
- (d) REPORT ON POLICING REFORM AND HUMAN RIGHTS IN NORTHERN IRELAND.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to the appropriate congressional committees on the following:
- (1) The extent to which the Governments of the United Kingdom and Ireland have implemented the recommendations relating to the 175 policing reforms contained in the Patten Commission report issued on September 9, 1999, including a description of the progress of the integration of human rights, as well as recruitment procedures aimed at increasing Catholic representation, including the effectiveness of such procedures, in the new Police Service of Northern Ireland.
- (2) The status of the investigations into the murders of Patrick Finucane, Rosemary Nelson, and Robert Hammill, including the extent to which progress has been made on recommendations for independent judicial public inquiries into these murders.
- (3) All decommissioning acts taken to date by the Irish Republican Army, including the quantity and precise character of what the IRA decommissioned, as reported and verified by the International Commission on Decommissioning.
- (4) All acts of decommissioning taken by other paramilitary organizations, including a description of all weapons and explosives decommissioned.
- (5) A description of the measures taken to ensure that the programs described under subsection (e) comply with the requirements of that subsection.
- (e) COMPLIANCE WITH PRIOR PROVISIONS.—Any training or exchange program conducted by the Federal Bureau of Investigation or any other Federal law enforcement agency for the Police Service of Northern Ireland or its members shall—
- (1) be necessary to improve the professionalism of policing in Northern Ireland;

(2) be necessary to advance the peace process in Northern Ireland;

(3) include in the curriculum a significant human rights component; and

(4) only be provided to Police Service of Northern Ireland (PSNI) members who have been subject to a vetting procedure established by the Department and the Department of Justice to ensure that such program does not include PSNI members who there are substantial ground for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland.

**SEC. 702.<sup>62</sup> ANNUAL REPORTS ON UNITED STATES-VIETNAM HUMAN RIGHTS DIALOGUE MEETINGS.**

Not later than December 31 of each year or 60 days after the second United States-Vietnam human rights dialogue meeting held in a calendar year, whichever is earlier, the Secretary shall submit to the appropriate congressional committees a report covering the issues discussed at the previous two meetings and describing to what extent the Government of Vietnam has made progress during the calendar year toward achieving the following objectives:

(1) Improving the Government of Vietnam's commercial and criminal codes to bring them into conformity with international standards, including the repeal of the Government of Vietnam's administrative detention decree (Directive 31/CP).

(2) Releasing political and religious activists who have been imprisoned or otherwise detained by the Government of Vietnam, and ceasing surveillance and harassment of those who have been released.

(3) Ending official restrictions on religious activity, including implementing the recommendations of the United Nations Special Rapporteur on Religious Intolerance.

(4) Promoting freedom for the press, including freedom of movement of members of the Vietnamese and foreign press.

(5) Improving prison conditions and providing transparency in the penal system of Vietnam, including implementing the recommendations of the United Nations Working Group on Arbitrary Detention.

(6) Respecting the basic rights of indigenous minority groups, especially in the central and northern highlands of Vietnam.

(7) Respecting the basic rights of workers, including working with the International Labor Organization to improve mechanisms for promoting such rights.

(8) Cooperating with requests by the United States to obtain full and free access to persons who may be eligible for admission to the United States as refugees or immigrants, and allowing such persons to leave Vietnam without being subjected to extortion or other corrupt practices.

<sup>62</sup>22 U.S.C. 2151n note.

**SEC. 703. SENSE OF CONGRESS REGARDING HUMAN RIGHTS VIOLATIONS IN INDONESIA.**

It is the sense of Congress that the Government of Indonesia should—

- (1) demonstrate substantial progress toward ending human rights violations by the armed forces in Indonesia (TNI);
- (2) terminate any TNI support for and cooperation with terrorist organizations, including Laskar Jihad and militias operating in the Maluku, Central Sulawesi, West Papua (Irian Jaya), and elsewhere;
- (3) investigate and prosecute those responsible for human rights violations, including TNI officials, members of Laskar Jihad, militias, and other terrorist organizations; and
- (4) make concerted and demonstrable efforts to find and prosecute those responsible for the murders of Papuan leader Theys Elvay, Aceh human rights advocate Jafar Siddiq Hamzah, and United States citizens Edwin L. Burgon and Ricky L. Spier.

**SEC. 704. REPORT CONCERNING THE GERMAN FOUNDATION “REMEMBRANCE, RESPONSIBILITY, AND THE FUTURE”.**

(a) REPORT CONCERNING THE GERMAN FOUNDATION “REMEMBRANCE, RESPONSIBILITY, AND THE FUTURE”.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until all funds made available to the German Foundation have been disbursed, the Secretary shall report to the appropriate congressional committees on the status of the implementation of the Agreement and, to the extent possible, on whether or not—

- (1) during the 180-day period preceding the date of the report, the German Bundestag has authorized the allocation of funds to the Foundation, in accordance with section 17 of the law on the creation of the Foundation, enacted by the Federal Republic of Germany on August 8, 2000;
- (2) the entire sum of 10,000,000,000 deutsche marks has been made available to the German Foundation in accordance with Annex B to the Joint Statement of July 17, 2000;
- (3) during the 180-day period preceding the date of the report, any company or companies investigating a claim, who are members of ICHEIC, were required to provide to the claimant, within 90 days after receiving the claim, a status report on the claim, or a decision that included—
  - (A) an explanation of the decision, pursuant to those standards of ICHEIC to be applied in approving claims;
  - (B) all documents relevant to the claim that were retrieved in the investigation; and
  - (C) an explanation of the procedures for appeal of the decision;
- (4) during the 180-day period preceding the date of the report, any entity that elected to determine claims under Article 1(4) of the Agreement was required to comply with the standards of proof, criteria for publishing policyholder names, valuation standards, auditing requirements, and decisions of the Chairman of ICHEIC;

(5) during the 180-day period preceding the date of the report, an independent process to appeal decisions made by any entity that elected to determine claims under Article 1(4) of the Agreement was available to and accessible by any claimant wishing to appeal such a decision, and the appellate body had the jurisdiction and resources necessary to fully investigate each claim on appeal and provide a timely response;

(6) an independent audit of compliance by every entity that has elected to determine claims under Article 1(4) of the Agreement has been conducted; and

(7) the administrative and operational expenses incurred by the companies that are members of ICHEIC are appropriate for the administration of claims described in paragraph (3).

The Secretary's report shall include the Secretary's justification for each determination under this subsection.

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

(1) the resolution of slave and forced labor claims is an urgent issue for aging Holocaust survivors, and the German Bundestag should allocate funds for disbursement by the German Foundation to Holocaust survivors as soon as possible; and

(2) ICHEIC should work in consultation with the Secretary in gathering the information required for the report under subsection (a).

(c) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term “Agreement” means the Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany concerning the Foundation “Remembrance, Responsibility and the Future”, done at Berlin July 17, 2000.

(2) ANNEX B TO THE JOINT STATEMENT OF JULY 17, 2000.—The term “Annex B to the Joint Statement of July 17, 2000” means Annex B to the Joint Statement on occasion of the final plenary meeting concluding international talks on the preparation of the Federal Foundation “Remembrance, Responsibility and the Future”, done at Berlin on July 17, 2000.

(3) GERMAN FOUNDATION.—The term “German Foundation” means the Foundation “Remembrance, Responsibility and the Future” referred to in the Agreement.

(4) ICHEIC.—The term “ICHEIC” means the International Commission on Holocaust Era Insurance Claims referred to in Article 1(4) of the Agreement.

**SEC. 705. SENSE OF CONGRESS ON RETURN OF PORTRAITS OF HOLOCAUST VICTIMS TO THE ARTIST DINA BABBITT.**

(a) FINDINGS.—Congress finds that—

(1) Dina Babbitt (formerly known as Dinah Gottliebova), a United States citizen has requested the return of watercolor portraits she painted while suffering a 1½-year-long internment at the Auschwitz death camp during World War II;

(2) Dina Babbitt was ordered to paint the portraits by the infamous war criminal Dr. Josef Mengele;

(3) Dina Babbitt's life, and her mother's life, were spared only because she painted portraits of doomed inmates of Auschwitz-Birkenau, under orders from Dr. Josef Mengele;

(4) these paintings are currently in the possession of the Auschwitz-Birkenau State Museum;

(5) Dina Babbitt is the rightful owner of the artwork, since the paintings were produced by her own talented hands as she endured the unspeakable conditions that existed at the Auschwitz death camp;

(6) the artwork is not available for the public to view at the Auschwitz-Birkenau State Museum and therefore this unique and important body of work is essentially lost to history; and

(7) this continued injustice can be righted through cooperation between agencies of the United States and Poland.

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the moral right of Dina Babbitt to obtain the artwork she created, and recognizes her courage in the face of the evils perpetrated by the Nazi command of the Auschwitz-Birkenau death camp, including the atrocities committed by Dr. Josef Mengele;

(2) urges the President to make all efforts necessary to retrieve the 7 watercolor portraits Dina Babbitt painted, while suffering a 1½-year-long internment at the Auschwitz death camp, and return them to her;

(3) urges the Secretary to make immediate diplomatic efforts to facilitate the transfer of the 7 original watercolors painted by Dina Babbitt from the Auschwitz-Birkenau State Museum to Dina Babbitt, their rightful owner;

(4) urges the Government of Poland to immediately facilitate the return to Dina Babbitt of the artwork painted by her that is now in the possession of the Auschwitz-Birkenau State Museum; and

(5) urges the officials of the Auschwitz-Birkenau State Museum to transfer the 7 original paintings to Dina Babbitt as expeditiously as possible.

**SEC. 706.<sup>63</sup> INTERNATIONAL DRUG CONTROL CERTIFICATION PROCEDURES.**

During any fiscal year, funds that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 may be obligated or expended beginning October 1 of such fiscal year provided that:

(1) REPORT.—Not later than September 15 of the previous fiscal year the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

(2) DESIGNATION AND JUSTIFICATION.—In each report under paragraph (1), the President shall also—

(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

<sup>63</sup> 22 U.S.C. 2291j-1.

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

(B) include a justification for each country so designated.

(3) LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.—In the case of a country identified in a report under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided to such country in the subsequent fiscal year only if the President determines and reports to the appropriate congressional committees that—

(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

(B) subsequent to the designation being made under paragraph (2)(A), the country has made substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

(4) INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.—In this section, the term “international counternarcotics agreement” means—

(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

(i) the production, distribution, and interdiction of illicit drugs;

(ii) demand reduction;

(iii) the activities of criminal organizations;

(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence);

(v) the extradition of nationals and individuals involved in drug-related criminal activity;

(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity;

(vii) border security;

(viii) money laundering;

(ix) illicit firearms trafficking;

(x) corruption;

(xi) control of precursor chemicals;

(xii) asset forfeiture; and

(xiii) related training and technical assistance,

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

(5) APPLICATION.—(A) Section 490 (a) through (h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)–(h)) shall not

apply during any fiscal year with respect to any country identified in the report required by paragraph (1) of this section.

(B) Notwithstanding paragraphs (1) through (5)(A) of this section, the President may apply the procedures set forth in section 490 (a) through (h) of the Foreign Assistance Act of 1961 during any fiscal year with respect to any country determined to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the International Narcotics Control Strategy Report) for the transmittal of a report not later than March 1, each fiscal year under that section.

(7) TRANSITION RULE.—For funds obligated or expended under this section in fiscal year 2003, the date for submission of the report required by paragraph (1) of this section shall be at least 15 days before funds are obligated or expended.

(8) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of this Act into law and shall remain in effect thereafter unless Congress enacts subsequent legislation repealing such section.

#### **DIVISION B—SECURITY ASSISTANCE ACT OF 2002**<sup>64</sup>

\* \* \* \* \*

<sup>64</sup>For text of the Security Assistance Act of 2002, see *Legislation on Foreign Relations Through 2005*, vol. I-B. Some subdivisions of this subdivision, relating to nonproliferation, are also printed in vol. II-B, in the section devoted to arms control and disarmament.

**g. United States-Macau Policy Act of 2000**

**Title II of Public Law 106-570 [Assistance for International Malaria Control Act; S. 2943], 114 Stat. 3040, approved December 27, 2000**

AN ACT To authorize assistance for international malaria control, and for other purposes.

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

\* \* \* \* \*

**TITLE II—POLICY OF THE UNITED STATES WITH RESPECT TO MACAU<sup>1</sup>**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “United States-Macau Policy Act of 2000”.

**SEC. 202. FINDINGS AND DECLARATIONS; SENSE OF CONGRESS.**

(a) **FINDINGS AND DECLARATIONS.**—Congress makes the following findings and declarations:

(1) The continued economic prosperity of Macau furthers United States interests in the People’s Republic of China and Asia.

(2) Support for democratization is a fundamental principle of United States foreign policy, and as such, that principle naturally applies to United States policy toward Macau.

(3) The human rights of the people of Macau are of great importance to the United States and are directly relevant to United States interests in Macau.

(4) A fully successful transition in the exercise of sovereignty over Macau must continue to safeguard human rights in and of themselves.

(5) Human rights also serve as a basis for Macau’s continued economic prosperity, and Congress takes note of Macau’s adherence to the International Covenant on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights.

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

(1) the United States should play an active role in maintaining Macau’s confidence and prosperity, Macau’s unique cultural heritage, and the mutually beneficial ties between the people of the United States and the people of Macau;

(2) through its policies, the United States should contribute to Macau’s ability to maintain a high degree of autonomy in matters other than defense and foreign affairs as promised by the People’s Republic of China and the Republic of Portugal in

<sup>1</sup> 22 U.S.C. 6901 note.



the Joint Declaration, particularly with respect to such matters as trade, commerce, law enforcement, finance, monetary policy, aviation, shipping, communications, tourism, cultural affairs, sports, and participation in international organizations, consistent with the national security and other interests of the United States; and

(3) the United States should actively seek to establish and expand direct bilateral ties and agreements with Macau in economic, trade, financial, monetary, mutual legal assistance, law enforcement, communication, transportation, and other appropriate areas.

**SEC. 203. CONTINUED APPLICATION OF UNITED STATES LAW.**

(a) CONTINUED APPLICATION.—

(1) IN GENERAL.—Notwithstanding any change in the exercise of sovereignty over Macau, and subject to subsections (b) and (c), the laws of the United States shall continue to apply with respect to Macau in the same manner as the laws of the United States were applied with respect to Macau before December 20, 1999, unless otherwise expressly provided by law or by Executive order issued pursuant to paragraph (2).

(2) EXCEPTION.—Whenever the President determines that Macau is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of paragraph (1) to such law or provision of law. The President shall promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate concerning any such determination and shall publish the Executive order in the Federal Register.

(b) EXPORT CONTROLS.—

(1) IN GENERAL.—The export control laws, regulations, and practices of the United States shall apply to Macau in the same manner and to the same extent that such laws, regulations, and practices apply to the People's Republic of China, and in no case shall such laws, regulations, and practices be applied less restrictively to exports to Macau than to exports to the People's Republic of China.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the provision of export control assistance to Macau.

(c) INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—Subject to subsection (b) and paragraph (2), for all purposes, including actions in any court of the United States, Congress approves of the continuation in force after December 20, 1999, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Macau, or entered into force before such date between the United States and the Republic of Portugal and applied to Macau, unless or until terminated in accordance with law.

(2) EXCEPTION.—If, in carrying out this subsection, the President determines that Macau is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Macau's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, the President shall take appropriate action to modify or terminate such treaty or other international agreement. The President shall promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate concerning such determination.

**SEC. 204. REPORTING REQUIREMENT.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and not later than March 31 of each of the years 2001, 2002, and 2003, the Secretary of State shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on conditions in Macau of interest to the United States. The report shall describe—

(1) significant developments in United States relations with Macau, including any determination made under section 203;

(2) significant developments related to the change in the exercise of sovereignty over Macau affecting United States interests in Macau or United States relations with Macau and the People's Republic of China;

(3) the development of democratic institutions in Macau;

(4) compliance by the Government of the People's Republic of China and the Government of the Republic of Portugal with their obligations under the Joint Declaration; and

(5) the nature and extent of Macau's participation in multilateral forums.

(b) SEPARATE PART OF COUNTRY REPORTS.—Whenever a report is transmitted to Congress on a country-by-country basis, there shall be included in such report, where applicable, a separate subreport on Macau under the heading of the country that exercises sovereignty over Macau.

**SEC. 205. DEFINITIONS.**

In this title:

(1) JOINT DECLARATION.—The term "Joint Declaration" means the Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macau, dated April 13, 1987.

(2) MACAU.—The term "Macau" means the territory that prior to December 20, 1999, was the Portuguese Dependent Territory of Macau and after December 20, 1999, became the Macau Special Administrative Region of the People's Republic of China.

**h. Pacific Charter Commission Act of 2000**

**Title IV of Public Law 106-570 [Assistance for International Malaria Control Act; S. 2943], 114 Stat. 3047, approved December 27, 2000**

AN ACT To authorize assistance for international malaria control, and for other purposes.

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

\* \* \* \* \*

**TITLE IV—PACIFIC CHARTER COMMISSION ACT OF 2000<sup>1</sup>**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Pacific Charter Commission Act of 2000”.

**SEC. 402. PURPOSES.**

The purposes of this title are—

- (1) to promote a consistent and coordinated foreign policy of the United States to ensure economic and military security in the Asia-Pacific region;
- (2) to support democratization, the rule of law, and human rights in the Asia-Pacific region;
- (3) to promote United States exports to the Asia-Pacific region by advancing economic cooperation;
- (4) to assist in combating terrorism and the spread of illicit narcotics in the Asia-Pacific region; and
- (5) to advocate an active role for the United States Government in diplomacy, security, and the furtherance of good governance and the rule of law in the Asia-Pacific region.

**SEC. 403. ESTABLISHMENT OF COMMISSION.**

(a) **IN GENERAL.**—The President is authorized to establish a commission to be known as the Pacific Charter Commission (hereafter in this title referred to as the “Commission”).

(b) **EXPIRATION OF AUTHORITY.**—The authority to establish the Commission under this section shall expire at the close of December 31, 2002.

**SEC. 404. DUTIES OF COMMISSION.**

(a) **DUTIES.**—The Commission should establish and carry out, either directly or through nongovernmental organizations, programs, projects, and activities to achieve the purposes described in section 402, including research and educational or legislative exchanges between the United States and countries in the Asia-Pacific region.

<sup>1</sup> 22 U.S.C. 2656 note.

(b) **MONITORING OF DEVELOPMENTS.**—The Commission should monitor developments in countries of the Asia-Pacific region with respect to United States foreign policy toward such countries, the status of democratization, the rule of law and human rights in the region, economic relations among the United States and such countries, and activities related to terrorism and the illicit narcotics trade.

(c) **POLICY REVIEW AND RECOMMENDATIONS.**—In carrying out this section, the Commission should evaluate United States Government policies toward countries of the Asia-Pacific region and recommend options for policies of the United States Government with respect to such countries, with a particular emphasis on countries that are of importance to the foreign policy, economic, and military interests of the United States.

(d) **CONTACTS WITH OTHER ENTITIES.**—In performing the functions described in subsections (a) through (c), the Commission should, as appropriate, seek out and maintain contacts with non-governmental organizations, international organizations, and representatives of industry, including receiving reports and updates from such organizations and evaluating such reports.

(e) **ANNUAL REPORT.**—Not later than 18 months after the date of the establishment of the Commission, and not later than the end of each 12-month period thereafter, the Commission shall prepare and submit to the President and Congress a report that contains the findings of the Commission, in the case of the initial report, during the period since the date of establishment of the Commission, or, in the case of each subsequent report, during the preceding 12-month period. Each such report shall contain—

(1) recommendations for legislative, executive, or other actions resulting from the evaluation of policies described in subsection (c);

(2) a description of programs, projects, and activities of the Commission for the prior year or, in the case of the initial report, since the date of establishment of the Commission; and

(3) a complete accounting of the expenditures made by the Commission during the prior year or, in the case of the initial report, since the date of establishment of the Commission.

#### **SEC. 405. MEMBERSHIP OF COMMISSION.**

(a) **COMPOSITION.**—If established pursuant to section 403, the Commission shall be composed of seven members all of whom—

(1) shall be citizens of the United States who are not officers or employees of any government, except to the extent they are considered such officers or employees by virtue of their membership on the Commission; and

(2) shall have interest and expertise in issues relating to the Asia-Pacific region.

(b) **APPOINTMENT.**—

(1) **IN GENERAL.**—The individuals referred to in subsection (a) shall be appointed—

(A) by the President, after consultation with the Speaker and Minority Leader of the House of Representatives, the Chairman and ranking member of the Committee on International Relations of the House of Representatives, the

Majority Leader and Minority Leader of the Senate, and the Chairman and ranking member of the Committee on Foreign Relations of the Senate; and

(B) by and with the advice and consent of the Senate.

(2) POLITICAL AFFILIATION.—Not more than four of the individuals appointed under paragraph (1) may be affiliated with the same political party.

(c) TERM.—Each member of the Commission shall be appointed for a term of 6 years.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(e) CHAIRPERSON; VICE CHAIRPERSON.—The President shall designate a Chairperson and Vice Chairperson of the Commission from among the members of the Commission.

(f) COMPENSATION.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(i) AFFIRMATIVE DETERMINATIONS.—An affirmative vote by a majority of the members of the Commission shall be required for any affirmative determination by the Commission under section 404.

#### SEC. 406. POWERS OF COMMISSION.

(a) HEARINGS AND INVESTIGATIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, and conduct such investigations as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) CONTRIBUTIONS.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of assisting or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

#### SEC. 407. STAFF AND SUPPORT SERVICES OF COMMISSION.

(a) EXECUTIVE DIRECTOR.—The Commission shall have an executive director appointed by the Commission who shall serve the

Commission under such terms and conditions as the Commission determines to be appropriate.

(b) **STAFF.**—The Commission may appoint and fix the pay of such additional personnel, not to exceed 10 individuals, as it considers appropriate.

(c) **STAFF OF FEDERAL AGENCIES.**—Upon request of the chairperson of the Commission, the head of any Federal agency may detail, on a nonreimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties under this title.

(d) **EXPERTS AND CONSULTANTS.**—The chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

**SEC. 408. TERMINATION.**

The Commission shall terminate not later than 6 years after the date of the establishment of the Commission.

**SEC. 409. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—In the event the Commission is established, there are authorized to be appropriated to carry out this title \$2,500,000 for the initial 24-month period of the existence of the Commission.

(b) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

**SEC. 410. EFFECTIVE DATE.**

This title shall take effect on February 1, 2001.

**i. Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001**

Partial text of Public Law 106-113 [H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113], 113 Stat. 1536, approved November 29, 1999; as amended by Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001”.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) ACT.—This Act is organized into two divisions as follows:

(1) DIVISION A.—Department of State Provisions.

(2) DIVISION B.—Arms Control, Nonproliferation, and Security Assistance Provisions.

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

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**SEC. 3.<sup>2</sup> DEFINITIONS.**

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—Except as otherwise provided in section 902(1), the term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of State.

<sup>2</sup> 22 U.S.C. 2651 note.

## DIVISION A—DEPARTMENT OF STATE PROVISIONS

## TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

## SUBTITLE A—DEPARTMENT OF STATE

**SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.**

The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1)<sup>3</sup> DIPLOMATIC AND CONSULAR PROGRAMS.—

<sup>3</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-38), provided the following:

## “DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended, the Mutual Educational and Cultural Exchange Act of 1961, as amended, and the United States Information and Educational Exchange Act of 1948, as amended, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of such Act; expenses authorized by section 9 of the Act of August 31, 1964, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized by the Arms Control and Disarmament Act of September 26, 1961, as amended; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$2,569,825,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That, of the amount made available under this heading, not to exceed \$4,500,000 may be transferred to, and merged with, funds in the “International Broadcasting Operations” appropriations account only to avoid reductions in force at the Voice of America, subject to the reprogramming procedures described in section 605 of this Act: *Provided further*, That, in fiscal year 2000, all receipts collected from individuals for assistance in the preparation and filing of an affidavit of support pursuant to section 213A of the Immigration and Nationality Act shall be deposited into this account as an offsetting collection and shall remain available until expended: *Provided further*, That of the amount made available under this heading, \$236,291,000 shall be available only for public diplomacy international information programs: *Provided further*, That of the amount made available under this heading, \$500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That of the amount made available under this heading, \$2,500,000 shall be available only for overseas continuing language education: *Provided further*, That of the amount made available under this heading, not to exceed \$1,162,000 shall be available for transfer to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That any amount transferred pursuant to the previous proviso shall not result in a total amount transferred to the Commission from all Federal sources that exceeds the authorized amount: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2000 and 2001, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2000 and 2001 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended: *Provided further*, That of the amount made available under this heading, \$10,000,000 is appropriated for a Northern Boundary and Transboundary Rivers Restoration Fund: *Provided further*, That of the amount made available under this heading, not less than \$9,000,000 shall be available for the Office of Defense Trade Controls.

“In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from

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(A) AUTHORIZATION OF APPROPRIATIONS.—For “Diplomatic and Consular Programs” of the Department of State, \$2,837,772,000 for the fiscal year 2000 and \$3,263,438,000 for the fiscal year 2001.

(B) LIMITATIONS.—

English teaching, library, motion pictures, and publication programs, and from fees from educational advising and counseling, and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

“In addition, for the costs of worldwide security upgrades, \$254,000,000, to remain available until expended.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-90), provided the following:

“DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$2,758,725,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That, in fiscal year 2001, all receipts collected from individuals for assistance in the preparation and filing of an affidavit of support pursuant to section 213A of the Immigration and Nationality Act shall be deposited into this account as an offsetting collection and shall remain available until expended: *Provided further*, That, of the amount made available under this heading, \$246,644,000 shall be available only for public diplomacy international information programs: *Provided further*, That of the amount made available under this heading, \$5,000,000 shall be available only for overseas continuing language education: *Provided further*, That of the amount made available under this heading, not to exceed \$1,400,000 shall be available for transfer to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2001 and 2002, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2001 and 2002 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended: *Provided further*, That advances for services authorized by 22 U.S.C. 3620(c) may be credited to this account, to remain available until expended for such services: *Provided further*, That in fiscal year 2001 and thereafter reimbursements for services provided to the press in connection with the travel of senior-level officials may be collected and credited to this appropriation and shall remain available until expended: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People’s Republic of China, unless, at least 15 days in advance, the Committees on Appropriations of the House of Representatives and the Senate are notified of such proposed action: *Provided further*, That of the amount made available under this heading, \$40,000,000 shall only be available to implement the 1999 Pacific Salmon Treaty Agreement, of which \$10,000,000 shall be deposited in the Northern Boundary and Transboundary Rivers Restoration and Enhancement Fund, of which \$10,000,000 shall be deposited in the Southern Boundary Restoration and Enhancement Fund, and of which \$20,000,000 shall be for a direct payment to the State of Washington for obligations under the 1999 Pacific Salmon Treaty Agreement.

“In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act, as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs, and from fees from educational advising and counseling, and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

“In addition, for the costs of worldwide security upgrades, \$410,000,000, to remain available until expended.”

(i) **WORLDWIDE SECURITY UPGRADES.**—Of the amounts authorized to be appropriated by subparagraph (A), \$254,000,000 for the fiscal year 2000 and \$315,000,000 for the fiscal year 2001 is authorized to be appropriated only for worldwide security upgrades.

(ii) **BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.**—Of the amounts authorized to be appropriated by subparagraph (A), \$12,000,000 for the fiscal year 2000 and \$12,000,000 for the fiscal year 2001 is authorized to be appropriated only for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor.

(iii) **RECRUITMENT OF MINORITY GROUPS.**—Of the amounts authorized to be appropriated by subparagraph (A), \$2,000,000 for fiscal year 2000 and \$2,000,000 for fiscal year 2001 is authorized to be appropriated only for the recruitment of members of minority groups for careers in the Foreign Service and international affairs.

(2)<sup>4</sup> **CAPITAL INVESTMENT FUND.**—For “Capital Investment Fund” of the Department of State, \$90,000,000 for the fiscal year 2000 and \$150,000,000 for the fiscal year 2001.

(3) **EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE.**—For “Embassy Security, Construction and Maintenance”, \$434,066,000 for the fiscal year 2000 and \$445,000,000 for the fiscal year 2001.

(4)<sup>5</sup> **REPRESENTATION ALLOWANCES.**—For “Representation Allowances”, \$5,850,000 for the fiscal year 2000 and \$5,850,000 for the fiscal year 2001.

(5)<sup>6</sup> **EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**—For “Emergencies in the Diplomatic and Consular Service”, \$17,000,000 for the fiscal year 2000 and \$17,000,000 for the fiscal year 2001.

<sup>4</sup> For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-39), provided the following:

“CAPITAL INVESTMENT FUND

“For necessary expenses of the Capital Investment Fund, \$80,000,000, to remain available until expended, as authorized in Public Law 103-236: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“CAPITAL INVESTMENT FUND

“For necessary expenses of the Capital Investment Fund, \$97,000,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.”

<sup>5</sup> The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-40), provided \$5,850,000 for “Representation Allowances” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided \$6,499,000 for “Representation Allowances”.

<sup>6</sup> For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-40), provided the following:

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(6)<sup>7</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$30,054,000 for the fiscal year 2000 and \$30,054,000 for the fiscal year 2001.

(7)<sup>8</sup> PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$15,760,000 for the fiscal year 2000 and \$15,918,000 for the fiscal year 2001.

(8)<sup>9</sup> PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—

(A) AMOUNTS AUTHORIZED TO BE APPROPRIATED.—For “Protection of Foreign Missions and Officials”, \$9,490,000 for the fiscal year 2000 and \$9,490,000 for the fiscal year 2001.

(B) AVAILABILITY OF FUNDS.—Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount was appropriated.

“EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

“For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), and as authorized by section 804(3) of the United States Information and Educational Exchange Act of 1948, as amended, \$5,500,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

“For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, \$5,477,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.”

See also the paragraphs providing for diplomatic and consular programs, footnote 3, and the paragraph providing for the repatriation loans program account, footnote 10.

<sup>7</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-39), provided the following:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11, as amended by Public Law 100-504), \$20,000,000.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General, \$28,490,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.”

<sup>8</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-41), provided \$15,375,000 for “Payment to the American Institute in Taiwan”.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided \$16,345,000 for “Payment to the American Institute in Taiwan”.

<sup>9</sup>The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-40), provided \$8,100,000 for “Protection of Foreign Missions and Officials” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided \$15,467,000 for “Protection of Foreign Missions and Officials”, of which \$5,000,000 was designated for reimbursement to the City of Seattle, Washington.



(9)<sup>10</sup> REPATRIATION LOANS.—For “Repatriation Loans”, \$1,200,000 for the fiscal year 2000 and \$1,200,000 for the fiscal year 2001, for administrative expenses.

**SEC. 102. INTERNATIONAL COMMISSIONS.**

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)<sup>11</sup> for “Salaries and Expenses”, \$20,413,000 for the fiscal year 2000 and \$20,413,000 for the fiscal year 2001; and

(B)<sup>12</sup> for “Construction”, \$8,435,000 for the fiscal year 2000 and \$8,435,000 for the fiscal year 2001.

(2)<sup>13</sup> INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission,

<sup>10</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-41), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with the Diplomatic and Consular Programs account under Administration of Foreign Affairs.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$591,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$604,000, which may be transferred to and merged with the Diplomatic and Consular Programs account under Administration of Foreign Affairs.”

<sup>11</sup>The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-42), provided \$19,551,000 for “Salaries and Expenses” related to the International Boundary and Water Commission, United States and Mexico, for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$7,142,000 for “Salaries and Expenses” related to the International Boundary and Water Commission, United States and Mexico.

<sup>12</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-43), provided \$5,939,000 for “Construction” related to the International Boundary and Water Commission, United States and Mexico, to remain available until expended.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$22,950,000 for “Construction” related to the International Boundary and Water Commission, United States and Mexico, to remain available until expended.

<sup>13</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-43), provided the following:

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$5,733,000, of which not to exceed

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United States and Canada”, \$859,000 for the fiscal year 2000 and \$859,000 for the fiscal year 2001.

(3)<sup>13</sup> INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,819,000 for the fiscal year 2000 and \$3,819,000 for the fiscal year 2001.

(4)<sup>14</sup> INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$16,702,000 for the fiscal year 2000 and \$16,702,000 for the fiscal year 2001.

#### SEC. 103.<sup>15</sup> MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance”

\$9,000 shall be available for representation expenses incurred by the International Joint Commission.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided the following:

##### “AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$6,741,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.”

<sup>14</sup>The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-43), provided \$15,549,000 for “International Fisheries Commissions” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$19,392,000 for “International Fisheries Commissions”.

<sup>15</sup>Appropriations for Migration and Refugee Assistance are administered by the State Department and provided for in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 2000 appropriations levels and conditions were provided in title II of H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113 (113 Stat. 1501A-74):

##### “MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$625,000,000, of which \$21,000,000 shall become available for obligation on September 30, 2000, and remain available until expended: *Provided*, That not more than \$13,800,000 shall be available for administrative expenses: *Provided further*, That not less than \$60,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

##### “UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$12,500,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”

Fiscal year 2001 appropriations levels and conditions were provided in title II of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2001 (H.R. 5526, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900A-15):

##### “MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized

for authorized activities, \$750,000,000 for the fiscal year 2000 and \$750,000,000 for the fiscal year 2001.

(2) LIMITATIONS.—

(A) TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 is authorized to be available for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) REFUGEES RESETTLING IN ISRAEL.—Of the amounts authorized to be appropriated in paragraph (1), \$60,000,000 for the fiscal year 2000 and \$60,000,000 for the fiscal year 2001 is authorized to be available only for assistance for refugees resettling in Israel from other countries.

(C) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 are authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(D) ASSISTANCE FOR DISPLACED SIERRA LEONEANS.—Of the amounts authorized to be appropriated in paragraph (1), \$2,000,000 for the fiscal year 2000 and \$2,000,000 for the fiscal year 2001 are authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) and resettlement of persons who have been severely mutilated as a result of civil conflict in Sierra Leone, including persons still within Sierra Leone.

(E) INTERNATIONAL RAPE COUNSELING PROGRAM.—Of the amounts authorized to be appropriated in paragraph (1), \$1,000,000 for the fiscal year 2000 and \$1,000,000 for the fiscal year 2001 are authorized to be appropriated for a program of counseling for female victims of rape and gender violence in times of conflict and war.

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by section 3109 of title 5, United States Code, \$700,000,000, which shall remain available until expended: *Provided*, That not more than \$14,500,000 shall be available for administrative expenses: *Provided further*, That funds appropriated under this heading to support activities and programs conducted by the United Nations High Commissioner for Refugees shall be made available after reporting at least 5 days in advance to the Committees on Appropriations: *Provided further*, That the reporting requirement contained in the previous proviso may be waived for any such obligation if failure to waive this requirement would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, a report to the Committees on Appropriations shall be provided as early as practicable, but in no event later than 5 days after such obligation: *Provided further*, That not less than \$60,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$15,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

**SEC. 104. UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS.**

(a)<sup>16</sup> IN GENERAL.—The following amounts are authorized to be appropriated for the Department of State to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, other such programs including the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and the Mike Mansfield Fellowship Program, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$112,000,000 for the fiscal year 2000 and \$120,000,000 for the fiscal year 2001.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For other educational and cultural exchange programs authorized by law, including the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and Mike Mansfield Fellowship Program, \$98,329,000 for the fiscal year 2000 and \$105,000,000 for the fiscal year 2001.

(ii) SOUTH PACIFIC EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2000 and \$750,000 for the fiscal year 2001 is authorized to be available for “South Pacific Exchanges”.

<sup>16</sup>The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-39), provided the following for fiscal year 2000:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977, as amended (91 Stat. 1636), \$205,000,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and educational advising and counseling programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e).”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-91), provided the following:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of educational and cultural exchange programs, as authorized, \$231,587,000, to remain available until expended: *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and educational advising and counseling programs as authorized.”

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2000 and \$500,000 for the fiscal year 2001 is authorized to be available for “East Timorese Scholarships”.

(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2000 and \$500,000 for the fiscal year 2001 is authorized to be available for “Ngawang Choephel Exchange Programs” (formerly known as educational and cultural exchanges with Tibet) under section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319).

(v) AFRICAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2000 and \$500,000 for the fiscal year 2001 is authorized to be available only for “Educational and Cultural Exchanges with Sub-Saharan Africa”.

(vi)<sup>17</sup> ISRAEL-ARAB PEACE PARTNERS PROGRAM.—Of the amounts authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2000 and \$750,000 for the fiscal year 2001 is authorized to be available only for people-to-people activities (with a focus on young people) to support the Middle East peace process involving participants from Israel, the Palestinian Authority, Arab countries, and the United States, to be known as the “Israel-Arab Peace Partners Program”. Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a plan to the appropriate congressional committees for implementation of such program. The Secretary shall not implement the plan until 45 days after its submission to the appropriate congressional committees.

(2) NATIONAL ENDOWMENT FOR DEMOCRACY.—

(A)<sup>18</sup> AUTHORIZATION OF APPROPRIATIONS.—For the “National Endowment for Democracy”, \$32,000,000 for the fiscal year 2000 and \$32,000,000 for the fiscal year 2001.

<sup>17</sup> See also sec. 214 of Public Law 102-138 (22 U.S.C. 2452).

The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

“ISRAELI ARAB SCHOLARSHIP PROGRAM

“For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2001, to remain available until expended.”

<sup>18</sup> For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-44), provided \$31,000,000 for the “National Endowment for Democracy” to remain available until expended.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided \$30,999,000, to remain available until expended.

(B) REAGAN-FASCELL DEMOCRACY FELLOWS.—Of the amount authorized to be appropriated by subparagraph (A), \$1,000,000 for fiscal year 2000 and \$1,000,000 for the fiscal year 2001 is authorized to be appropriated only for a fellowship program, to be known as the “Reagan-Fascell Democracy Fellows”, for democracy activists and scholars from around the world at the International Forum for Democratic Studies in Washington, D.C., to study, write, and exchange views with other activists and scholars and with Americans.

(3)<sup>19</sup> DANTE B. FASCELL NORTH-SOUTH CENTER.—For “Dante B. Fascell North-South Center” \$2,500,000 for the fiscal year 2000 and \$2,500,000 for the fiscal year 2001.

(4)<sup>20</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, \$12,500,000 for the fiscal year 2000 and \$12,500,000 for the fiscal year 2001.

(b) MUSKIE FELLOWSHIPS.—

(1) EXCHANGES WITH RUSSIA.—Of the amounts authorized to be appropriated by this or any other Act for the fiscal years 2000 and 2001 for exchange programs with the Russian Federation, \$5,000,000 for fiscal year 2000 and \$5,000,000 for fiscal year 2001 shall be available only to carry out the Edmund S. Muskie Program under section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

(2) DOCTORAL GRADUATE STUDIES FOR NATIONALS OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—Of the amounts authorized to be appropriated by this or any other Act for the fiscal years 2000 and 2001 for exchange programs, \$1,500,000 for fiscal year 2000 and \$1,500,000 for fiscal year 2001 shall be available only to provide scholarships for doctoral graduate study in economics to nationals of the independent states of the former Soviet Union under the Edmund S. Muskie Fellowship Program authorized by section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

(c) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amounts authorized to be appropriated by subsection (a)(1)(A), \$4,000,000 for the fiscal year 2000 and \$4,000,000 for the fiscal year 2001 shall be available only to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

<sup>19</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-44), provided \$1,750,000 for the “North/South Center” to remain available until expended. Funding for the Fascell Center for fiscal year 2001 is drawn from those funds appropriated for educational and cultural exchange programs.

<sup>20</sup>The Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-44), provided \$12,500,000 for the “East-West Center” for fiscal year 2000.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided \$13,500,000 for the “East-West Center”.

**SEC. 105. GRANTS TO THE ASIA FOUNDATION.**

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164; 22 U.S.C. 4403) is amended to read as follows:

“SEC. 404. There are authorized to be appropriated to the Secretary of State \$15,000,000 for each of the fiscal years 2000 and 2001 for grants to The Asia Foundation pursuant to this title.”<sup>21</sup>

**SEC. 106.<sup>22</sup> CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.****(a) AUTHORIZATION OF APPROPRIATIONS.—**

(1) **IN GENERAL.**—There are authorized to be appropriated under the heading “Contributions to International Organizations” \$940,000,000 for the fiscal year 2000 and such sums as

<sup>21</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-43), provided \$8,250,000 for the Asia Foundation to remain available until expended.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-94), provided \$9,250,000 for the Asia Foundation, to remain available until expended.

<sup>22</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-41), provided the following:

## “INTERNATIONAL ORGANIZATIONS AND CONFERENCES

## “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$885,203,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.”.

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## “ARREARAGE PAYMENTS

“For an additional amount for payment of arrearages to meet obligations of authorized membership in international multilateral organizations, and to pay assessed expenses of international peacekeeping activities, \$244,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for any designated specialized agency of the United Nations does not exceed 22 percent for any single member of the agency, and the designated specialized agencies have achieved zero nominal growth in their biennium budgets for 2000-2001 from the 1998-1999 biennium budget levels of the respective agencies: *Provided further*, That, notwithstanding the preceding proviso, an additional amount, not to exceed \$107,000,000, which is owed by the United Nations to the United States as a reimbursement, including any reimbursement under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945, that was owed to the United States before the date of the enactment of this Act shall be applied or used, without fiscal year limitations, to reduce any amount owed by the United States to the United Nations.”.

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-92), provided the following:

## “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$870,833,000: *Provided*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That of the

Continued

may be necessary for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.—Of the amounts authorized in paragraph (1), \$48,977,000 are authorized in fiscal year 2000 and such sums as may be necessary in fiscal year 2001 for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b) NO GROWTH BUDGET.—Of the funds made available under subsection (a), \$80,000,000 may be made available during each calendar year only after the Secretary of State certifies that the United Nations has taken no action during the preceding calendar year to increase funding for any United Nations program without identifying an offsetting decrease during that calendar year elsewhere in the United Nations budget of \$2,533,000,000, and cause the United Nations to exceed the initial 1998-99 United Nations biennium budget adopted in December 1997.

(c) INSPECTOR GENERAL OF THE UNITED NATIONS.—

(1) WITHHOLDING OF FUNDS.—Twenty percent of the funds made available in each fiscal year under subsection (a) for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under paragraph (2).

(2) CERTIFICATION.—A certification under this paragraph is a certification by the Secretary of State in the fiscal year concerned that the following conditions are satisfied:

(A) ACTION BY THE UNITED NATIONS.—The United Nations—

(i) has met the requirements of paragraphs (1) through (6) of section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), as amended by paragraph (3);

(ii) has established procedures that require the Under Secretary General of the Office of Internal Oversight Services to report directly to the Secretary General on the adequacy of the Office's resources to enable the Office to fulfill its mandate; and

(iii) has made available an adequate amount of funds to the Office for carrying out its functions.

(B) AUTHORITY BY OIOS.—The Office of Internal Oversight Services has authority to audit, inspect, or investigate each program, project, or activity funded by the

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\_\_\_\_\_ funds appropriated in this paragraph, \$100,000,000 may be made available only pursuant to a certification by the Secretary of State that the United Nations has taken no action in calendar year 2000 prior to the date of enactment of this Act to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations to exceed the budget for the biennium 2000-2001 of \$2,535,700,000: *Provided further*, That if the Secretary of State is unable to make the aforementioned certification, the \$100,000,000 is to be applied to paying the current year assessment for other international organizations for which the assessment has not been paid in full or to paying the assessment due in the next fiscal year for such organizations, subject to the reprogramming procedures contained in Section 605 of this Act: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full United States assessment to the civil budget of the North Atlantic Treaty Organization.”



United Nations, and each executive board created under the United Nations has been notified of that authority.

(3) AMENDMENT OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995.—Section 401(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 is amended—

(A) by amending paragraph (6) to read as follows:

“(6) the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Services are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals.”; and

(B) by striking “Inspector General” each place it appears and inserting “Office of Internal Oversight Services”.

(d) PROHIBITION ON CERTAIN GLOBAL CONFERENCES.—None of the funds made available under subsection (a) shall be available for any United States contribution to pay for any expense related to the holding of any United Nations global conference, except for any conference scheduled prior to October 1, 1998.

(e) PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.—None of the funds made available for the 1998-1999 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations shall be available for the United States proportionate share of any other framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, the Desertification Convention, and the International Criminal Court.

(f) FOREIGN CURRENCY EXCHANGE RATES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by subsection (a), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 and 2001 to offset adverse fluctuations in foreign currency exchange rates.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g)<sup>23</sup> REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the agency concerned its proportionate share of the amount by which the total contributions to the agency exceed the expenditures of the regular assessed budgets of these agencies.

**SEC. 107.<sup>24</sup> CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.**

There are authorized to be appropriated under the heading “Contributions for International Peacekeeping Activities” \$500,000,000

<sup>23</sup> 22 U.S.C. 287e note.

<sup>24</sup> For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-41), provided the following:

for the fiscal year 2000 and such sums as may be necessary for the fiscal year 2001 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

**SEC. 108. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for “Voluntary Contributions to International Organizations”, \$293,000,000 for the fiscal year 2000 and such sums as may be necessary for the fiscal year 2001.

(b) **LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS.**—

(1) **WORLD FOOD PROGRAM.**—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 2000 and \$5,000,000 for the fiscal year 2001 is authorized to be appropriated only for a United States contribution to the World Food Program.

(2) **UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.**—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 2000 and

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$500,000,000, of which not to exceed \$20,000,000 shall remain available until September 30, 2001: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-93), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$846,000,000, of which 15 percent shall remain available until September 30, 2002: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

See also paragraph relating to arrearage payments, footnote 22.

\$5,000,000 for the fiscal year 2001 is authorized to be appropriated only for a United States contribution to the United Nations Voluntary Fund for Victims of Torture.

(3) ORGANIZATION OF AMERICAN STATES.—Of the amounts authorized to be appropriated under subsection (a), \$240,000 for the fiscal year 2000 and \$240,000 for the fiscal year 2001 is authorized to be appropriated only for a United States contribution to the Organization of American States for the Office of the Special Rapporteur for Freedom of Expression in the Western Hemisphere to conduct investigations, including field visits, to establish a network of nongovernmental organizations, and to hold hemispheric conferences, of which \$6,000 for each fiscal year is authorized to be appropriated only for the investigation and dissemination of information on violations of freedom of expression by the Government of Cuba, \$6,000 for each fiscal year is authorized to be appropriated only for the investigation and dissemination of information on violations of freedom of expression by the Government of Peru, and \$6,000 for each fiscal year is authorized to be appropriated only for the investigation and dissemination of information on violations of freedom of expression by the Government of Colombia.

(4) UNICEF.—Of the amounts authorized to be appropriated under subsection (a), \$110,000,000 for the fiscal year 2000 is authorized to be appropriated only for a United States contribution to UNICEF.

(c)<sup>25</sup> RESTRICTIONS ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.—

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

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

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

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

<sup>25</sup> In Delegation of Authority No. 238 of February 9, 2000, the Secretary of State delegated authority in sec. 108(c) to the Assistant Secretary of State for International Organization Affairs (65 F.R. 7903).

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

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

(d) CONTRIBUTIONS TO THE UNITED NATIONS FUND FOR POPULATION ACTIVITIES.—

(1) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under subsection (a), not more than \$25,000,000 for fiscal year 2000 and \$25,000,000 for fiscal year 2001 shall be available for the United Nations Fund for Population Activities (hereinafter in this subsection referred to as the “UNFPA”).

(2) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under subsection (a) may be made available for the UNFPA for a country program in the People’s Republic of China.

(3) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under subsection (a) for each of the fiscal years 2000 and 2001 for the UNFPA may not be made available to the UNFPA unless—

(A) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(B) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(C) the UNFPA does not fund abortions.

(4) REPORT TO CONGRESS AND WITHHOLDING OF FUNDS.—

(A) Not later than February 15, of each of the years 2000 and 2001, the Secretary of State shall submit a report to the appropriate congressional committees indicating the amount of funds that the United Nations Fund for Population Activities is budgeting for the year in which the report is submitted for a country program in the People’s Republic of China.

(B) If a report under subparagraph (A) indicates that the United Nations Population Fund plans to spend funds for a country program in the People’s Republic of China in the year covered by the report, then the amount of such funds that the UNFPA plans to spend in the People’s Republic of China shall be deducted from the funds made available to the UNFPA after March 1 for obligation for the remainder of the fiscal year in which the report is submitted.

(e) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SUBTITLE B—UNITED STATES INTERNATIONAL BROADCASTING  
ACTIVITIES

**SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following amounts are authorized to be appropriated to carry out the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act, and to carry out other authorities in law consistent with such purposes:

(1)<sup>26</sup> **INTERNATIONAL BROADCASTING ACTIVITIES.**—For “International Broadcasting Activities”, \$385,900,000 for the fiscal year 2000, and \$393,618,000 for the fiscal year 2001.

(2)<sup>27</sup> **BROADCASTING CAPITAL IMPROVEMENTS.**—For “Broadcasting Capital Improvements”, \$20,868,000 for the fiscal year 2000, and \$20,868,000 for the fiscal year 2001.

<sup>26</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-44), provided the following:

“BROADCASTING BOARD OF GOVERNORS

“INTERNATIONAL BROADCASTING OPERATIONS

“For expenses necessary to enable the Broadcasting Board of Governors, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, Reorganization Plan No. 2 of 1977, as amended, and the Foreign Affairs Reform and Restructuring Act of 1998, to carry out international communication activities, \$388,421,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed \$35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

“BROADCASTING BOARD OF GOVERNORS

“INTERNATIONAL BROADCASTING OPERATIONS

“For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, \$398,971,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.”

<sup>27</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-45), provided the following:

“BROADCASTING CAPITAL IMPROVEMENTS

“For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), \$11,258,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-95), provided the following:

Continued

(3)<sup>28</sup> BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$22,743,000 for the fiscal year 2000 and \$22,743,000 for the fiscal year 2001.

(4) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,000,000 for the fiscal year 2000, and \$30,000,000 for the fiscal year 2001.

## TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

### SUBTITLE A—BASIC AUTHORITIES AND ACTIVITIES

#### SEC. 201.<sup>29</sup> OFFICE OF CHILDREN’S ISSUES.

(a) DIRECTOR REQUIREMENTS.—The Secretary of State shall fill the position of Director of the Office of Children’s Issues of the Department of State (in this section referred to as the “Office”) with an individual of senior rank who can ensure long-term continuity in the management and policy matters of the Office and has a strong background in consular affairs.

(b) CASE OFFICER STAFFING.—Effective April 1, 2000, there shall be assigned to the Office of Children’s Issues of the Department of State a sufficient number of case officers to ensure that the average caseload for each officer does not exceed 75.

(c) EMBASSY CONTACT.—The Secretary of State shall designate in each United States diplomatic mission an employee who shall serve as the point of contact for matters relating to international abductions of children by parents. The Director of the Office shall regularly inform the designated employee of children of United States citizens abducted by parents to that country.

(d) REPORTS TO PARENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), beginning 6 months after the date of enactment of this Act, and at least once every 6 months thereafter, the Secretary of State

#### “BROADCASTING CAPITAL IMPROVEMENTS

“For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$20,358,000, to remain available until expended, as authorized.”

<sup>28</sup>For fiscal year 2000, the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-44), provided the following:

#### “BROADCASTING TO CUBA

“For expenses necessary to enable the Broadcasting Board of Governors to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, and the Foreign Affairs Reform and Restructuring Act of 1998, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended: *Provided*, That funds may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.”

For fiscal year 2001, the Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 101(a)(2) of Public Law 106-553; 114 Stat. 2762A-96), provided the following:

#### “BROADCASTING TO CUBA

“For necessary expenses to enable the Broadcasting Board of Governors to carry out broadcasting to Cuba, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.”

<sup>29</sup>42 U.S.C. 11608a.

shall report to each parent who has requested assistance regarding an abducted child overseas. Each such report shall include information on the current status of the abducted child's case and the efforts by the Department of State to resolve the case.

(2) EXCEPTION.—The requirement in paragraph (1) shall not apply in a case of an abducted child if—

(A) the case has been closed and the Secretary of State has reported the reason the case was closed to the parent who requested assistance; or

(B) the parent seeking assistance requests that such reports not be provided.

**SEC. 202.<sup>30</sup> STRENGTHENING IMPLEMENTATION OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.**

Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277) is amended—\* \* \*

**SEC. 203. REPORT CONCERNING ATTACK IN CAMBODIA.**

Not later than 30 days after the date of the enactment of this Act, and one year thereafter unless the investigation referred to in this section is completed, the Secretary of State, in consultation with the Attorney General, shall submit a report to the appropriate congressional committees, in classified and unclassified form, containing the most current information on the investigation into the March 30, 1997, grenade attack in Cambodia.

**SEC. 204.<sup>31</sup> INTERNATIONAL EXPOSITIONS.**

(a) LIMITATION.—Except as provided in subsection (b) and notwithstanding any other provision of law, the Department of State may not obligate or expend any funds appropriated to the Department of State for a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The Department of State is authorized to utilize its personnel and resources to carry out the responsibilities of the Department for the following:

(A) Administrative services, including legal and other advice and contract administration, under section 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)) related to United States participation in international fairs and expositions abroad. Such administrative services may not include capital expenses, operating expenses, or travel or related expenses (other than such expenses as are associated with the provision of administrative services by employees of the Department of State).

<sup>30</sup>For amended text, see page 307.

<sup>31</sup>22 U.S.C. 2452b.

(B) Activities under section 105(f) of such Act with respect to encouraging foreign governments, international organizations, and private individuals, firms, associations, agencies and other groups to participate in international fairs and expositions and to make contributions to be utilized for United States participation in international fairs and expositions.

(C) Encouraging private support of United States pavilions and exhibits at international fairs and expositions.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection authorizes the use of funds appropriated to the Department of State to make payments for—

(A) contracts, grants, or other agreements with any other party to carry out the activities described in this subsection; or

(B) the satisfaction of any legal claim or judgment or the costs of litigation brought against the Department of State arising from activities described in this subsection.

(c) NOTIFICATION.—No funds made available to the Department of State by any Federal agency to be used for a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions may be obligated or expended unless the appropriate congressional committees are notified not less than 15 days prior to such obligation or expenditure.

(d) REPORTS.—The Commissioner General of a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions shall submit to the Secretary of State and the appropriate congressional committees a report concerning activities relating to such pavilion or exhibit every 180 days while serving as Commissioner General and shall submit a final report summarizing all such activities not later than 1 year after the closure of the pavilion or exhibit.

(e) REPEAL.—Section 230 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is repealed.<sup>32</sup>

**SEC. 205. RESPONSIBILITY OF THE AID INSPECTOR GENERAL FOR THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION.**

(a) RESPONSIBILITIES.—Section 8A(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—\* \* \*<sup>33</sup>

(b) CONFORMING AMENDMENT.—\* \* \*

<sup>32</sup>Sec. 230 of Public Law 103-236 stated, "Notwithstanding any other provision of law, the United States Information Agency shall not obligate or expend any funds for a United States Government funded pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose."

<sup>33</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. IV.



**SEC. 206. REPORT ON CUBAN DRUG TRAFFICKING.**

(a) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an unclassified report (with a classified annex) on the extent of international drug trafficking through Cuba since 1990. The report shall include the following:

(1) Information concerning the extent to which the Cuban Government or any official, employee, or entity of the Government of Cuba has engaged in, facilitated, or condoned such trafficking.

(2) The extent to which agencies of the United States Government have investigated or prosecuted such activities.

(b) **LIMITATION.**—The report need not include information about isolated instances of conduct by low-level employees, except to the extent that such information may suggest improper conduct by more senior officials.

**SEC. 207.<sup>34</sup> REVISION OF REPORTING REQUIREMENT.**

Section 3 of Public Law 102-1 is amended by striking “60 days” and inserting “90 days”.

**SEC. 208. FOREIGN LANGUAGE PROFICIENCY.**

(a)<sup>35</sup> **REPORT ON LANGUAGE PROFICIENCY.**—Section 702 of the Foreign Service Act of 1980 (22 U.S.C. 4022) is amended by adding at the end the following new subsection: \* \* \*

(b) **REPEAL.**—Section 304(c) of the Foreign Service Act of 1980 (22 U.S.C. 3944(c)) is repealed.<sup>36</sup>

**SEC. 209. CONTINUATION OF REPORTING REQUIREMENTS.**

(a) **REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.**—Section 2801(b)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “third” and inserting “seventh”.<sup>37</sup>

(b) **REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**—Section 2802(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “September 30, 1999,” and inserting “September 30, 2001”.<sup>38</sup>

(c) **RELATIONS WITH VIETNAM.**—Section 2805 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “September 30, 1999,” and inserting “September 30, 2001”.<sup>39</sup>

(d) **REPORTS ON BALLISTIC MISSILE COOPERATION WITH RUSSIA.**—Section 2705(d) of the Foreign Affairs Reform and Restructuring

<sup>34</sup> For amended text of the authorization of use of force against Iraq (Public Law 102-1), see vol. II-B.

<sup>35</sup> For amended text, see page 755.

<sup>36</sup> Sec. 304(c) of the Foreign Service Act of 1980 required “Within 6 months after assuming the position, the chief of mission to a foreign country shall submit \* \* \* a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country.”

<sup>37</sup> For amended text, see page 305.

<sup>38</sup> For amended text, see page 306.

<sup>39</sup> For amended text, see page 308.

Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “and January 1, 2000,” and inserting “January 1, 2000, and January 1, 2001.”<sup>40</sup>

(e)<sup>41</sup> CONTINUATION OF REPORTS TERMINATED BY THE FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF 1995.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66; 31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) Section 1205 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83; 22 U.S.C. 2346 note) (relating to annual reports on economic conditions in Egypt, Israel, Turkey, and Portugal).

(2) Section 1307(f)(1)(A) of the International Financial Institutions Act (Public Law 95-118) (relating to an assessment of the environmental impact of proposed multilateral development bank actions).

(3) Section 118(f) of the Foreign Assistance Act of 1961 (Public Law 87-195; 22 U.S.C. 2151p-1) (relating to the protection of tropical forests).

(4) Section 586J(c)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) (relating to sanctions taken by other nations against Iraq).

(5) Section 3 of the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1; 105 Stat. 3) (relating to the status of efforts to obtain Iraqi compliance with United Nations Security Council resolutions).

(6) Section 124 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 2680 note) (relating to expenditures for emergencies in the diplomatic and consular service).

(7) Section 620C(c) of the Foreign Assistance Act of 1961 (Public Law 87-195; 22 U.S.C. 2373(c)) (relating to progress made toward the conclusion of a negotiated solution to the Cyprus problem).

(8) Section 533(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) (relating to international natural resource management initiatives).

(9) Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 22 U.S.C. 5352) (relating to foreign treatment of United States financial institutions).

(10) Section 1702 of the International Financial Institutions Act (Public Law 95-118; 22 U.S.C. 262r-1) (relating to operating summaries of the multilateral development banks).

(11) Section 1303(c) of the International Financial Institutions Act (Public Law 95-118; 22 U.S.C. 262m-2(c)) (relating to international environmental assistance programs).

<sup>40</sup>For amended text, see vol. II-B.

<sup>41</sup>The Federal Reports Elimination and Sunset Act of 1995 may be found in *Legislation on Foreign Relations Through 2005*, vol. IV.

(12) Section 1701(a) of the International Financial Institutions Act (Public Law 95-118; 22 U.S.C. 262r) (relating to United States participation in international financial institutions).

(13) Section 163(a) of the Trade Act of 1974 (Public Law 93-618; 19 U.S.C. 2213) (relating to the trade agreements program and national trade policy agenda).

(14) Section 8 of the Export-Import Bank Act (Public Law 79-173; 12 U.S.C. 635g) (relating to Export-Import Bank activities).

(15) Section 407(f) of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 83-480; 7 U.S.C. 1736a) (relating to Public Law 480 programs and activities).

(16) Section 239(c) of the Foreign Assistance Act of 1961 (Public Law 87-195; 22 U.S.C. 2199(c)) (relating to OPIC audit report).

(17) Section 504(i) of the National Endowment for Democracy Act (Public Law 98-164; 22 U.S.C. 4413(i)) (relating to the activities of the National Endowment for Democracy).

(18) Section 5(b) of the Japan-United States Friendship Act (Public Law 94-118; 22 U.S.C. 2904(b)) (relating to Japan-United States Friendship Commission activities).

**SEC. 210. JOINT FUNDS UNDER AGREEMENTS FOR COOPERATION IN ENVIRONMENTAL, SCIENTIFIC, CULTURAL AND RELATED AREAS.**

Amounts made available to the Department of State for participation in joint funds under agreements for cooperation in environmental, scientific, cultural and related areas prior to fiscal year 1996 which, pursuant to express terms of such international agreements, were deposited in interest-bearing accounts prior to disbursement may earn interest, and interest accrued to such accounts may be used and retained without return to the Treasury of the United States and without further appropriation by Congress. The Department of State shall take action to ensure the complete and timely disbursement of appropriations and associated interest within joint funds covered by this section and final disposition of such agreements.

**SEC. 211. REPORT ON INTERNATIONAL EXTRADITION.**

(a) **REPORT TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall review extradition treaties and other agreements containing extradition obligations to which the United States is a party (only with regard to those treaties where the United States has diplomatic relations with the treaty partner) and submit a report to the appropriate congressional committees regarding United States extradition policy and practice.

(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall—

(1) discuss the factors that contribute to failure of foreign nations to comply fully with their obligations under bilateral extradition treaties with the United States;

(2) discuss the factors that contribute to nations becoming “safe havens” for individuals fleeing the United States justice system;

(3) identify those bilateral extradition treaties to which the United States is a party which do not require the extradition of nationals, and the reason such treaties contain such a provision;

(4) discuss appropriate legislative and diplomatic solutions to existing gaps in United States extradition treaties and practice; and

(5) discuss current priorities of the United States for negotiation of new extradition treaties and renegotiation of existing treaties, including resource factors relevant to such negotiations.

#### SUBTITLE B—CONSULAR AUTHORITIES

##### SEC. 231. MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) is amended \* \* \*<sup>42</sup>

##### SEC. 232.<sup>43</sup> FEES RELATING TO AFFIDAVITS OF SUPPORT.

(a) **AUTHORITY TO CHARGE FEE.**—The Secretary of State may charge and retain a fee or surcharge for services provided by the Department of State to any sponsor who provides an affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) to ensure that such affidavit is properly completed before it is forwarded to a consular post for adjudication by a consular officer in connection with the adjudication of an immigrant visa. Such fee or surcharge shall be in addition to and separate from any fee imposed for immigrant visa application processing and issuance, and shall recover only the costs of such services not recovered by such fee.

(b) **LIMITATION.**—Any fee established under subsection (a) shall be charged only once to a sponsor or joint sponsors who file essentially duplicative affidavits of support in connection with separate immigrant visa applications from the spouse and children of any petitioner required by the Immigration and Nationality Act to petition separately for such persons.

(c) **TREATMENT OF FEES.**—Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing consular services. Such fees shall remain available for obligation until expended.<sup>44</sup>

<sup>42</sup> For amended text, see page 335.

<sup>43</sup> 8 U.S.C. 1183a note.

<sup>44</sup> Sec. 211(b) of the Department of State Authorization Act, Fiscal Year 2003 (division A of Public Law 107-227; 116 Stat. 1365), added this sentence and struck out subsec. (d), which had read as follows:

“(d) **COMPLIANCE WITH BUDGET ACT.**—Fees collected under the authority of subsection (a) shall be available only to such extent or in such amounts as are provided in advance in an appropriation Act.”

**SEC. 233.<sup>45</sup> PASSPORT FEES. \* \* \*****SEC. 234.<sup>46</sup> DEATHS AND ESTATES OF UNITED STATES CITIZENS ABROAD. \* \* \*****SEC. 235. DUTIES OF CONSULAR OFFICERS REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.**

Section 43 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2715) is amended \* \* \*<sup>47</sup>

**SEC. 236.<sup>48</sup> ISSUANCE OF PASSPORTS FOR CHILDREN UNDER AGE 14.****(a) IN GENERAL.—**

(1) **REGULATIONS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall issue regulations providing that before a child under the age of 14 years is issued a passport the requirements under paragraph (2) shall apply under penalty of perjury.

**(2) REQUIREMENTS.—**

(A) Both parents, or the child's legal guardian, must execute the application and provide documentary evidence demonstrating that they are the parents or guardian; or

(B) the person executing the application must provide documentary evidence that such person—

(i) has sole custody of the child;

(ii) has the consent of the other parent to the issuance of the passport; or

(iii) is in loco parentis and has the consent of both parents, of a parent with sole custody over the child, or of the child's legal guardian, to the issuance of the passport.

(b) **EXCEPTIONS.**—The regulations required by subsection (a) may provide for exceptions in exigent circumstances, such as those involving the health or welfare of the child, or when the Secretary determines that issuance of a passport is warranted by special family circumstances.

**SEC. 237.<sup>49</sup> PROCESSING OF VISA APPLICATIONS.**

(a) **POLICY.**—It shall be the policy of the Department of State to process immigrant visa applications of immediate relatives of United States citizens and nonimmigrant K-1 visa applications of fiances of United States citizens within 30 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service. In the case of an immigrant visa application where the sponsor of such applicant is a relative other than an immediate relative, it should be the policy of the Department of State to process such an application within 60 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service.

<sup>45</sup>Sec. 233 amended the Passport Act of June 4, 1920 (22 U.S.C. 214 and 216).

<sup>46</sup>Sec. 234 repealed sec. 1709 of the Revised Statutes (22 U.S.C. 4195) and added new secs. 43A and 43B to the State Department Basic Authorities Act of 1956 (22 U.S.C. 2715b and 2715c); see beginning at page 52.

<sup>47</sup>For amended text, see page 52.

<sup>48</sup>22 U.S.C. 213 note.

<sup>49</sup>8 U.S.C. 1201 note.

(b) **REPORTS.**—Not later than 180 days after the date of enactment of this Act, and not later than 1 year thereafter, the Secretary of State shall submit to the appropriate congressional committees a report on the extent to which the Department of State is meeting the policy standards under subsection (a). Each report shall be based on a survey of the 22 consular posts which account for approximately 72 percent of immigrant visas issued and, in addition, the consular posts in Guatemala City, Nicosia, Caracas, Naples, and Jakarta. Each report should include data on the average time for processing each category of visa application under subsection (a), a list of the embassies and consular posts which do not meet the policy standards under subsection (a), the amount of funds collected worldwide for processing of visa applications during the most recent fiscal year, the estimated costs of processing such visa applications (based on the Department of State's most recent fee study), the steps being taken by the Department of State to achieve such policy standards, and results achieved by the inter-agency working group charged with the goal of reducing the overall processing time for visa applications.

**SEC. 238. FEASIBILITY STUDY ON FURTHER PASSPORT RESTRICTIONS ON INDIVIDUALS IN ARREARS ON CHILD SUPPORT.**

(a) **REPORT TO CONGRESS.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Health and Human Services, shall submit a report to the appropriate congressional committees, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate on the feasibility of decreasing the amount of an individual's arrearages of child support that would require the Secretary of State to refuse to issue a passport to such individual, or otherwise act with respect to such an individual, as provided under section 452(k) of the Social Security Act (42 U.S.C. 652(k)).

(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall include the following:

(1) The estimated cost to the Department of State of reducing the arrearage amount which would result in a refusal to issue a passport to \$2,500 and, in addition, an amount between \$5,000 and \$2,500.

(2) A projection of the estimated benefits of reducing the amount to \$2,500 (or an amount between \$5,000 and \$2,500), which shall include an estimate of the additional numbers of individuals who would be subject to denial, an estimate of the additional child support arrearages that would be received through such a reduction, and an estimate of the amount of child support that would be paid earlier than under current law (together with an estimate of how much earlier such amounts would be paid).

(3) Information regarding the number of individuals with child support arrearages over \$2,500 and the average length of time it takes for individuals to reach \$2,500 in arrearages.

(4) The methodology for the cost estimates and benefit projections described in paragraphs (1) and (2).

## SUBTITLE C—REFUGEES

**SEC. 251.<sup>50</sup> UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.**

(a) **IN GENERAL.**—None of the funds made available by this Act or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) **MIGRATION AND REFUGEE ASSISTANCE.**—None of the funds made available by this Act or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) **INVOLUNTARY RETURN DEFINED.**—As used in this section, the term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

**SEC. 252. HUMAN RIGHTS REPORTS.**

Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended \* \* \*<sup>51</sup>

**SEC. 253.<sup>52</sup> GUIDELINES FOR REFUGEE PROCESSING POSTS. \* \* \*****SEC. 254.<sup>53</sup> GENDER-RELATED PERSECUTION TASK FORCE.**

(a) **ESTABLISHMENT OF TASK FORCE.**—The Secretary of State, in consultation with the Attorney General and other appropriate Federal agencies, shall establish a task force with the goal of determining eligibility guidelines for women seeking refugee status overseas due to gender-related persecution.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report outlining the guidelines determined by the task force under subsection (a).

**SEC. 255. ELIGIBILITY FOR REFUGEE STATUS.**

(a) **ELIGIBILITY FOR IN-COUNTRY REFUGEE PROCESSING IN VIETNAM.**—For purposes of eligibility for in-country refugee processing

<sup>50</sup> 22 U.S.C. 2601 note.

<sup>51</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>52</sup> Sec. 253 amended sec. 602(c) of the International Religious Freedom Act of 1998 (Public Law 105-292); see page 1294.

<sup>53</sup> 8 U.S.C. 1157 note.

for nationals of Vietnam during fiscal years 2000 and 2001, an alien described in subsection (b) or (d) shall be considered to be a refugee of special humanitarian concern to the United States (within the meaning of section 207 of the Immigration and Nationality Act (8 USC 1157)) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) **ALIENS COVERED.**—An alien described in this subsection is an alien who—

- (1) is the son or daughter of a qualified national;
- (2) is 21 years of age or older; and
- (3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City.

(c) **QUALIFIED NATIONAL.**—The term “qualified national” in subsection (b)(1) means a national of Vietnam who—

(1)(A) was formerly interned in a re-education camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(B) is the widow or widower of an individual described in subparagraph (A);

(2)(A) qualified for refugee processing under the Orderly Departure Program re-education subprogram; and

(B) except as provided in subsection (d), on or after April 1, 1995, is or has been accepted under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City—

(i) for resettlement as a refugee; or

(ii) for admission to the United States as an immediate relative immigrant; and

(3)(A) is presently maintaining a residence in the United States; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam.

(d) **PREVIOUS DENIALS BASED ON LACK OF CO-RESIDENCY.**—An alien who is otherwise qualified under subsection (b) is eligible for admission for resettlement regardless of the date of acceptance of the alien's parent if the alien previously was denied refugee resettlement based solely on the fact that the alien was not listed continuously on the parent's residence permit.

### TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

#### SUBTITLE A—ORGANIZATION MATTERS

#### SEC. 301. LEGISLATIVE LIAISON OFFICES OF THE DEPARTMENT OF STATE.

(a) **DEVELOPMENT OF ASSESSMENT.**—The Secretary of State shall assess the administrative and personnel requirements for the establishment of legislative liaison offices for the Department of State within the office buildings of the House of Representatives and the Senate. In undertaking the assessment, the Secretary



should examine existing liaison offices of other executive departments that are located in the congressional office buildings, including the liaison offices of the military services.

(b) ASSESSMENT CONSIDERATIONS.—The assessment required by subsection (a) shall consider—

- (1) space requirements;
- (2) cost implications;
- (3) personnel structure; and
- (4) the feasibility of modifying the Pearson Fellowship program in order to have members of the Foreign Service who serve in such fellowships serve a second year in a legislative liaison office.

(c) TRANSMITTAL OF ASSESSMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State shall submit to the Committee on International Relations and the Committee on House Administration of the House of Representatives and the Committee on Foreign Relations and the Committee on Rules and Administration of the Senate the assessment developed under subsection (a).

**SEC. 302.<sup>54</sup> STATE DEPARTMENT OFFICIAL FOR NORTHEASTERN EUROPE.**

The Secretary of State shall designate a senior-level official of the Department of State with responsibility for promoting regional cooperation in and coordinating United States policy toward North-eastern Europe.

**SEC. 303.<sup>54</sup> SCIENCE AND TECHNOLOGY ADVISER TO SECRETARY OF STATE.**

(a) DESIGNATION.—The Secretary of State shall designate a senior-level official of the Department of State as the Science and Technology Adviser to the Secretary of State (in this section referred to as the “Adviser”). The Adviser shall have substantial experience in the area of science and technology. The Adviser shall report to the Secretary of State through the appropriate Under Secretary of State.

(b) DUTIES.—The Adviser shall—

- (1) advise the Secretary of State, through the appropriate Under Secretary of State, on international science and technology matters affecting the foreign policy of the United States; and
- (2) perform such duties, exercise such powers, and have such rank and status as the Secretary of State shall prescribe.

**SEC. 304. APPLICATION OF CERTAIN LAWS TO PUBLIC DIPLOMACY FUNDS.**

Section 1333(c) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended—\* \* \*<sup>55</sup>

<sup>54</sup> 22 U.S.C. 2651a note.

<sup>55</sup> For amended text, see page 885.

**SEC. 305.<sup>56</sup> REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

(a) **ADDITIONAL RESOURCES.**—In addition to other amounts authorized to be appropriated for the purposes of the Diplomatic Telecommunications Service Program Office (DTS-PO), of the amounts made available to the Department of State under section 101(2), \$18,000,000 shall be made available only to the DTS-PO for enhancement of Diplomatic Telecommunications Service capabilities.

(b) **IMPROVEMENT OF DTS-PO.**—In order for the DTS-PO to better manage a fully integrated telecommunications network to service all agencies at diplomatic missions and consular posts, the DTS-PO shall—

(1) ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization;

(2) not later than December 31, 1999, terminate all leases for satellite systems located at posts in criteria countries, unless all maintenance and servicing of the satellite system is undertaken by United States citizens who have received appropriate security clearances;

(3) institute a system of charges for utilization of bandwidth by each agency beginning October 1, 2000, and institute a comprehensive chargeback system to recover all, or substantially all, of the other costs of telecommunications services provided through the Diplomatic Telecommunications Service to each agency beginning October 1, 2001;

(4) ensure that all DTS-PO policies and procedures comply with applicable policies established by the Overseas Security Policy Board; and

(5) maintain the allocation of the positions of Director and Deputy Director of DTS-PO as those positions were assigned as of June 1, 1999, which assignments shall pertain through fiscal year 2001, at which time such assignments shall be adjusted in the customary manner.

(c) **REPORT ON IMPROVING MANAGEMENT.**—Not later than March 31, 2000, the Director and Deputy Director of DTS-PO shall jointly submit to the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate the Director's plan for improving network architecture, engineering, operations monitoring and control, service metrics reporting, and service provisioning, so as to achieve highly secure, reliable, and robust communications capabilities that meet the needs of both national security agencies and other United States agencies with overseas personnel.

(d) **FUNDING OF DTS-PO.**—Funds appropriated for allocation to DTS-PO shall be made available only for DTS-PO until a comprehensive chargeback system is in place.

(e) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means the Committee on International Relations and the Permanent Select

<sup>56</sup> 22 U.S.C. 2669a note.

Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

SUBTITLE B—PERSONNEL OF THE DEPARTMENT OF STATE<sup>57</sup>

**SEC. 321. AWARD OF FOREIGN SERVICE STAR.**

The State Department Basic Authorities Act of 1956 is amended by inserting after section 36 (22 U.S.C. 2708) the following new section: \* \* \*<sup>58</sup>

\* \* \* \* \*

**SEC. 324.**<sup>59</sup> \* \* \* [Repealed—2002]

**SEC. 325. REPORT ON MANAGEMENT TRAINING.**

Not later than April 1, 2000, the Department of State shall report to the appropriate congressional committees on the feasibility of modifying current training programs and curricula so that the Department can provide significant and comprehensive management training at all career grades for Foreign Service personnel.

\* \* \* \* \*

**SEC. 334. TREATMENT OF CERTAIN PERSONS REEMPLOYED AFTER SERVICE WITH INTERNATIONAL ORGANIZATIONS.**

(a) IN GENERAL.—Title 5 of the United States Code is amended by inserting after section 8432b the following new section: \* \* \*<sup>60</sup>

**SEC. 335. TRANSFER ALLOWANCE FOR FAMILIES OF DECEASED FOREIGN SERVICE PERSONNEL.**

Section 5922 of title 5, United States Code, is amended by adding at the end the following: \* \* \*<sup>61</sup>

**SEC. 336. PARENTAL CHOICE IN EDUCATION.**

Section 5924(4) of title 5, United States Code, is amended—  
\* \* \*<sup>62</sup>

**SEC. 337. MEDICAL EMERGENCY ASSISTANCE.**

Section 5927 of title 5, United States Code, is amended to read as follows: \* \* \*<sup>63</sup>

<sup>57</sup> Secs. 322, 323, and 326 through 333 amended the Foreign Service Act of 1980. See beginning at page 706.

<sup>58</sup> Sec. 321 added a new sec. 36A to the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708a). See page 43.

<sup>59</sup> Sec. 671(4) of the Department of State Authorization Act, 2003 (division A of Public Law 107-228; 116 Stat. 1407), repealed sec. 324, which provided as follows:

**“SEC. 324. PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.**

“The Director General of the Foreign Service shall submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the following:

“(1) The number of members of the Senior Foreign Service.

“(2) The number of vacant positions designated for members of the Senior Foreign Service.

“(3) The number of members of the Senior Foreign Service who are not assigned to positions.”

<sup>60</sup> See 5 U.S.C. 8432c.

<sup>61</sup> See 5 U.S.C. 5922(f).

<sup>62</sup> See 5 U.S.C. 5924(4).

<sup>63</sup> See 5 U.S.C. 5927.

**SEC. 338.<sup>64</sup> REPORT CONCERNING FINANCIAL DISADVANTAGES FOR ADMINISTRATIVE AND TECHNICAL PERSONNEL.**

(a) FINDINGS.—Congress finds that administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State should submit a report to the appropriate congressional committees concerning the extent to which administrative and technical personnel posted to United States missions abroad who do not have diplomatic status suffer financial disadvantages from their lack of such status, including proposals to alleviate such disadvantages.

**SEC. 339. STATE DEPARTMENT INSPECTOR GENERAL AND PERSONNEL INVESTIGATIONS.**

(a) AMENDMENT OF THE FOREIGN SERVICE ACT OF 1980.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

“(5) INVESTIGATIONS.—

“(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

“(i) abide by professional standards applicable to Federal law enforcement agencies; and

“(ii) make every reasonable effort to permit each subject of an investigation an opportunity to provide exculpatory information.

“(B) FINAL REPORTS OF INVESTIGATIONS.—In order to ensure that final reports of investigations are thorough and accurate, the Inspector General shall—

“(i) make every reasonable effort to ensure that any person named in a final report of investigation has been afforded an opportunity to refute any allegation of wrongdoing or assertion with respect to a material fact made regarding that person’s actions;

“(ii) include in every final report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.”

(b) ANNUAL REPORT.—Section 209(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(2)) is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by inserting after subparagraph (E) the following new subparagraph:

“(F) a notification, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection

<sup>64</sup> 22 U.S.C. 2656 note.

(c)(5)(B)(i) to refute any allegation and the rationale for denying such individual that opportunity.”.

(c)<sup>65</sup> STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section may be construed to modify—

(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

(3) the Privacy Act of 1974 (5 U.S.C. 552a);

(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection);

(5) rule 6(e) of the Federal Rules of Criminal Procedure (relating to the protection of grand jury information); or

(6) any statute or executive order pertaining to the protection of classified information.

(d)<sup>65</sup> NO GRIEVANCE OR RIGHT OF ACTION.—A failure to comply with the amendments made by this section shall not give rise to any private right of action in any court or to an administrative complaint or grievance under any law.

(e)<sup>65</sup> EFFECTIVE DATE.—The amendments made by this section shall apply to cases opened on or after the date of the enactment of this Act.

**SEC. 340. STUDY OF COMPENSATION FOR SURVIVORS OF TERRORIST ATTACKS OVERSEAS.**

Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the appropriate congressional committees on the benefits and compensation paid to the survivors and personal representatives of the United States Government employees (including those in the uniformed services and Foreign Service National employees) killed in the performance of duty abroad as result of terrorist acts. All appropriate United States Government agencies shall contribute to the preparation of the report. The report shall include a comparison of benefits available to military and civilian employees and should include any recommendations for additional or other types of benefits or compensation.

**SEC. 341. PRESERVATION OF DIVERSITY IN REORGANIZATION.**

Section 1613(c) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by inserting after the first sentence the following \* \* \*<sup>66</sup>

**TITLE IV—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS<sup>67</sup>**

\* \* \* \* \*

<sup>65</sup> 22 U.S.C. 3929 note.

<sup>66</sup> For amended text, see page 896.

<sup>67</sup> For titles IV and V, relating to U.S. informational, educational, and cultural programs, and U.S. international broadcasting activities, see beginning at page 1476.

TITLE V—UNITED STATES INTERNATIONAL  
BROADCASTING ACTIVITIES<sup>67</sup>

TITLE VI—EMBASSY SECURITY AND COUNTERTERRORISM  
MEASURES<sup>68</sup>

\* \* \* \* \*

TITLE VII—INTERNATIONAL ORGANIZATIONS AND  
COMMISSIONS

SUBTITLE A—INTERNATIONAL ORGANIZATIONS OTHER THAN THE  
UNITED NATIONS

**SEC. 701. CONFORMING AMENDMENTS TO REFLECT REDESIGNATION  
OF CERTAIN INTERPARLIAMENTARY GROUPS.**

(a) **TRANSATLANTIC LEGISLATORS' DIALOGUE.**—Section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 276 note) is amended by striking “United States-European Community Interparliamentary Group” and inserting “Transatlantic Legislators’ Dialogue (United States-European Union Interparliamentary Group)”.

(b) **NATO PARLIAMENTARY ASSEMBLY.**—

(1) **IN GENERAL.**—The joint resolution entitled “Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization”, approved July 11, 1956 (22 U.S.C. 1928a et seq.), is amended in sections 2, 3, and 4 (22 U.S.C. 1928b, 1928c, and 1928d, respectively) by striking “North Atlantic Assembly” each place it appears and inserting “NATO Parliamentary Assembly”.

(2) **CONFORMING AMENDMENT.**—Section 105(b) of the Legislative Branch Appropriation Act, 1961 (22 U.S.C. 276c-1) is amended by striking “North Atlantic Assembly” and inserting “NATO Parliamentary Assembly”.

(3) **REFERENCES.**—In the case of any provision of law having application on or after May 31, 1999 (other than a provision of law specified in subparagraphs (A) or (B)), any reference contained in that provision to the North Atlantic Assembly shall, on and after that date, be considered to be a reference to the NATO Parliamentary Assembly.

**SEC. 702.<sup>69</sup> AUTHORITY OF THE INTERNATIONAL BOUNDARY AND  
WATER COMMISSION TO ASSIST STATE AND LOCAL GOVERNMENTS.**

(a) **AUTHORITY.**—The Commissioner of the United States section of the International Boundary and Water Commission may provide technical tests, evaluations, information, surveys, or others similar services to State or local governments upon the request of such State or local government on a reimbursable basis.

(b) **REIMBURSEMENTS.**—Reimbursements shall be paid in advance of the goods or services ordered and shall be for the estimated or

<sup>68</sup>Title VI, relating to embassy security and counterterrorism, may be found beginning at page 1151.

<sup>69</sup>22 U.S.C. 277h.

actual cost as determined by the United States section of the International Boundary and Water Commission. Proper adjustment of amounts paid in advance shall be made as determined by the United States section of the International Boundary and Water Commission on the basis of the actual cost of goods or services provided. Reimbursements received by the United States section of the International Boundary and Water Commission for providing services under this section shall be credited to the appropriation from which the cost of providing the services is charged.

**SEC. 703. INTERNATIONAL BOUNDARY AND WATER COMMISSION.**

Section 2(b) of the American-Mexican Chamizal Convention Act of 1964 (Public Law 88-300; 22 U.S.C. 277d-18(b)) is amended by inserting “operations, maintenance, and” after “cost of”.

**SEC. 704.<sup>70</sup> SEMI-ANNUAL REPORTS ON UNITED STATES SUPPORT FOR MEMBERSHIP OR PARTICIPATION OF TAIWAN IN INTERNATIONAL ORGANIZATIONS.**

(a) **REPORTS REQUIRED.**—Not later than 60 days after the date of enactment of this Act, and every 6 months thereafter for fiscal years 2000 and 2001, the Secretary of State shall submit to Congress a report in a classified and unclassified manner on the status of efforts by the United States Government to support—

(1) the membership of Taiwan in international organizations that do not require statehood as a prerequisite to such membership; and

(2) the appropriate level of participation by Taiwan in international organizations that may require statehood as a prerequisite to full membership.

(b) **REPORT ELEMENTS.**—Each report under subsection (a) shall—

(1) set forth a comprehensive list of the international organizations in which the United States Government supports the membership or participation of Taiwan;

(2) describe in detail the efforts of the United States Government to achieve the membership or participation of Taiwan in each organization listed; and

(3) identify the obstacles to the membership or participation of Taiwan in each organization listed, including a list of any governments that do not support the membership or participation of Taiwan in each such organization.

**SEC. 705.<sup>71</sup> RESTRICTION RELATING TO UNITED STATES ACCESSION TO THE INTERNATIONAL CRIMINAL COURT.**

(a) **PROHIBITION.**—The United States shall not become a party to the International Criminal Court except pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

(b) **PROHIBITION.**—None of the funds authorized to be appropriated by this or any other Act may be obligated for use by, or for support of, the International Criminal Court unless the United States has become a party to the Court pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act.

<sup>70</sup> 22 U.S.C. 3303 note.

<sup>71</sup> 22 U.S.C. 262-1 note.

(c) **INTERNATIONAL CRIMINAL COURT DEFINED.**—In this section, the term “International Criminal Court” means the court established by the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

**SEC. 706.<sup>71</sup> PROHIBITION ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT.**

(a) **PROHIBITION ON EXTRADITION.**—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign country that is under an obligation to surrender persons to the International Criminal Court unless that foreign country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) **PROHIBITION ON CONSENT TO EXTRADITION BY THIRD COUNTRIES.**—None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country to a third country that is under an obligation to surrender persons to the International Criminal Court, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the third country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) **DEFINITION.**—In this section, the term “International Criminal Court” has the meaning given the term in section 705(c) of this Act.

**SEC. 707. REQUIREMENT FOR REPORTS REGARDING FOREIGN TRAVEL.**

Section 2505 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277) is amended—\* \* \*<sup>72</sup>

**SEC. 708. UNITED STATES REPRESENTATION AT THE INTERNATIONAL ATOMIC ENERGY AGENCY.**

(a) **AMENDMENT TO THE UNITED NATIONS PARTICIPATION ACT OF 1945.**—Section 2(h) of the United Nations Participation Act of 1945 (22 U.S.C. 287(h)) is amended by adding at the end the following new sentence: \* \* \*<sup>73</sup>

(b) **AMENDMENT TO THE IAEA PARTICIPATION ACT OF 1957.**—Section 2(a) of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2021(a)) is amended by adding at the end the following new sentence: \* \* \*<sup>74</sup>

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to individuals appointed on or after the date of enactment of this Act.

<sup>72</sup> For amended text, see page 303.

<sup>73</sup> For amended text, see vol. II-B.

<sup>74</sup> For amended text, see vol. II-B.



SUBTITLE B—UNITED NATIONS ACTIVITIES <sup>75</sup>**SEC. 721.<sup>76</sup> UNITED NATIONS POLICY ON ISRAEL AND THE PALESTINIANS.**

(a) CONGRESSIONAL STATEMENT.—It shall be the policy of the United States to promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations regional blocs.

(b) POLICY ON ABOLITION OF CERTAIN UNITED NATIONS GROUPS.—It shall be the policy of the United States to seek the abolition of certain United Nations groups the existence of which is inimical to the ongoing Middle East peace process, those groups being the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; the Division for the Palestinian Rights; and the Division on Public Information on the Question of Palestine.

(c) ANNUAL REPORTS.—On January 15 of each year, the Secretary of State shall submit a report to the appropriate congressional committees (in classified or unclassified form as appropriate) on—

(1) actions taken by representatives of the United States to encourage the nations of the Western Europe and Others Group (WEOG) to accept Israel into their regional bloc;

(2) other measures being undertaken, and which will be undertaken, to ensure and promote Israel's full and equal participation in the United Nations; and

(3) steps taken by the United States under subsection (b) to secure abolition by the United Nations of groups described in that subsection.

(d) ANNUAL CONSULTATION.—At the time of the submission of each annual report under subsection (c), the Secretary of State shall consult with the appropriate congressional committees on specific responses received by the Secretary of State from each of the nations of the Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization.

**SEC. 722. DATA ON COSTS INCURRED IN SUPPORT OF UNITED NATIONS PEACEKEEPING OPERATIONS.**

Chapter 6 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2348 et seq.) is amended by adding at the end the following:  
\* \* \* <sup>77</sup>

**SEC. 723. REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.**

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:  
\* \* \* <sup>78</sup>

<sup>75</sup> See legislation pertaining to the United Nations and other international organizations, *Legislation on Foreign Relations Through 2005*, vol. II-B.

<sup>76</sup> 22 U.S.C. 287 note.

<sup>77</sup> Sec. 722 added a new sec. 554 to the Foreign Assistance Act of 1961. See *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>78</sup> Sec. 723 added a new sec. 10 to the United Nations Participation Act of 1945; see. vol. II-B.

**SEC. 724. CODIFICATION OF REQUIRED NOTICE OF PROPOSED UNITED NATIONS PEACEKEEPING OPERATIONS. \* \* \*<sup>79</sup>**

**TITLE VIII—MISCELLANEOUS PROVISIONS**

**SUBTITLE A—GENERAL PROVISIONS**

**SEC. 801.<sup>80</sup> DENIAL OF ENTRY INTO UNITED STATES OF FOREIGN NATIONALS ENGAGED IN ESTABLISHMENT OR ENFORCEMENT OF FORCED ABORTION OR STERILIZATION POLICY.**

(a) **DENIAL OF ENTRY.**—Notwithstanding any other provision of law, the Secretary of State may not issue any visa to, and the Attorney General may not admit to the United States, any foreign national whom the Secretary finds, based on credible and specific information, to have been directly involved in the establishment or enforcement of population control policies forcing a woman to undergo an abortion against her free choice or forcing a man or woman to undergo sterilization against his or her free choice, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such policies.

(b) **EXCEPTIONS.**—The prohibitions in subsection (a) shall not apply in the case of a foreign national who is a head of state, head of government, or cabinet level minister.

(c) **WAIVER.**—The Secretary of State may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—

(1) determines that it is important to the national interest of the United States to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

**SEC. 802. TECHNICAL CORRECTIONS.**

(a) Section 1422(b)(3)(B) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105-277; 112 Stat. 2681-792) is amended by striking “divisionAct” and inserting “division”.

(b) Section 1002(a) of the Foreign Affairs Reform and Restructuring Act (as contained in division G of Public Law 105-277; 112 Stat. 2681-762) is amended by striking paragraph (3).

(c) The table of contents of division G of Public Law 105-277 (112 Stat. 2681-762) is amended by striking “DIVISION\_\_” and inserting “DIVISION G”.

(d) Section 305 of Public Law 97-446 (19 U.S.C. 2604) is amended in the first sentence by striking “Secretary” the first place it appears and inserting “Secretary, in consultation with the Secretary of State,”.

**SEC. 803. REPORTS WITH RESPECT TO A REFERENDUM ON WESTERN SAHARA.**

(a) **REPORTS REQUIRED.**—

(1) **IN GENERAL.**—Not later than each of the dates specified in paragraph (2), the Secretary of State shall submit a report

<sup>79</sup>Subsecs. (a) and (b) of this sec. amended sec. 4 of the United Nations Participation Act of 1945. Sec. 724(a)(2) repealed sec. 407(a) of Public Law 103-236, relating to consultations and reports to Congress on U.N. peacekeeping operations.

<sup>80</sup>8 U.S.C. 1182e.

to the appropriate congressional committees describing specific steps being taken by the Government of Morocco and by the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro (POLISARIO) to ensure that a free, fair, and transparent referendum in which the people of the Western Sahara will choose between independence and integration with Morocco will be held by July 2000.

(2) **DEADLINES FOR SUBMISSION OF REPORTS.**—The dates referred to in paragraph (1) are January 1, 2000, and June 1, 2000.

(b) **REPORT ELEMENTS.**—The report shall include—

(1) a description of preparations for the referendum, including the extent to which free access to the territory for independent international organizations, including election observers and international media, will be guaranteed;

(2) a description of current efforts by the Department of State to ensure that a referendum will be held by July 2000;

(3) an assessment of the likelihood that the July 2000 date will be met;

(4) a description of obstacles, if any, to the voter registration process and other preparations for the referendum, and efforts being made by the parties and the United States Government to overcome those obstacles; and

(5) an assessment of progress being made in the repatriation process.

**SEC. 804. REPORTING REQUIREMENTS UNDER PLO COMMITMENTS COMPLIANCE ACT OF 1989.**

The PLO Commitments Compliance Act of 1989 is amended  
\* \* \*<sup>81</sup>

**SEC. 805.<sup>82</sup> REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.**

(a) **IN GENERAL.**—Not later than May 1, 2003, and not later than May 1, 2004,<sup>83</sup> the Secretary of State shall prepare and submit a report, with a classified annex as necessary, to the appropriate congressional committees regarding terrorist attacks in Israel, in territory administered by Israel, and in territory administered by the Palestinian Authority. The report shall contain the following information:

(1) A list of formal commitments the Palestinian Authority has made to combat terrorism.

(2) A list of terrorist attacks, occurring between September 13, 1993 and the date of the report, against United States citizens in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority, including—

(A) a list of all citizens of the United States killed or injured in such attacks;

(B) the date of each attack and the total number of people killed or injured in each attack;

<sup>81</sup> For amended text, see page 488.

<sup>82</sup> 22 U.S.C. 2656f note.

<sup>83</sup> Sec. 216(c) of the Department of State Authorization Act, Fiscal Year 2003 (division A of Public Law 107-228; 116 Stat. 1367), struck out “Not later than 6 months after the date of enactment of this Act and every 6 months thereafter until October 1, 2001,” and inserted in lieu thereof “Not later than May 1, 2003, and not later than May 1, 2004.”

- (C) the person or group claiming responsibility for the attack and where such person or group has found refuge or support;
- (D) a list of suspects implicated in each attack and the nationality of each suspect, including information on—
- (i) which suspects are in the custody of the Palestinian Authority and which suspects are in the custody of Israel;
  - (ii) which suspects are still at large in areas controlled by the Palestinian Authority or Israel; and
  - (iii) the whereabouts (or suspected whereabouts) of suspects implicated in each attack.
- (3) Of the suspects implicated in the attacks described in paragraph (2) and detained by Palestinian or Israeli authorities, information on—
- (A) the date each suspect was incarcerated;
  - (B) whether any suspects have been released, the date of such release, and whether any released suspect was implicated in subsequent acts of terrorism; and
  - (C) the status of each case pending against a suspect, including information on whether the suspect has been indicted, prosecuted, or convicted by the Palestinian Authority or Israel.
- (4) The policy of the Department of State with respect to offering rewards for information on terrorist suspects, including any information on whether a reward has been posted for suspects involved in terrorist attacks listed in the report.
- (5) A list of each request by the United States for assistance in investigating terrorist attacks listed in the report, a list of each request by the United States for the transfer of terrorist suspects from the Palestinian Authority and Israel since September 13, 1993, and the response to each request from the Palestinian Authority and Israel.
- (6) A description of efforts made by United States officials since September 13, 1993 to bring to justice perpetrators of terrorist acts against United States citizens as listed in the report.
- (7) A list of any terrorist suspects in these cases who are members of Palestinian police or security forces, the Palestine Liberation Organization, or any Palestinian governing body.
- (8) A list of all United States citizens killed or injured in terrorist attacks in Israel or in territory administered by Israel between 1950 and September 13, 1993, to include in each case, where such information is reasonably available, any stated claim of responsibility and the resolution or disposition of each case, except that this list shall be submitted only once with the initial report required under this section unless additional relevant information on these cases becomes available.
- (b) CONSULTATION WITH OTHER DEPARTMENTS.—The Secretary of State shall, in preparing the report required by this section, consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and

methods or other vital national security interests or jeopardize ongoing criminal investigations or proceedings.

(c) INITIAL REPORT.—Except as provided in subsection (a)(8), the initial report filed under this section shall cover the period between September 13, 1993 and the date of the report.

**SEC. 806. ANNUAL REPORTING ON WAR CRIMES, CRIMES AGAINST HUMANITY, AND GENOCIDE. \* \* \*<sup>84</sup>**

**SUBTITLE B—NORTH KOREA THREAT REDUCTION**

**SEC. 821. SHORT TITLE.**

This subtitle may be cited as the “North Korea Threat Reduction Act of 1999”.

**SEC. 822. RESTRICTIONS ON NUCLEAR COOPERATION WITH NORTH KOREA.**

(a) IN GENERAL.—Notwithstanding any other provision of law or any international agreement, no agreement for cooperation (as defined in sec. 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 b.)) between the United States and North Korea may become effective, no license may be issued for export directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, and no approval may be given for the transfer or retransfer directly or indirectly to North Korea of any nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement, until the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) North Korea has come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), and has taken all steps that have been deemed necessary by the IAEA in this regard;

(2) North Korea has permitted the IAEA full access to all additional sites and all information (including historical records) deemed necessary by the IAEA to verify the accuracy and completeness of North Korea’s initial report of May 4, 1992, to the IAEA on all nuclear sites and material in North Korea;

(3) North Korea is in full compliance with its obligations under the Agreed Framework;

(4) North Korea has consistently taken steps to implement the Joint Declaration on Denuclearization, and is in full compliance with its obligations under numbered paragraphs 1, 2, and 3 of the Joint Declaration on Denuclearization (excluding in the case of numbered paragraph 3 facilities frozen pursuant to the Agreed Framework);

(5) North Korea does not have uranium enrichment or nuclear reprocessing facilities (excluding facilities frozen pursuant to the Agreed Framework), and is making no significant progress toward acquiring or developing such facilities;

<sup>84</sup>Sec. 806 amended secs. 116 and 502B of the Foreign Assistance Act of 1961; see *Legislation on Foreign Relations Through 2005*, vol. I-A.

(6) North Korea does not have nuclear weapons and is making no significant effort to acquire, develop, test, produce, or deploy such weapons; and

(7) the transfer to North Korea of key nuclear components, under the proposed agreement for cooperation with North Korea and in accordance with the Agreed Framework, is in the national interest of the United States.

(b) CONSTRUCTION.—The restrictions contained in subsection (a) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

#### SEC. 823. DEFINITIONS.

In this subtitle:

(1) AGREED FRAMEWORK.—The term “Agreed Framework” means the “Agreed Framework Between the United States of America and the Democratic People’s Republic of Korea”, signed in Geneva on October 21, 1994, and the Confidential Minute to that Agreement.

(2) IAEA.—The term “IAEA” means the International Atomic Energy Agency.

(3) NORTH KOREA.—The term “North Korea” means the Democratic People’s Republic of Korea.

(4) JOINT DECLARATION ON DENUCLEARIZATION.—The term “Joint Declaration on Denuclearization” means the Joint Declaration on the Denuclearization of the Korean Peninsula, issued by the Republic of Korea and the Democratic People’s Republic of Korea on January 1, 1992.

#### SUBTITLE C—PEOPLE’S REPUBLIC OF CHINA

#### SEC. 871. FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the conclusions of the Department of State, as set forth in the Country Reports on Human Rights Practices for 1998, on human rights in the People’s Republic of China in 1998 as follows:

(A) “The People’s Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. . . . Citizens lack both the freedom peacefully to express opposition to the party-led political system and the right to change their national leaders or form of government.”.

(B) “The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms. These abuses stemmed from the authorities’ very limited tolerance of public dissent aimed at the Government, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms.”.

(C) “Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process.”.

(D) “Prison conditions at most facilities remained harsh. . . . The Government infringed on citizens’ privacy rights. The Government continued restrictions on freedom of speech and of the press, and tightened these toward the end of the year. The Government severely restricted freedom of assembly, and continued to restrict freedom of association, religion, and movement.”

(E) “Discrimination against women, minorities, and the disabled; violence against women, including coercive family planning practices—which sometimes include forced abortion and forced sterilization; prostitution, trafficking in women and children, and the abuse of children all are problems.”

(F) “The Government continued to restrict tightly worker rights, and forced labor remains a problem.”

(G) “Serious human rights abuses persisted in minority areas, including Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified.”

(H) “Unapproved religious groups, including Protestant and Catholic groups, continued to experience varying degrees of official interference and repression.”

(I) “Although the Government denies that it holds political or religious prisoners, and argues that all those in prison are legitimately serving sentences for crimes under the law, an unknown number of persons, estimated at several thousand, are detained in violation of international human rights instruments for peacefully expressing their political, religious, or social views.”

(2) In addition to the State Department, credible press reports and human rights organizations have documented an intense crackdown on political activists by the Government of the People’s Republic of China, involving the harassment, detainment, arrest, and imprisonment of dozens of activists.

(3) The People’s Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(4) The People’s Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is a signatory to the International Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights.

**SEC. 872. FUNDING FOR ADDITIONAL PERSONNEL AT DIPLOMATIC POSTS TO REPORT ON POLITICAL, ECONOMIC, AND HUMAN RIGHTS MATTERS IN THE PEOPLE’S REPUBLIC OF CHINA.**

Of the amounts authorized to be appropriated for the Department of State by this Act, \$2,200,000 for fiscal year 2000 and \$2,200,000 for fiscal year 2001 shall be made available only to support additional personnel in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong, in

order to monitor political and social conditions, with particular emphasis on respect for, and violations of, internationally recognized human rights, in the People's Republic of China.

**SEC. 873.<sup>85</sup> PRISONER INFORMATION REGISTRY FOR THE PEOPLE'S REPUBLIC OF CHINA.**

(a) **REQUIREMENT.**—The Secretary of State shall establish and maintain a registry which shall, to the extent practicable, provide information on all political prisoners, prisoners of conscience, and prisoners of faith in the People's Republic of China. The registry shall be known as the "Prisoner Information Registry for the People's Republic of China".

(b) **INFORMATION IN REGISTRY.**—The registry required by subsection (a) shall include information on the charges, judicial processes, administrative actions, uses of forced labor, incidents of torture, lengths of imprisonment, physical and health conditions, and other matters associated with the incarceration of prisoners in the People's Republic of China referred to in that subsection.

(c) **AVAILABILITY OF FUNDS.**—The Secretary may make a grant to nongovernmental organizations currently engaged in monitoring activities regarding political prisoners in the People's Republic of China in order to assist in the establishment and maintenance of the registry required by subsection (a).

**TITLE IX—ARREARS PAYMENTS AND REFORM**

**SUBTITLE A—GENERAL PROVISIONS**

**SEC. 901. SHORT TITLE.**

This title may be cited as the "United Nations Reform Act of 1999".<sup>86</sup>

\* \* \* \* \*

**DIVISION B—ARMS CONTROL, NONPROLIFERATION, AND SECURITY ASSISTANCE PROVISIONS**

**SEC. 1001. SHORT TITLE.**

This division may be cited as the "Arms Control, Nonproliferation, and Security Assistance Act of 1999".<sup>87</sup>

\* \* \* \* \*

<sup>85</sup> 22 U.S.C. 2656 note.

<sup>86</sup> For the United Nations Reform Act of 1999, see vol. II-B.

<sup>87</sup> The Arms Control, Nonproliferation, and Security Assistance Act of 1999 includes the Arms Control and Nonproliferation Act of 1999, National Security and Corporate Fairness under the Biological Weapons Convention Act, and the Proliferation Prevention Enhancement Act of 1999, all of which may be found in the arms control section, vol. II-b.

The Arms Control, Nonproliferation, and Security Assistance Act of 1999 also includes the Security Assistance Act of 1999, Defense Offsets Disclosure Act of 1999, and International Arms Sales Code of Conduct Act of 1999, all of which may be found in *Legislation on Foreign Relations Through 2005*, vol. I-A.



**j. Rewards for Information Concerning Violations of International Humanitarian Law—Former Yugoslavia and Rwanda**

Partial text of Public Law 105-323 [H.R. 4660], 112 Stat. 3029, approved October 30, 1998; as amended by Public Law 106-277 [S. 2460], 114 Stat. 813, approved October 2, 2000; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes.

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

**TITLE I—DEPARTMENT OF STATE REWARDS PROGRAM**

**SEC. 101. REVISION OF PROGRAM.**

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows: \* \* \*<sup>1</sup>

**SEC. 102.<sup>2</sup> REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA OR RWANDA.**

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

(1) the arrest or conviction in any country; or

(2) the transfer to, or conviction by, the Special Court of Sierra Leone<sup>3</sup> the International Criminal Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda,<sup>4</sup> of any individual who is the subject of an indictment confirmed by a judge of such tribunal for serious violations of international humanitarian law as defined under the statute of such tribunal.

(b) **PROCEDURES.**—

(1) To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, subject to paragraph (3),

<sup>1</sup>For amended text see page 38.

<sup>2</sup>22 U.S.C. 2708 note. Sec. 1(1) of Public Law 106-277 (114 Stat. 813) added “**OR RWANDA**” to the section catchline.

<sup>3</sup>Sec. 697(d)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1418), inserted “the Special Court of Sierra Leone” after “by,” as enrolled omitting a comma or the word “or” after “Sierra Leone”.

<sup>4</sup>Sec. 1(2) of Public Law 106-277 (114 Stat. 813) added “or the International Criminal Tribunal for Rwanda” after “Yugoslavia”.

the offering, administration, and payment of rewards under this section, including procedures for—

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

(B) the publication of rewards;

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

(D) the receipt and analysis of data; and

(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

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

(3) Rewards under this section shall be subject to any requirements or limitations that apply to rewards under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) with respect to the ineligibility of government employees for rewards, maximum reward amount, and procedures for the approval and certification of rewards for payment.

(c) REFERENCE.—(1)<sup>5</sup> For the purposes of subsection (a), the statute of the International Criminal Tribunal for the Former Yugoslavia means the Annex to the Report of the Secretary General of the United Nations pursuant to paragraph 2 of Security Council Resolution 827 (1993) (S/25704).

(2)<sup>5</sup> For the purposes of subsection (a), the statute of the International Criminal Tribunal for Rwanda means the statute contained in the annex to Security Council Resolution 955 of November 8, 1994.

(3)<sup>6</sup> For the purposes of subsection (a), the Statute of the Special Court for Sierra Leone means the Statute contained in the Annex to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.

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

(e) PRIORITY.—Rewards under this section may be paid from funds authorized to carry out section 36 of the State Department Basic Authorities Act of 1956. In the Administration and payment of rewards under the rewards program of section 36 of the State Department Basic Authorities Act of 1956, the Secretary of State shall ensure that priority is given for payments to individuals described in section 36 of that Act and that funds paid under this section are paid only after any and all due and payable demands are met under section 36 of that Act.

(f) REPORTS.—The Secretary shall inform the appropriate committees of rewards paid under this section in the same manner as required by section 36(g) of the State Department Basic Authorities Act of 1956.

<sup>5</sup>Sec. 1(3) of Public Law 106–277 (114 Stat. 813) inserted para. designation “(1)”, and added a new para. (2).

<sup>6</sup>Sec. 697(d)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1418), added para. (3).

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**TITLE II—EXTRADITION TREATIES INTERPRETATION  
ACT OF 1998<sup>7</sup>**

\* \* \* \* \*

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<sup>7</sup>For text, see vol. II-B.

**k. Foreign Relations Authorization Act, Fiscal Years 1998  
and 1999**

Partial text of Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998; as amended by Public law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427], 113 Stat. 1536, approved November 29, 1999; and Public Law 107-228 [Foreign Relation Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

DIVISION G—FOREIGN AFFAIRS REFORM AND  
RESTRUCTURING ACT OF 1998

**SEC. 1001.<sup>1</sup> SHORT TITLE.**

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

**SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.**

(a)<sup>2</sup> DIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION A.—Foreign Affairs Agencies Consolidation Act of 1998.

(2) SUBDIVISION B.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

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

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<sup>1</sup>22 U.S.C. 6501 note.  
<sup>2</sup>Sec. 802(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-468), struck out para. (3) of this subsec., which had referred to a subdivision K—United Nations Reform Act of 1998.

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**SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION**

**TITLE XX—GENERAL PROVISIONS**

**SEC. 2001.<sup>3</sup> SHORT TITLE.**

This subdivision may be cited as the “Foreign Relations Author-  
ization Act, Fiscal Years 1998 and 1999”.

**SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMIT-  
TEES.**

In this subdivision, the term “appropriate congressional commit-  
tees” means the Committee on International Relations of the House  
of Representatives and the Committee on Foreign Relations of the  
Senate.

**TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR  
DEPARTMENT OF STATE**

**SEC. 2101. ADMINISTRATION OF FOREIGN AFFAIRS.**

The following amounts are authorized to be appropriated for the  
Department of State under “Administration of Foreign Affairs” to  
carry out the authorities, functions, duties, and responsibilities in  
the conduct of the foreign affairs of the United States and for other  
purposes authorized by law, including the diplomatic security pro-  
gram:

<sup>3</sup> 22 U.S.C. 2651 note.

(1)<sup>4</sup> DIPLOMATIC AND CONSULAR PROGRAMS.—For “Diplomatic and Consular Programs”, of the Department of State

<sup>4</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2494), provided the following:

## “DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration; \$1,705,600,000: *Provided*, That of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the ‘Emergencies in the Diplomatic and Consular Service’ appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), fees may be collected during fiscal years 1998 and 1999 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 1998 and 1999 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

“In addition to funds otherwise available, of the funds provided under this heading, \$24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and \$17,312,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended.

“In addition, not to exceed \$700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717); in addition not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553), as amended, and in addition, as authorized by section 5 of such Act \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and in addition not to exceed \$15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

“Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts ‘Diplomatic and Consular Programs’ and ‘Salaries and Expenses’ under the heading ‘Administration of Foreign Affairs’ may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

“In addition, for counterterrorism requirements overseas, including security guards and equipment, \$23,700,000, to remain available until expended.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-92), provided the following:

## “DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and 22 U.S.C. 2674; and for expenses of general administration, \$1,644,300,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the ‘Emergencies in the Diplomatic and Consular Service’ appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, \$500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), fees may be collected during fiscal years 1999 and 2000 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 1999 and 2000 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

“In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553), as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).



\$1,730,000,000 for the fiscal year 1998 and \$1,644,300,000 for the fiscal year 1999.

(2)<sup>5</sup> SALARIES AND EXPENSES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For “Salaries and Expenses”, of the Department of State \$363,513,000 for the fiscal year 1998 and \$355,000,000 for the fiscal year 1999.

(B) LIMITATIONS.—Of the amounts authorized to be appropriated by subparagraph (A), \$2,000,000 for fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for the recruitment of minorities for careers in the Foreign Service and international affairs.

(3)<sup>6</sup> CAPITAL INVESTMENT FUND.—For “Capital Investment Fund”, of the Department of State \$86,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999.

(4)<sup>7</sup> SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS.—For “Security and Maintenance of United States Missions”, \$404,000,000 for the fiscal year 1998 and \$403,561,000 for the fiscal year 1999.

(5)<sup>8</sup> REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$4,200,000 for the fiscal year 1998 and \$4,350,000 for the fiscal year 1999.

(6)<sup>9</sup> EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$5,500,000 for the fiscal year 1998 and \$5,500,000 for the fiscal year 1999.

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“Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts ‘Diplomatic and Consular Programs’ and ‘Salaries and Expenses’ under the heading ‘Administration of Foreign Affairs’ may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.”

<sup>5</sup> For fiscal year 1998, the Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2494), provided \$363,513,000 for “Salaries and Expenses”.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-93), provided \$355,000,000 for “Salaries and Expenses”, of which \$813,333, “shall be transferred to the Presidential Advisory Commission on Holocaust Assets in the United States”.

<sup>6</sup> The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2495), provided \$86,000,000 for the “Capital Investment Fund” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-93), provided \$80,000,000.

<sup>7</sup> The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$404,000,000 for “Security and Maintenance of United States Missions” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$403,561,000.

<sup>8</sup> The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2494), provided \$4,200,000 for “Representation Allowances” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$4,350,000.

<sup>9</sup> The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$5,500,000 for “Emergencies in the Diplomatic and Consular Service” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$5,500,000.

(7)<sup>10</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$27,495,000 for the fiscal year 1998 and \$27,495,000 for the fiscal year 1999.

(8)<sup>11</sup> PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$14,000,000 for the fiscal year 1998 and \$14,750,000 for the fiscal year 1999.

(9)<sup>12</sup> PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—(A) For “Protection of Foreign Missions and Officials”, \$7,900,000 for the fiscal year 1998 and \$8,100,000 for the fiscal year 1999.

(B) Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount appropriated was made.

(10)<sup>13</sup> REPATRIATION LOANS.—For “Repatriation Loans”, \$1,200,000 for the fiscal year 1998 and \$1,200,000 for the fiscal year 1999, for administrative expenses.

#### SEC. 2102. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)<sup>14</sup> for “Salaries and Expenses” \$17,490,000 for the fiscal year 1998 and \$19,551,000 for the fiscal year 1999; and

(B)<sup>15</sup> for “Construction” \$6,463,000 for the fiscal year 1998 and \$6,463,000 for the fiscal year 1999.

<sup>10</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2495), provided \$27,495,000 for “Office of Inspector General” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$27,495,000.

<sup>11</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$14,000,000 for “Payment to the American Institute in Taiwan” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-95), provided \$14,750,000.

<sup>12</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$7,900,000 for “Protection of Foreign Missions and Officials” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$8,100,000.

<sup>13</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2496), provided \$593,000 for the cost of direct loans, and \$607,000 for related administrative expenses for the “Repatriation Loans Program Account” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-94), provided \$593,000 for the cost of direct loans, and \$607,000, for related administrative expenses.

<sup>14</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided \$17,490,000 for “Salaries and Expenses” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$19,551,000.

<sup>15</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided \$6,463,000 for “Construction” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$5,939,000.

(2)<sup>16</sup> INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$761,000 for the fiscal year 1998 and \$761,000 for the fiscal year 1999.

(3)<sup>16</sup> INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,189,000 for the fiscal year 1998 and \$3,432,000 for the fiscal year 1999.

(4)<sup>17</sup> INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$14,549,000 for the fiscal year 1998 and \$14,549,000 for the fiscal year 1999.

#### SEC. 2103. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164) is amended to read as follows:

“SEC. 404. There are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years 1998 and 1999 for grants to The Asia Foundation pursuant to this title.”<sup>18</sup>

#### SEC. 2104. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a)<sup>19</sup> AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Voluntary Contributions to International

<sup>16</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided the following:

##### “AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182, \$5,490,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), similarly provided \$5,733,000.

<sup>17</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 24949), provided \$14,549,000 for “International Fisheries Commissions” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$14,549,000.

<sup>18</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2499), provided \$8,000,000 for “Payment to the Asia Foundation” for fiscal year 1998.

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-97), provided \$8,250,000.

<sup>19</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2497), provided the following for fiscal year 1998:

##### “INTERNATIONAL ORGANIZATIONS AND CONFERENCES

##### “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$922,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That, of the funds appropriated in this paragraph, \$100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding 6 months to increase funding for any United Nations program without identifying an offsetting decrease during that 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998-1999 of \$2,533,000,000: *Provided further*, That not to exceed

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\$15,000,000 shall be transferred from funds made available under this heading to the 'International Conferences and Contingencies' account for United States contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, except that such transferred funds may be obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally based monitoring systems involved in cooperative data sharing agreements with the United States as of the date of enactment of this Act, until the United States Senate ratifies the Comprehensive Nuclear Test Ban Treaty: *Provided further*, That notwithstanding section 402 of this Act, not to exceed \$1,223,000 may be transferred from the funds made available under this heading to the "International Conferences and Contingencies" account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That not to exceed \$2,000,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full U.S. assessment to the civil budget of the North Atlantic Treaty Organization.

\* \* \* \* \*

"ARREARAGE PAYMENTS

"For an additional amount for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities, \$475,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by law: *Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member, and the share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member."

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-95), provided the following:

"INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

"For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$922,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That, of the funds appropriated in this paragraph, \$100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding 6 months to increase funding for any United Nations program without identifying an offsetting decrease during that 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998-1999 of \$2,533,000,000: *Provided further*, That not to exceed \$15,000,000 shall be transferred from funds made available under this heading to the 'International Conferences and Contingencies' account for United States contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, except that such transferred funds may be obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally based monitoring systems involved in cooperative data sharing agreements with the United States as of the date of enactment of this Act, until the United States Senate ratifies the Comprehensive Nuclear Test Ban Treaty: *Provided further*, That notwithstanding section 402 of this Act, not to exceed \$1,223,000 may be transferred from the funds made available under this heading to the "International Conferences and Contingencies" account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That not to exceed \$2,000,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full U.S. assessment to the civil budget of the North Atlantic Treaty Organization.

\* \* \* \* \*

Organizations”, \$194,500,000 for the fiscal year 1998 and \$214,000,000 for the fiscal year 1999.

(b) LIMITATIONS.—

(1) WORLD FOOD PROGRAM.—Of the amounts authorized to be appropriated under subsection (a), \$4,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the World Food Program.

(2) UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.—Of the amount authorized to be appropriated under subsection (a), \$3,000,000 for the fiscal year 1998 and \$3,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the United Nations Voluntary Fund for Victims of Torture.

(3) INTERNATIONAL PROGRAM ON THE ELIMINATION OF CHILD LABOR.—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor.

(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

**SEC. 2105.<sup>20</sup> VOLUNTARY CONTRIBUTIONS TO PEACEKEEPING OPERATIONS.**

There are authorized to be appropriated for “Peacekeeping Operations”, \$77,500,000 for the fiscal year 1998 and \$83,000,000 for

“ARREARAGE PAYMENTS

“For an additional amount for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities, \$475,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by law: *Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member, and the share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.”

<sup>20</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2498), provided the following for fiscal year 1998:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$256,000,000, of which not to exceed \$46,000,000 shall remain available until expended for payment of arrearages: *Provided*, That none of the funds appropriated or otherwise made available by this Act for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by the enactment of an Act described in the first proviso under the heading ‘Contributions to International Organizations’ in this title: *Provided further*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*,

Continued

the fiscal year 1999 for the Department of State to carry out section 551 of Public Law 87-195.

**SEC. 2106. LIMITATION ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.**

(a) **LIMITATION.**—Of the amounts made available for fiscal years 1998 and 1999 for United States voluntary contributions to the United Nations Development Program an amount equal to the amount the United Nations Development Program will spend in Burma during each fiscal year shall be withheld unless during such fiscal year the President submits to the appropriate congressional committees the certification described in subsection (b).

(b) **CERTIFICATION.**—The certification referred to in subsection (a) is a certification by the President that all programs and activities of the United Nations Development Program (including United Nations Development Program—Administered Funds) in Burma—

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

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

(3) provide no financial, political, or military benefit to the SLORC; and

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

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That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-96), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$231,000,000: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.”

**TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND  
ACTIVITIES**

**CHAPTER 1—AUTHORITIES AND ACTIVITIES**

**SEC. 2201. REIMBURSEMENT OF DEPARTMENT OF STATE FOR ASSISTANCE TO OVERSEAS EDUCATIONAL FACILITIES.**

Section 29 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2701) is amended by adding at the end the following:  
\* \* \*<sup>21</sup>

**SEC. 2202. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.**

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows: \* \* \*<sup>22</sup>

**SEC. 2203. RETENTION OF ADDITIONAL DEFENSE TRADE CONTROLS REGISTRATION FEES.**

Section 45(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717(a)) is amended \* \* \*<sup>23</sup>

**SEC. 2204. FEES FOR COMMERCIAL SERVICES.**

Section 52(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2724(b)) is amended by adding at the end the following: \* \* \*<sup>24</sup>

**SEC. 2205.<sup>25</sup> PROGRAM FOR FOREIGN AFFAIRS REIMBURSEMENT.**

(a) FOREIGN AFFAIRS REIMBURSEMENT.—

(1) IN GENERAL.—Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended \* \* \*<sup>26</sup>

(2)<sup>27</sup> EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 1998.

(b)<sup>28</sup> FEES FOR USE OF NATIONAL FOREIGN AFFAIRS TRAINING CENTER.—Title I of the State Department Basic Authorities Act of

<sup>21</sup> For amended text, see page 32.

<sup>22</sup> Sec. 2202 amended and restated sec. 36 of the State Department Basic Authorities Act of 1956. For amended text, see page 38.

<sup>23</sup> For amended text, see page 56.

<sup>24</sup> For amended text see page 60.

<sup>25</sup> Sec. 318(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out “PILOT” before “PROGRAM” in the section heading. Para. (2) of that sec. struck out para. (3), which had provided as follows:

“(3) TERMINATION OF PILOT PROGRAM.—Effective October 1, 2002, section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021), as amended by this subsection, is further amended—

“(A) by striking subsections (e) and (f); and

“(B) by redesignating subsection (g) as paragraph (4) of subsection (d).”.

Para. (3) of that sec. struck out sec. 2205(c), which had provided as follows:

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

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

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

“(3) the amount of fees collected; and

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

<sup>26</sup> For amended text, see page 753.

<sup>27</sup> 22 U.S.C. 4021 note.

<sup>28</sup> Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center’.”.

1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section: \* \* \*<sup>29</sup>

**SEC. 2206. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section: \* \* \*<sup>30</sup>

**SEC. 2207. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section: \* \* \*<sup>31</sup>

**SEC. 2208. OFFICE OF THE INSPECTOR GENERAL.**

(a) PROCEDURES.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

“(4) The Inspector General shall develop and provide to employees—

“(A) information detailing their rights to counsel; and

“(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.”.

(b) NOTICE.—Section 209(e) of the Foreign Service Act of 1980 (22 U.S.C. 3929(e)) is amended by adding at the end the following new paragraph:

“(3) The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.”.

(c) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of State and the Foreign Service shall submit a report to the appropriate congressional committees which includes the following:

(A) Detailed descriptions of the internal guidance developed or used by the Office of the Inspector General with respect to public disclosure of any information related to an ongoing investigation of any officer or employee of the

<sup>29</sup>Sec. 2205(b) added a new sec. 53 to the State Department Basic Authorities Act of 1956. For new text, see page 61.

<sup>30</sup>Sec. 2206 added a new sec. 54 to the State Department Basic Authorities Act of 1956; see page 61.

<sup>31</sup>Sec. 2207 added a new sec. 55 to the State Department Basic Authorities Act of 1956; see page 61.



Department of State, the United States Information Agency, or the United States Arms Control and Disarmament Agency.

(B) Detailed descriptions of those instances for the year ending December 31, 1997, in which any disclosure of information to the public by an employee of the Office of Inspector General about an ongoing investigation occurred, including details on the recipient of the information, the date of the disclosure, and the internal clearance process for the disclosure.

(2) STATUTORY CONSTRUCTION.—Disclosure of information to the public under this section shall not be construed to include information shared with Congress by an employee of the Office of the Inspector General.

**SEC. 2209. CAPITAL INVESTMENT FUND.**

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended \* \* \*<sup>32</sup>

**SEC. 2210. CONTRACTING FOR LOCAL GUARDS SERVICES OVERSEAS.**

Section 136(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864(c)) is amended \* \* \*<sup>33</sup>

**SEC. 2211. AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.**

Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended \* \* \*<sup>34</sup>

**SEC. 2212. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.**

(a) RECOVERY OF CERTAIN EXPENSES.—The Department of State Appropriation Act of 1937 (22 U.S.C. 2661) is amended in the fifth undesignated paragraph under the heading entitled “INTERNATIONAL FISHERIES COMMISSION” by inserting “(including such expenses as salaries and other personnel expenses)” after “extraordinary expenses”.

(b) PROCUREMENT OF SERVICES.—Section 38(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710(c)) is amended in the first sentence by inserting “personal and” before “other support services”.

**SEC. 2213. GRANTS TO REMEDY INTERNATIONAL ABDUCTIONS OF CHILDREN.**

Section 7 of the International Child Abduction Remedies Act (42 U.S.C. 11606; Public Law 100-300) is amended by adding at the end the following new subsection: \* \* \*<sup>35</sup>

**SEC. 2214.<sup>36</sup> COUNTERDRUG AND ANTICRIME ACTIVITIES OF THE DEPARTMENT OF STATE.**

(a) COUNTERDRUG AND LAW ENFORCEMENT STRATEGY.—

(1) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall establish, implement, and submit to Congress a comprehensive, long-term strategy to carry out the counterdrug responsibilities of

<sup>32</sup> For amended text, see page 334.

<sup>33</sup> For amended text, see page 466.

<sup>34</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. IV.

<sup>35</sup> For amended text, see vol. II-B.

<sup>36</sup> 22 U.S.C. 2656.

the Department of State in a manner consistent with the National Drug Control Strategy. The strategy shall involve all elements of the Department in the United States and abroad.

(2) OBJECTIVES.—In establishing the strategy, the Secretary shall—

(A) coordinate with the Office of National Drug Control Policy in the development of clear, specific, and measurable counterdrug objectives for the Department that support the goals and objectives of the National Drug Control Strategy;

(B) develop specific and, to the maximum extent practicable, quantifiable measures of performance relating to the objectives, including annual and long-term measures of performance, for purposes of assessing the success of the Department in meeting the objectives;

(C) assign responsibilities for meeting the objectives to appropriate elements of the Department;

(D) develop an operational structure within the Department that minimizes impediments to meeting the objectives;

(E) ensure that every United States ambassador or chief of mission is fully briefed on the strategy, and works to achieve the objectives; and

(F) ensure that—

(i) all budgetary requests and transfers of equipment (including the financing of foreign military sales and the transfer of excess defense articles) relating to international counterdrug efforts conforms with the objectives; and

(ii) the recommendations of the Department regarding certification determinations made by the President on March 1 as to the counterdrug cooperation, or adequate steps on its own, of each major illicit drug producing and drug trafficking country to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also conform to meet such objectives.

(3) REPORTS.—Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1), the Secretary shall submit to Congress an update of the strategy. The update shall include—

(A) an outline of the proposed activities with respect to the strategy during the succeeding year, including the manner in which such activities will meet the objectives set forth in paragraph (2); and

(B) detailed information on how certification determinations described in paragraph (2)(F) made the previous year affected achievement of the objectives set forth in paragraph (2) for the previous calendar year.

(4) LIMITATION ON DELEGATION.—The Secretary shall designate an official in the Department who reports directly to the Secretary to oversee the implementation of the strategy throughout the Department.

(b) INFORMATION ON INTERNATIONAL CRIMINALS.—

(1) INFORMATION SYSTEM.—The Secretary shall, in consultation with the heads of appropriate United States law enforcement agencies, including the Attorney General and the Secretary of the Treasury, take appropriate actions to establish an information system or improve existing information systems containing comprehensive information on serious crimes committed by foreign nationals. The information system shall be available to United States embassies and missions abroad for use in consideration of applications for visas for entry into the United States.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the actions taken under paragraph (1).

(c) OVERSEAS COORDINATION OF COUNTERDRUG AND ANTICRIME PROGRAMS, POLICY, AND ASSISTANCE.—

(1) STRENGTHENING COORDINATION.—The responsibilities of every diplomatic mission of the United States shall include the strengthening of cooperation between and among the United States and foreign governmental entities and multilateral entities with respect to activities relating to international narcotics and crime.

(2) DESIGNATION OF OFFICERS.—

(A) IN GENERAL.—Consistent with existing memoranda of understanding between the Department of State and other departments and agencies of the United States, including the Department of Justice, the chief of mission of every diplomatic mission of the United States shall designate an officer or officers within the mission to carry out the responsibility of the mission under paragraph (1), including the coordination of counterdrug, law enforcement, rule of law, and administration of justice programs, policy, and assistance. Such officer or officers shall report to the chief of mission, or the designee of the chief of mission, on a regular basis regarding activities undertaken in carrying out such responsibility.

(B) REPORTS.—The chief of mission of every diplomatic mission of the United States shall submit to the Secretary on a regular basis a report on the actions undertaken by the mission to carry out such responsibility.

(3) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the status of any proposals for action or on action undertaken to improve staffing and personnel management at diplomatic missions of the United States in order to carry out the responsibility set forth in paragraph (1).

**SEC. 2215. ANNUAL REPORT ON OVERSEAS SURPLUS PROPERTIES.**

The Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.) is amended by adding at the end the following new section: \* \* \*<sup>37</sup>

**SEC. 2216. HUMAN RIGHTS REPORTS.**

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended \* \* \*<sup>38</sup>

**SEC. 2217. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section: \* \* \*<sup>39</sup>

**SEC. 2218.<sup>40</sup> REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.**

(a) **PROCUREMENT POLICY.**—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

(b) **IMPLEMENTATION.**—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS-PO) shall—

(1) utilize full and open competition, to the maximum extent practicable, in the procurement of telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.

**SEC. 2219. REDUCTION OF REPORTING.**

(a) **REPEALS.**—The following provisions of law are repealed:

(1) **MODEL FOREIGN LANGUAGE COMPETENCE POSTS.**—The second sentence of section 161(c) of the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991 (22 U.S.C. 4171 note).

(2) **ACTIONS OF THE GOVERNMENT OF HAITI.**—Section 705(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

(3) **TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.**—Section 123(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

(4) **MILITARY ASSISTANCE FOR HAITI.**—Section 203(c) of the Special Foreign Assistance Act of 1986 (Public Law 99-529).

(5) **INTERNATIONAL SUGAR AGREEMENT, 1977.**—Section 5 of the Act entitled “An Act providing for the implementation of the

<sup>37</sup> Sec. 2215 added a new sec. 12 to the Foreign Service Buildings Act, 1926; see page 1299.

<sup>38</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>39</sup> Sec. 2217 added a new sec. 56 to the State Department Basic Authorities Act of 1956; see page 61.

<sup>40</sup> 22 U.S.C. 2669b.

International Sugar Agreement, 1977, and for other purposes” (Public Law 96-236; 7 U.S.C. 3605 and 3606).

(6) AUDIENCE SURVEY OF WORLDNET PROGRAM.—Section 209 (c) and (d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204).

(7) RESEARCH ON THE NEAR AND MIDDLE EAST.—Section 228(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 22 U.S.C. 2452 note).

(b) PROGRESS TOWARD REGIONAL NONPROLIFERATION.—Section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c); relating to periodic reports on progress toward regional nonproliferation) is amended by striking “Not later than April 1, 1993 and every six months thereafter,” and inserting “Not later than April 1 of each year,”.

(c) REPORT ON PARTICIPATION BY UNITED STATES MILITARY PERSONNEL ABROAD IN UNITED STATES ELECTIONS.—Section 101(b)(6) of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff(b)(6)) is amended by striking “of voter participation” and inserting “of uniformed services voter participation, a general assessment of overseas nonmilitary participation,”.

## CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

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

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

### SEC. 2222. CONSULAR OFFICERS.

(a) PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTHS ABROAD.—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by adding at the end the following: “For purposes of this paragraph, the term ‘consular officer’ includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.”.

(b) PROVISIONS APPLICABLE TO CONSULAR OFFICERS.—Section 1689 of the Revised Statutes (22 U.S.C. 4191) is amended by inserting “and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe” after “such officers”.

(c) PERSONS AUTHORIZED TO AUTHENTICATE FOREIGN DOCUMENTS.—

(1) DESIGNATED UNITED STATES CITIZENS PERFORMING NOTARIAL ACTS.—Section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221) is further amended by inserting after the first sentence: “At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such acts, and any such contractor so authorized shall not be considered to be a consular officer.”.

(2) DEFINITION OF CONSULAR OFFICERS.—Section 3492(c) of title 18, United States Code, is amended by adding at the end the following: “For purposes of this section and sections 3493 through 3496 of this title, the term ‘consular officers’ includes any United States citizen who is designated to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”.

(d) PERSONS AUTHORIZED TO ADMINISTER OATHS.—Section 115 of title 35, United States Code, is amended by adding at the end the following: “For purposes of this section, a consular officer shall include any United States citizen serving overseas, authorized to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”.

(e) DEFINITION OF CONSULAR OFFICER.—Section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) is amended by—

(1) inserting “or employee” after “officer” the second place it appears; and

(2) inserting before the period at the end of the sentence “or, when used in title III, for the purpose of adjudicating nationality”.

(f) TRAINING FOR EMPLOYEES PERFORMING CONSULAR FUNCTIONS.—Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024) is amended by adding at the end the following new subsection:

“(d)(1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

“(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

“(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

“(2) As used in this subsection, the term ‘consular function’ includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.”.

**SEC. 2223. REPEAL OF OUTDATED CONSULAR RECEIPT REQUIREMENTS.**

Sections 1726, 1727, and 1728 of the Revised Statutes of the United States (22 U.S.C. 4212, 4213, and 4214), as amended (relating to accounting for consular fees) are repealed.

**SEC. 2224. ELIMINATION OF DUPLICATE FEDERAL REGISTER PUBLICATION FOR TRAVEL ADVISORIES.**

(a) FOREIGN AIRPORTS.—Section 44908(a) of title 49, United States Code, is amended—

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

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) FOREIGN PORTS.—Section 908(a) of the International Maritime and Port Security Act of 1986 (46 U.S.C. App. 1804(a)) is amended by striking the second sentence, relating to Federal Register publication by the Secretary of State.

**SEC. 2225.<sup>41</sup> DENIAL OF VISAS TO CONFISCATORS OF AMERICAN PROPERTY.**

(a) DENIAL OF VISAS.—Except as otherwise provided in section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114), and subject to subsection (b), the Secretary of State may deny the issuance of a visa to any alien who—

(1) through the abuse of position, including a governmental or political party position, converts or has converted for personal gain real property that has been confiscated or expropriated, a claim to which is owned by a national of the United States, or who is complicit in such a conversion; or

(2) induces any of the actions or omissions described in paragraph (1) by any person.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any country established by international mandate through the United Nations; or

(2) any territory recognized by the United States Government to be in dispute.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report, including—

(1) a list of aliens who have been denied a visa under this subsection; and

(2) a list of aliens who could have been denied a visa under subsection (a) but were issued a visa and an explanation as to why each such visa was issued.

**SEC. 2226. INADMISSIBILITY OF ANY ALIEN SUPPORTING AN INTERNATIONAL CHILD ABDUCTOR.**

(a) AMENDMENT OF IMMIGRATION AND NATIONALITY ACT.—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C.

<sup>41</sup> 8 U.S.C. 1182d.

1182(a)(10)(C)) is amended by striking clause (ii) and inserting the following: \* \* \*<sup>42</sup>

(b)<sup>43</sup> EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens seeking admission to the United States on or after the date of enactment of this Act.

### CHAPTER 3—REFUGEES AND MIGRATION

#### Subchapter A—Authorization of Appropriations

##### SEC. 2231.<sup>44</sup> MIGRATION AND REFUGEE ASSISTANCE.

(a) MIGRATION AND REFUGEE ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance” for authorized activities, \$650,000,000 for the fiscal year 1998 and \$704,500,000 for the fiscal year 1999.

(2) LIMITATIONS.—

<sup>42</sup> See 8 U.S.C. 1182(a)(10)(C).

<sup>43</sup> 8 U.S.C. 1182 note.

<sup>44</sup> Appropriations for Migration and Refugee Assistance as administered by the Department of State are provided for in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 1999 appropriations levels and conditions were provided in title II of sec. 101(d) of Public Law 105-277 (112 Stat. 2681-162):

##### “MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$640,000,000: *Provided*, That not more than \$13,000,000 shall be available for administrative expenses: *Provided further*, That not less than \$70,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

##### “UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$30,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.”

For fiscal year 1999, title II H.R. 3422, enacted by reference in sec. 1001(a)(2) of Public Law 106-113 (113 Stat. 1501A-74), provided:

##### “MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$625,000,000, of which \$21,000,000 shall become available for obligation on September 30, 2000, and remain available until expended: *Provided*, That not more than \$13,800,000 shall be available for administrative expenses: *Provided further*, That not less than \$60,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

##### “UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$12,500,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Act which would limit the amount of funds which could be appropriated for this purpose.”



(A) **LIMITATION REGARDING TIBETAN REFUGEES IN INDIA AND NEPAL.**—Of the amounts authorized to be appropriated in paragraph (1), not more than \$2,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be available only for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) **REFUGEES RESETTLING IN ISRAEL.**—Of the amounts authorized to be appropriated in paragraph (1), \$80,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999 are authorized to be available for assistance for refugees resettling in Israel from other countries.

(C) **HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.**—Of the amounts authorized to be appropriated in paragraph (1), \$1,500,000 for the fiscal year 1998 and \$1,500,000 for the fiscal year 1999 for humanitarian assistance are authorized to be available, including food, medicine, clothing, and medical and vocational training, to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) **AVAILABILITY OF FUNDS.**—Funds appropriated pursuant to this section are authorized to remain available until expended.

### **Subchapter B—Authorities**

#### **SEC. 2241.<sup>45</sup> UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.**

(a) **IN GENERAL.**—None of the funds made available by this subdivision shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) **MIGRATION AND REFUGEE ASSISTANCE.**—None of the funds made available by section 2231 of this division or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) **INVOLUNTARY RETURN DEFINED.**—As used in this section, the term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States

<sup>45</sup>22 U.S.C. 2601 note.

and regardless of whether the United States acts directly or through an agent.

**SEC. 2242.<sup>46</sup> UNITED STATES POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS IN DANGER OF SUBJECTION TO TORTURE.**

(a) **POLICY.**—It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.

(b) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

(c) **EXCLUSION OF CERTAIN ALIENS.**—To the maximum extent consistent with the obligations of the United States under the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, the regulations described in subsection (b) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)).

(d) **REVIEW AND CONSTRUCTION.**—Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(e) **AUTHORITY TO DETAIN.**—Nothing in this section shall be construed as limiting the authority of the Attorney General to detain any person under any provision of law, including, but not limited to, any provision of the Immigration and Nationality Act.

(f) **DEFINITIONS.**—

(1) **CONVENTION DEFINED.**—In this section, the term “Convention” means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) **SAME TERMS AS IN THE CONVENTION.**—Except as otherwise provided, the terms used in this section have the meanings given those terms in the Convention, subject to any reservations, understandings, declarations, and provisos contained

<sup>46</sup> 8 U.S.C. 1231 note. In Department of State Public Notice 2991, effective February 26, 1999 (64 F.R. 9435), the Deputy Secretary of State issued a final rule to implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The regulations are codified at 22 CFR Part 95.

in the United States Senate resolution of ratification of the Convention.

**SEC. 2243. REPROGRAMMING OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.**

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended \* \* \*<sup>47</sup>

**SEC. 2244. ELIGIBILITY FOR REFUGEE STATUS.**

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-171) is amended \* \* \*<sup>48</sup>

**SEC. 2245. REPORTS TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.**

Beginning not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall supplement the monthly report to Congress entitled "Update on Monitoring of Cuban Migrant Returnees" with additional information concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 and the treatment by the Government of Cuba of persons who have returned to Cuba pursuant to the United States-Cuba agreement of May 1995.

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

**CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE**

**SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.**

(a) ESTABLISHMENT.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection: \* \* \*<sup>49</sup>

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

**SEC. 2302. ELIMINATION OF DEPUTY ASSISTANT SECRETARY OF STATE FOR BURDENSARING.**

Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2651a note) is amended by striking subsection (f).

**SEC. 2303. PERSONNEL MANAGEMENT.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection: \* \* \*<sup>50</sup>

<sup>47</sup> For amended text, see page 36.

<sup>48</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>49</sup> For amended text, see page 8.

<sup>50</sup> For amended text see page 8.

**SEC. 2304. DIPLOMATIC SECURITY.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection: \* \* \*<sup>51</sup>

**SEC. 2305. NUMBER OF SENIOR OFFICIAL POSITIONS AUTHORIZED FOR THE DEPARTMENT OF STATE.****(a) UNDER SECRETARIES.—**

(1) **IN GENERAL.**—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)) is amended by striking “5” and inserting “6”.

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5314 of title 5, United States Code, is amended by striking “Under Secretaries of State (5)” and inserting “Under Secretaries of State (6)”.

**(b) ASSISTANT SECRETARIES.—**

(1) **IN GENERAL.**—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended by striking “20” and inserting “24”.

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of State (20)” and inserting “Assistant Secretaries of State (24)”.

(c) **DEPUTY ASSISTANT SECRETARIES.**—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

**SEC. 2306. NOMINATION OF UNDER SECRETARIES AND ASSISTANT SECRETARIES OF STATE. \* \* \*<sup>52</sup>****CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE****SEC. 2311. FOREIGN SERVICE REFORM.**

(a) **PERFORMANCE PAY.**—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended—

(1) in subsection (a), by striking “Members” and inserting “Subject to subsection (e), members”; and

(2) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.”.

**(b)<sup>53</sup> EXPEDITED SEPARATION OUT.—**

(1) **SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.**—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall develop and implement

<sup>51</sup>For amended text, see page 8.

<sup>52</sup>Sec. 2306 amended sec. 1 of the State Department Basic Authorities Act of 1956; see page 8.

<sup>53</sup>22 U.S.C. 4010 note.

procedures to identify, and recommend for separation, any member of the Foreign Service ranked by promotion boards of the Department of State in the bottom 5 percent of his or her class for 2 or more of the 5 years preceding the date of enactment of this Act (in this subsection referred to as the “years of lowest ranking”) if the rating official for such member was not the same individual for any two of the years of lowest ranking.

(2) SPECIAL INTERNAL REVIEWS.—In any case where the member was evaluated by the same rating official in any 2 of the years of lowest ranking, an internal review of the member’s file shall be conducted to determine whether the member should be considered for action leading to separation.

(3) PROCEDURES.—The Secretary of State shall develop procedures for the internal reviews required under paragraph (2).

**SEC. 2312. RETIREMENT BENEFITS FOR INVOLUNTARY SEPARATION.**  
\* \* \*<sup>54</sup>

**SEC. 2313. AUTHORITY OF SECRETARY TO SEPARATE CONVICTED FELONS FROM THE FOREIGN SERVICE.**

Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended \* \* \*<sup>55</sup>

**SEC. 2314. CAREER COUNSELING.**

(a) IN GENERAL.—Section 706(a) of the Foreign Service Act of 1980 (22 U.S.C. 4026(a)) is amended \* \* \*<sup>56</sup>

**SEC. 2315. LIMITATIONS ON MANAGEMENT ASSIGNMENTS.**

Section 1017(e)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)(2)) is amended to read as follows: \* \* \*<sup>57</sup>

**SEC. 2316. AVAILABILITY PAY FOR CERTAIN CRIMINAL INVESTIGATORS WITHIN THE DIPLOMATIC SECURITY SERVICE.**

(a) IN GENERAL.—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

“(k)(1) For purposes of this section, the term ‘criminal investigator’ includes a special agent occupying a position under title II of Public Law 99-399 if such special agent—

“(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

“(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

“(2) In applying subsection (h) with respect to a special agent under this subsection—

“(A) any reference in such subsection to ‘basic pay’ shall be considered to include amounts designated as ‘salary’;

“(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

<sup>54</sup> Sec. 2312 amended the Foreign Service Act of 1980 at sec. 609 and at sec. 855. Subsec. (c) of this section provided exception to the the amendments; see notes accompanying amended text.

<sup>55</sup> For amended text, see page 751.

<sup>56</sup> For amended text, see page 758.

<sup>57</sup> For amended text, see page 846.

“(C) paragraph (2)(B) of such subsection shall be applied by substituting for ‘Office of Personnel Management’ the following: ‘Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)’.”.

(b) IMPLEMENTATION.—Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended (in the matter before subparagraph (A)) by striking “Public Law 99-399” and inserting “Public Law 99-399, subject to subsection (k)”.

(2) Section 5542(e) of such title is amended by striking “title 18, United States Code,” and inserting “title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,”.

(d)<sup>58</sup> EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.

#### SEC. 2317. NONOVERTIME DIFFERENTIAL PAY.

Title 5 of the United States Code is amended—

(1) in section 5544(a), by inserting after the fourth sentence the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”; and

(2) at the end of section 5546(a), by adding the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”.

#### SEC. 2318.<sup>59</sup> REPORT CONCERNING MINORITIES AND THE FOREIGN SERVICE.

The Secretary of State shall during each of calendar years 1998 and 1999 submit a report to the Congress concerning minorities

<sup>58</sup> 5 U.S.C. 5542 note.

<sup>59</sup> 22 U.S.C. 3922a note.

and the Foreign Service officer corps. In addition to such other information as is relevant to this issue, the report shall include the following data for the last preceding examination and promotion cycles for which such information is available (reported in terms of real numbers and percentages and not as ratios):

(1) The numbers and percentages of all minorities taking the written Foreign Service examination.

(2) The numbers and percentages of all minorities successfully completing and passing the written Foreign Service examination.

(3) The numbers and percentages of all minorities successfully completing and passing the oral Foreign Service examination.

(4) The numbers and percentages of all minorities entering the junior officers class of the Foreign Service.

(5) The numbers and percentages of all minority Foreign Service officers at each grade.

(6) The numbers of and percentages of minorities promoted at each grade of the Foreign Service officer corps.

**TITLE XXIV—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS<sup>60</sup>**

\* \* \* \* \*

**TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER  
THAN UNITED NATIONS**

**SEC. 2501. INTERNATIONAL CONFERENCES AND CONTINGENCIES.**

There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,537,000 for the fiscal year 1998 and \$16,223,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

**SEC. 2502.<sup>61</sup> RESTRICTION RELATING TO UNITED STATES ACCESSION TO ANY NEW INTERNATIONAL CRIMINAL TRIBUNAL.**

(a) **PROHIBITION.**—The United States shall not become a party to any new international criminal tribunal, nor give legal effect to the jurisdiction of such a tribunal over any matter described in subsection (b), except pursuant to—

(1) a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act; or

(2) any statute enacted by Congress on or after the date of enactment of this Act.

(b) **JURISDICTION DESCRIBED.**—The jurisdiction described in this section is jurisdiction over—

(1) persons found, property located, or acts or omissions committed, within the territory of the United States; or

(2) nationals of the United States, wherever found.

<sup>60</sup>For title XXIV see beginning at page 1468.

<sup>61</sup>22 U.S.C. 262-1.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section precludes sharing information, expertise, or other forms of assistance with such tribunal.

(d) **DEFINITION.**—The term “new international criminal tribunal” means any permanent international criminal tribunal established on or after the date of enactment of this Act and does not include—

(1) the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993; or

(2) the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

**SEC. 2503.<sup>62</sup> UNITED STATES MEMBERSHIP IN THE BUREAU OF THE INTERPARLIAMENTARY UNION.**

(a) **INTERPARLIAMENTARY UNION LIMITATION.**—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of the Interparliamentary Union during fiscal year 1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

(b) **ELIMINATION OF AUTHORITY TO PAY EXPENSES OF THE AMERICAN GROUP.**—Section 1 of the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) in the first sentence—

(A) by striking “fiscal year” and all that follows through “(1) for” and inserting “fiscal year for”;

(B) by striking “; and”;

(C) by striking paragraph (2); and

(2) by striking the second sentence.

(c) **ELIMINATION OF PERMANENT APPROPRIATION.**—Section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988 (Public Law 100-202; 22 U.S.C. 276 note)) is amended—

(1) by striking “\$440,000” and inserting “\$350,000”; and

(2) by striking “paragraph (2) of the first section of Public Law 74-170,”.

(d) **CONDITIONAL TERMINATION OF AUTHORITY.**—Unless Congress receives the certification described in subsection (a) before October 1, 1999, effective on that date the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276-276a-4) is repealed.

<sup>62</sup>22 U.S.C. 276 note.



(e) **TRANSFER OF FUNDS TO THE TREASURY.**—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100-202) that are available as of the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.

**SEC. 2504. SERVICE IN INTERNATIONAL ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 3582(b) of title 5, United States Code, is amended by striking all after the first sentence and inserting the following: “On reemployment, an employee entitled to the benefits of subsection (a) is entitled to the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. On reemployment, the agency shall restore the sick leave account of the employee, by credit or charge, to its status at the time of transfer. The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. This subsection does not apply to a congressional employee.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to transfers that take effect on or after the date of enactment of this Act.

**SEC. 2505.<sup>63</sup> REPORTS REGARDING FOREIGN TRAVEL.**

(a) **PROHIBITION.**—Except as provided in subsection (e), none of the funds authorized to be appropriated by this division for fiscal year 1999 may be used to pay for the expenses of foreign travel by an officer or employee of an Executive branch agency to attend an international conference, or for the routine services that a United States diplomatic mission or consular post provides in support of foreign travel by such an officer or employee to attend an international conference, unless that officer or employee has submitted a preliminary report with respect to that foreign travel in accordance with subsection (b), and has not previously failed to submit a final report with respect to foreign travel to attend an international conference required by subsection (c).

(b) **PRELIMINARY REPORTS.**—A preliminary report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to proposed foreign travel to attend an international conference, submitted to the Director prior to commencement of the travel, setting forth—

- (1) the name and employing agency of the officer or employee;
- (2) the name of the official who authorized the travel; and
- (3) the purpose and duration of the travel.

(c) **FINAL REPORTS.**—A final report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to foreign travel to attend an international conference, submitted to the Director not later than 30 days after the conclusion of the travel—

<sup>63</sup> 5 U.S.C. 5707 note.

- (1) setting forth the actual duration and cost of the travel; and
  - (2) updating any other information included in the preliminary report.
- (d) **REPORT TO CONGRESS.**—The Director shall submit a report not later than April 1, 1999, to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives, setting forth with respect to each international conference for which reports described in subsection (c) were required to be submitted to the Director during the preceding six months—
- (1) the names and employing agencies of all officers and employees of Executive branch agencies who attended the international conference;
  - (2) the names of all officials who authorized travel to the international conference, and the total number of officers and employees who were authorized to travel to the conference by each such official; and
  - (3) the total cost of travel by officers and employees of Executive branch agencies to the international conference.
- (e) **EXCEPTIONS.**—This section shall not apply to travel by—
- (1) the President or the Vice President;
  - (2) any officer or employee who is carrying out an intelligence or intelligence-related activity, who is performing a protective function, or who is engaged in a sensitive diplomatic mission; or
  - (3) any officer or employee who travels prior to January 1, 1999.
- (f) **DEFINITIONS.**—In this section:
- (1) **DIRECTOR.**—The term “Director” means the Director of the Office of International Conferences of the Department of State.
  - (2) **EXECUTIVE BRANCH AGENCY.**—The terms “Executive branch agency” and “Executive branch agencies” mean—
    - (A) an entity or entities, other than the General Accounting Office,<sup>64</sup> defined in section 105 of title 5, United States Code; and
    - (B) the Executive Office of the President (except as provided in subsection (e)).
  - (3) **INTERNATIONAL CONFERENCE.**—The term “international conference” means any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which United States Executive branch agencies will send a total of ten or more representatives.
- (g) **REPORT.**—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report describing—

<sup>64</sup>Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the “General Accounting Office” as the “Government Accountability Office” and provided that “Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.”

(1) the total Federal expenditure of all official international travel in each Executive branch agency during the previous fiscal year; and

(2) the total number of individuals in each agency who engaged in such travel.

#### **TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**

##### **SEC. 2601.<sup>65</sup> AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act \$41,500,000 for the fiscal year 1999.

##### **SEC. 2602. STATUTORY CONSTRUCTION.**

Section 303 of the Arms Control and Disarmament Act (22 U.S.C. 2573), as redesignated by section 2223 of this division, is amended by adding at the end the following new subsection:  
\* \* \*<sup>66</sup>

#### **TITLE XXVII—EUROPEAN SECURITY ACT OF 1998<sup>67</sup>**

\* \* \* \* \*

#### **TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS**

##### **SEC. 2801. REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, shall submit a report to the appropriate congressional committees on specific actions taken by the Department of State, the Department of Defense, and the Department of Commerce toward progress in resolving the commercial disputes between United States firms and the Government of Saudi Arabia that are described in the June 30, 1993, report by the Secretary of

<sup>65</sup>The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105-119; 111 Stat. 2500), provided the following:

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, \$41,500,000, of which not to exceed \$50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

“(RESCISSION)

“Of the unexpended balances previously appropriated under this heading, \$700,000 are rescinded.”

For fiscal year 1999, the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-98), provided:

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, \$41,500,000, of which not to exceed \$50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).”

<sup>66</sup>For amended text, see vol. II-B.

<sup>67</sup>22 U.S.C. 1928 note. For text see vol. II-B.

Defense pursuant to section 9140(c) of the Department of Defense Appropriations Act, 1993 (Public Law 102-396), including the additional claims noticed by the Department of Commerce on page 2 of that report.

(b) TERMINATION.—Subsection (a) shall cease to have effect on the earlier of—

(1) the date of submission of the eleventh<sup>68</sup> report under that subsection; or

(2) the date that the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, certifies in writing to the appropriate congressional committees that the commercial disputes referred to in subsection (a) have been resolved satisfactorily.

**SEC. 2802. REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**

(a) REPORTS REQUIRED.—Not later than 30 days after the date of the enactment of this Act and every 3 months thereafter during the period ending September 30, 2003,<sup>69</sup> the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

(B) in the preceding 3-month period, in the case of each subsequent report.

(b) PROTECTION OF IDENTITY OF CONCERNED ENTITIES.—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4).

<sup>68</sup>Sec. 216(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1366), struck out “seventh” and inserted in lieu thereof “eleventh”. Previously, sec. 209(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-423), struck out “third” and inserted in lieu thereof “seventh”.

<sup>69</sup>Sec. 216(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1366), struck out “September 30, 2001,” and inserted in lieu thereof “September 30, 2003,”. Previously, sec. 209(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-423), struck out “September 30, 1999,” and inserted in lieu thereof “September 30, 2001,”.

**SEC. 2803. REPORT ON COMPLIANCE WITH THE HAGUE CONVENTION ON INTERNATIONAL CHILD ABDUCTION.**

(a) IN GENERAL.—Beginning 6 months after the date of the enactment of this Act and every 12 months thereafter,<sup>70</sup> the Secretary of State shall submit a report to the appropriate congressional committees on the compliance with the provisions of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, by the signatory countries of the Convention. Each such report shall include the following information:

(1) The number of applications for the return of children submitted by applicants in the United States<sup>71</sup> to the Central Authority for the United States that remain unresolved more than 18 months after the date of filing.

(2) A list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted, are being wrongfully retained in violation of United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States.<sup>72</sup>

(3) A list of the countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to applications for the return of children, access to children, or both,<sup>73</sup> submitted by applicants in the United States<sup>74</sup> to the Central Authority for the United States.

(4) Detailed information on each unresolved case described in paragraph (1) and on actions taken by the Department of State to resolve each such case, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted.<sup>75</sup>

<sup>70</sup>Sec. 212 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1365), struck out “during the period ending September 30, 2001”. Previously, sec. 202(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), struck out “1999,” and inserted in lieu thereof “2001.”

<sup>71</sup>Sec. 202(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), struck out “United States citizens” and inserted in lieu thereof “applicants in the United States”.

<sup>72</sup>Sec. 202(3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), struck out “abducted.” and inserted in lieu thereof “abducted, are being wrongfully retained in violation of United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States.”

<sup>73</sup>Sec. 202(4)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), struck out “children” and inserted in lieu thereof “children, access to children, or both.”

<sup>74</sup>Sec. 202(4)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), struck out “United States citizens” and inserted in lieu thereof “applicants in the United States”.

<sup>75</sup>Sec. 202(5) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), added “, including the specific actions taken by the United States chief of mission in the country to which the child is alleged to have been abducted”.

(5) Information on efforts by the Department of State to encourage other countries to become signatories of the Convention.

(6)<sup>76</sup> A list of the countries that are parties to the Convention in which, during the reporting period, parents who have been left-behind<sup>77</sup> in the United States have not been able to secure prompt enforcement of a final return or access order under a Hague proceeding, of a United State custody, access, or visitation order, or of an access or visitation order by authorities in the country concerned, due to the absence of a prompt and effective method for enforcement of civil court orders, the absence of a doctrine of comity, or other factors.

(7)<sup>76</sup> A description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention.

(b) DEFINITION.—In this section, the term “Central Authority for the United States” has the meaning given the term in Article 6 of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

**SEC. 2804. SENSE OF CONGRESS RELATING TO RECOGNITION OF THE ECUMENICAL PATRIARCHATE BY THE GOVERNMENT OF TURKEY.**

It is the sense of Congress that the United States should use its influence with the Government of Turkey to suggest that the Government of Turkey—

(1) recognize the Ecumenical Patriarchate and its non-political, religious mission;

(2) ensure the continued maintenance of the institution’s physical security needs, as provided for under Turkish and international law, including the Treaty of Lausanne, the 1968 Protocol, the Helsinki Final Act (1975), and the Charter of Paris;

(3) provide for the proper protection and safety of the Ecumenical Patriarch and Patriarchate personnel; and

(4) reopen the Ecumenical Patriarchate’s Halki Patriarchal School of Theology.

**SEC. 2805. REPORT ON RELATIONS WITH VIETNAM.**

In order to provide Congress with the necessary information by which to evaluate the relationship between the United States and Vietnam, the Secretary of State shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 180 days thereafter during the period ending September 30, 2001,<sup>78</sup> on the extent to which—

<sup>76</sup>Sec. 202(6) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-420), added paras. (6) and (7).

<sup>77</sup>As enrolled.

<sup>78</sup>Sec. 209(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-423), struck out “September 30, 1999,” and inserted in lieu thereof “September 30, 2001.”

(1) the Government of the Socialist Republic of Vietnam is cooperating with the United States in providing the fullest possible accounting of all unresolved cases of prisoners of war (POWs) or persons missing-in-action (MIAs) through the provision of records and the unilateral and joint recovery and repatriation of American remains;

(2) the Government of the Socialist Republic of Vietnam has made progress toward the release of all political and religious prisoners, including Catholic, Protestant, and Buddhist clergy;

(3) the Government of the Socialist Republic of Vietnam is cooperating with requests by the United States to obtain full and free access to persons of humanitarian interest to the United States for interviews under the Orderly Departure (ODP) and Resettlement Opportunities for Vietnamese Refugees (ROVR) programs, and in providing exit visas for such persons;

(4) the Government of the Socialist Republic of Vietnam has taken vigorous action to end extortion, bribery, and other corrupt practices in connection with such exit visas; and

(5) the Government of the United States is making vigorous efforts to interview and resettle former reeducation camp victims, their immediate families including unmarried sons and daughters, former United States Government employees, and other persons eligible for the ODP program, and to give such persons the full benefit of all applicable United States laws including sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990 (Public Law 101-167).

**SEC. 2806. REPORTS AND POLICY CONCERNING HUMAN RIGHTS VIOLATIONS IN LAOS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees on the allegations of persecution and abuse of the Hmong and Laotian refugees who have returned to Laos. The report shall include the following:

(1) A full investigation, including full documentation of individual cases of persecution, of the Lao Government's treatment of Hmong and Laotian refugees who have returned to Laos.

(2) The steps the Department of State will take to continue to monitor any systematic human rights violations by the Government of Laos.

(3) The actions which the Department of State will take to seek to ensure the cessation of human rights violations.

**SEC. 2807. REPORT ON AN ALLIANCE AGAINST NARCOTICS TRAFFICKING IN THE WESTERN HEMISPHERE.**

(a) SENSE OF CONGRESS ON DISCUSSIONS FOR ALLIANCE.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President should discuss with the democratically-elected governments of the Western Hemisphere, the prospect of forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

(2) CONSULTATIONS.—In the consultations on the prospect of forming an alliance described in paragraph (1), the President

should seek the input of such governments on the possibility of forming one or more structures within the alliance—

(A) to develop a regional, multilateral strategy to address the threat posed to nations in the Western Hemisphere by drug trafficking; and

(B) to establish a new mechanism for improving multilateral coordination of drug interdiction and drug-related law enforcement activities in the Western Hemisphere.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the proposal discussed under subsection (a). The report shall include the following:

(A) An analysis of the reactions of the governments concerned to the proposal.

(B) An assessment of the proposal, including an evaluation of the feasibility and advisability of forming the alliance.

(C) A determination in light of the analysis and assessment whether or not the formation of the alliance is in the national interests of the United States.

(D) If the President determines that the formation of the alliance is in the national interests of the United States, a plan for encouraging and facilitating the formation of the alliance.

(E) If the President determines that the formation of the alliance is not in the national interests of the United States, an alternative proposal to improve significantly efforts against the threats posed by narcotics trafficking in the Western Hemisphere, including an explanation of how the alternative proposal will—

(i) improve upon current cooperation and coordination of counter-drug efforts among nations in the Western Hemisphere;

(ii) provide for the allocation of the resources required to make significant progress in disrupting and disbanding the criminal organizations responsible for the trafficking of illegal drugs in the Western Hemisphere; and

(iii) differ from and improve upon past strategies adopted by the United States Government which have failed to make sufficient progress against the trafficking of illegal drugs in the Western Hemisphere.

(2) UNCLASSIFIED FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

**SEC. 2808. CONGRESSIONAL STATEMENT REGARDING THE ACCESSION OF TAIWAN TO THE WORLD TRADE ORGANIZATION.**

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

(1) The people of the United States and the people of the Republic of China on Taiwan have long enjoyed extensive ties.

(2) Taiwan is currently the 8th largest trading partner of the United States.



(3) The executive branch of Government has committed publicly to support Taiwan's bid to join the World Trade Organization and has declared that the United States will not oppose this bid solely on the grounds that the People's Republic of China, which also seeks membership in the World Trade Organization, is not yet eligible because of its unacceptable trade practices.

(4) The United States and Taiwan have concluded discussions on a variety of outstanding trade issues that remain unresolved with the People's Republic of China and that are necessary for the United States to support Taiwan's membership in the World Trade Organization.

(5) The reversion of control over Hong Kong—a member of the World Trade Organization—to the People's Republic of China in many respects affords to the People's Republic of China the practical benefit of membership in the World Trade Organization for a substantial portion of its trade in goods despite the fact that the trade practices of the People's Republic of China currently fall far short of what the United States expects for membership in the World Trade Organization.

(6) The executive branch of Government has announced its interest in the admission of the People's Republic of China to the World Trade Organization; the fundamental sense of fairness of the people of the United States warrants the United States Government's support for Taiwan's relatively more meritorious application for membership in the World Trade Organization.

(7) Despite having made significant progress in negotiations for its accession to the World Trade Organization, Taiwan has yet to offer acceptable terms of accession in agricultural and certain other market sectors.

(8) It is in the economic interest of United States consumers and exporters for Taiwan to complete those requirements for accession to the World Trade Organization at the earliest possible moment.

(b) CONGRESSIONAL STATEMENT.—The Congress favors public support by officials of the Department of State for the accession of Taiwan to the World Trade Organization.

**SEC. 2809. PROGRAMS OR PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY IN CUBA.**

(a) WITHHOLDING OF UNITED STATES PROPORTIONAL SHARE OF ASSISTANCE.—Section 307(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(c)) is amended—

(1) by striking “The limitations” and inserting “(1) Subject to paragraph (2), the limitations”; and

(2) by adding at the end the following:

“(2)(A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this chapter and available for the International Atomic Energy Agency, the limitations of subsection (a) shall apply to programs or projects of such Agency in Cuba.

“(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear

facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

“(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

“(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

“(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(III) incorporates internationally accepted nuclear safety standards.”

(b)<sup>79</sup> OPPOSITION TO CERTAIN PROGRAMS OR PROJECTS.—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to oppose the following:

(1) Technical assistance programs or projects of the Agency at the Juragua Nuclear Power Plant near Cienfuegos, Cuba, and at the Pedro Pi Nuclear Research Center.

(2) Any other program or project of the Agency in Cuba that is, or could become, a threat to the security of the United States.

(c)<sup>79</sup> REPORTING REQUIREMENTS.—

(1) REQUEST FOR IAEA REPORTS.—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to request the Director-General of the Agency to submit to the United States all reports prepared with respect to all programs or projects of the Agency that are of concern to the United States, including the programs or projects described in subsection (b).

(2) ANNUAL REPORTS TO THE CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and on an annual basis thereafter, the Secretary of State, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to the Congress a report containing a description of all programs or projects of the Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)).

**SEC. 2810. LIMITATION ON ASSISTANCE TO COUNTRIES AIDING CUBA NUCLEAR DEVELOPMENT.**

(a) IN GENERAL.—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this division, is further amended by adding at the end the following:

“(y)(1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this Act or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

<sup>79</sup> 22 U.S.C. 2021 note.

“(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

“(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelco, and Cuba is in compliance with the requirements of either such Treaty;

“(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

“(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.”

(b) EFFECTIVE DATE.—Section 620(y) of the Foreign Assistance Act of 1961, as added by subsection (a), shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.

**SEC. 2811. INTERNATIONAL FUND FOR IRELAND. \* \* \*<sup>80</sup>**

**SEC. 2812. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ.**

(a) ASSISTANCE FOR JUSTICE IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$3,000,000 for assistance to an international commission to establish an international record for the criminal culpability of Saddam Hussein and other Iraqi officials and for an international criminal tribunal established for the purpose of indicting, prosecuting, and punishing Saddam Hussein and other Iraqi officials responsible for crimes against humanity, genocide, and other violations of international law.

(b) ASSISTANCE TO THE DEMOCRATIC OPPOSITION IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$15,000,000 to provide support for democratic opposition forces in Iraq, of which—

(1) not more than \$10,000,000 shall be for assistance to the democratic opposition, including leadership organization, training political cadre, maintaining offices, disseminating information, and developing and implementing agreements among opposition elements; and

(2) not more than \$5,000,000 of the funds made available under this subsection shall be available only for grants to RFE/RL, Incorporated, for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iraqi people in the Arabic language, such broadcasts to be designated as “Radio Free Iraq”.

(c) ASSISTANCE FOR HUMANITARIAN RELIEF AND RECONSTRUCTION.—There are authorized to be appropriated for fiscal year 1998 \$20,000,000 for the relief, rehabilitation, and reconstruction of people living in Iraq, and communities located in Iraq, who are not under the control of the Saddam Hussein regime.

<sup>80</sup>Sec. 2811 amended the Anglo-Irish Agreement Support Act of 1986 in several sections. See *Legislation on Foreign Relations Through 2005*, vol. I-B.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section shall be provided in addition to amounts otherwise made available and shall remain available until expended.

(e) NOTIFICATION.—All assistance provided pursuant to this section shall be notified to Congress in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(f) RELATION TO OTHER LAWS.—Funds made available to carry out the provisions of this section may be made available notwithstanding any other provision of law.

(g) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State and the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing—

(1) the costs, implementation, and plans for the establishment of an international war crimes tribunal described in subsection (a);

(2) the establishment of a political assistance program, and the surrogate broadcasting service, as described in subsection (b); and

(3) the humanitarian assistance program described in subsection (c).

**SEC. 2813. DEVELOPMENT OF DEMOCRACY IN THE REPUBLIC OF SERBIA.**

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

(1) The United States stands as the beacon of democracy and freedom in the world.

(2) A stable and democratic Republic of Serbia is important to the interests of the United States, the international community, and to peace in the Balkans.

(3) Democratic forces in the Republic of Serbia are beginning to emerge, notwithstanding the efforts of Europe's longest-standing communist dictator, Slobodan Milosevic.

(4) The Serbian authorities have sought to continue to hinder the growth of free and independent news media in the Republic of Serbia, in particular the broadcast news media, and have harassed journalists performing their professional duties.

(5) Under Slobodan Milosevic, the political opposition in Serbia has been denied free, fair, and equal opportunity to participate in the democratic process.

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

(1) the United States, the international community, non-governmental organizations, and the private sector should continue to promote the building of democratic institutions and civic society in the Republic of Serbia, help strengthen the independent news media, and press for the Government of the Republic of Serbia to respect the rule of law; and

(2) the normalization of relations between the “Federal Republic of Yugoslavia” (Serbia and Montenegro) and the United States requires, among other things, that President Milosevic and the leadership of Serbia—

(A) promote the building of democratic institutions, including strengthening the independent news media and respecting the rule of law;

(B) promote the respect for human rights throughout the “Federal Republic of Yugoslavia” (Serbia and Montenegro); and

(C) promote and encourage free, fair, and equal conditions for the democratic opposition in Serbia.

## **I. Foreign Relations Authorization Act, Fiscal Years 1994 and 1995**

Public Law 103-236 [H.R. 2333], 108 Stat. 382, approved April 30, 1994; as amended by Public Law 103-317 [Department of State Appropriations Act, 1995; H.R. 4603], 108 Stat. 1724 at 1760, approved August 26, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 103-337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104-17 [S. 962], 109 Stat. 191, approved July 2, 1995; Public Law 104-22 [H.R. 2161], 109 Stat. 260, approved August 14, 1995; Public Law 104-30 [H.R. 2404], 109 Stat. 277, approved September 30, 1995; Public Law 104-47 [H.R. 2589], 109 Stat. 423, approved November 13, 1995; Public Law 104-89 [H.R. 2808], 109 Stat. 960, approved January 4, 1996; Public Law 104-164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996; Public Law 104-208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681-802, approved October 21, 1998; Public Law 105-277 [Foreign Affairs Reform and Restructuring Act of 1998; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1536, approved November 29, 1999; Public Law 107-173 [Enhanced Border Security and Visa Entry Reform Act of 2002; H.R. 3525], 116 Stat. 543, approved May 14, 2002; Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and Public Law 108-447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

AN ACT To authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

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

### **SECTION 1.<sup>1</sup> SHORT TITLE.**

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

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<sup>1</sup> 22 U.S.C. 2651 note.

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## TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

## PART A—AUTHORIZATION OF APPROPRIATIONS

**SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.**

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1)<sup>3</sup> DIPLOMATIC AND CONSULAR PROGRAMS.—For “Diplomatic and Consular Programs”, of the Department of State

<sup>3</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1185), provided the following:

## “DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; \$1,704,589,000, and in addition not to exceed \$665,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717, and in addition not to exceed \$1,185,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553, as amended by section 120 of Public Law 101-246), and in addition not to exceed \$15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)) and for expenses of general administration: *Provided*, That notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, ‘Diplomatic and Consular Programs’ and ‘Salaries and Expenses’ under the heading ‘Administration of Foreign Affairs’ may be transferred between such appropriation accounts: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1760), provided the following:

## “DIPLOMATIC AND CONSULAR PROGRAMS

“For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United

\$1,704,589,000 for the fiscal year 1994 and \$1,781,139,000 for the fiscal year 1995.

(2)<sup>4</sup> SALARIES AND EXPENSES.—For “Salaries and Expenses”, of the Department of State \$396,722,000 for the fiscal year 1994 and \$391,373,000 for the fiscal year 1995.

(3)<sup>5</sup> ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For “Acquisition and Maintenance of Buildings Abroad”, \$381,481,000 for the fiscal year 1994 and \$309,760,000 for the fiscal year 1995.

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States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration \$1,731,416,000: *Provided*, That hereafter all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended: *Provided further*, That hereafter all receipts received from an increase in the charge for Immigrant Visas in effect on September 30, 1994, caused by processing an applicant's fingerprints, shall be deposited in this account as an offsetting collection and shall remain available until expended. Of the funds appropriated under this heading: not to exceed \$4,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation and environmental and other scientific issues; not to exceed \$600,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and not to exceed \$300,000 shall be available to carry out activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated under this heading shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103-236.

“Of the funds provided under this heading, \$28,356,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and \$15,000,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service (DTS), except that such latter amount shall not be available for obligation until the expiration of the 15-day period beginning on the date on which the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit the DTS planning report required by section 507.

“In addition, not to exceed \$700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed \$1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553, as amended by section 120 of Public Law 101-246); and in addition not to exceed \$15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

“Notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, ‘Diplomatic and Consular Programs’ and ‘Salaries and Expenses’ under the heading ‘Administration of Foreign Affairs’ may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.”

<sup>4</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1185), provided \$396,722,000, for “Salaries and Expenses” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$385,000,000 for “Salaries and Expenses”.

<sup>5</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided “\$410,000,000, of which \$10,000,000 is for relocation and renovation costs necessary to facilitate the consolidation of overseas financial and administrative activities in the United States, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.”, for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), made available \$421,760,000, “\* \* \* *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. Of the funds made available in this paragraph not to exceed \$117,864,000 shall be available for Maintenance of Buildings and Facility Rehabilitation.”

(4)<sup>6</sup> REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$4,780,000 for the fiscal year 1994 and \$4,780,000 for the fiscal year 1995.

(5)<sup>7</sup> EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$7,805,000 for the fiscal 1994 and \$6,500,000 for the fiscal year 1995.

(6)<sup>8</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$23,469,000 for the fiscal year 1994 and \$23,798,000 for the fiscal year 1995.

(7)<sup>9</sup> PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$15,165,000 for the fiscal year 1994 and \$15,465,000 for the fiscal year 1995.

(8)<sup>10</sup> PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$10,551,000 for the fiscal year 1994 and \$10,079,000 for the fiscal year 1995.

(9)<sup>11</sup> REPATRIATION LOANS.—For “Repatriation Loans”, \$776,000 for the fiscal year 1994 and \$776,000 for the fiscal year 1995, for administrative expenses.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for “Salaries and Expenses” under subsection (a)(2) \$500,000 is author-

<sup>6</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$4,780,000 for “Representation allowances” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$4,780,000 for “Representation allowances”.

<sup>7</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$7,805,000 for “Emergencies in the Diplomatic and Consular Service”, for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided \$6,500,000 for “Emergencies in the Diplomatic and Consular Service”.

<sup>8</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1185), provided \$23,469,000, for the Office of Inspector General for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$23,850,000 for the Office of Inspector General.

<sup>9</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$15,165,000 for “Payment to the American Institute in Taiwan” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided \$15,465,000 for “Payment to the American Institute in Taiwan”.

<sup>10</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided \$10,551,000 for “Protection of Foreign Missions and Officials” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1761), provided \$9,579,000 for “Protection of Foreign Missions and Officials”, “\* \* \* *Provided*, That none of the funds appropriated in this paragraph shall be available to carry out section 101(b)(4)(A) of Public Law 103-236: *Provided further*, That of the funds appropriated in this paragraph, not to exceed \$500,000 shall be available to carry out section 101(b)(4)(B) of Public Law 103-236.”

<sup>11</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1186), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$593,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$183,000, which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided the same amount and terms as fiscal year 1994.

ized to be appropriated for the fiscal year 1994 and \$500,000 for the fiscal year 1995 for the Department of State for the recruitment of Hispanic American students from United States institutions of higher education with a high percentage enrollment of Hispanic Americans and for the training of Hispanic Americans for careers in the Foreign Service and in international affairs.

(2) Of the amounts authorized to be appropriated for “Diplomatic and Consular Programs” under subsection (a)(1)—

(A) \$5,000,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues;

(B) \$11,500,000 is authorized to be available for fiscal year 1994 and \$11,900,000 is authorized to be available for fiscal year 1995, only for administrative expenses of the bureau charged with carrying out the purposes of the Migration and Refugee Assistance Act of 1962;

(C) \$700,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy established under title IX of this Act and such amounts under this subparagraph are authorized to remain available until expended; and

(D) \$800,000 is authorized to be appropriated for<sup>12</sup> fiscal years 1994 and 1995 to carry out the activities of the Office of Cambodian Genocide Investigations established under part D of title V<sup>13</sup> of this Act.

(E) \$2,000,000 is authorized to be appropriated for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research.

(3) Of the amounts authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” under subsection (a)(3), \$95,904,000 is authorized to be appropriated for the fiscal year 1994 and \$114,825,000 is authorized to be appropriated for the fiscal year 1995 for Maintenance of Buildings and Facility Rehabilitation.

(4) Of the amounts authorized to be appropriated for “Protection of Foreign Missions and Officials” in subsection (a)(8)—

(A) \$940,000 is authorized to be available to reimburse the City of Seattle and the State of Washington for security costs associated with the Asian Pacific Economic Cooperation conference held in Seattle in November 1993, on a one-time-only basis, and for purposes of obligation and expenditure of amounts under this subparagraph under Public Law 103-121 as reimbursement for extraordinary protective services under section 208 of title 3, United States Code, the limitations of section 202(10) of title 3,

<sup>12</sup>Sec. 1(t) of Public Law 103-415 (108 Stat. 4302) struck out “\$400,000 is authorized to be appropriated for each of the” and inserted in lieu thereof “\$800,000 is authorized to be appropriated for”.

<sup>13</sup>Sec. 1(x) of Public Law 103-415 (108 Stat. 4302) struck out “title 5” and inserted in lieu thereof “part D of title V”.

United States Code (concerning 20 or more consulates), shall not apply; and

(B) \$1,000,000 is authorized to be available for fiscal year 1995 to reimburse State and local government agencies for security costs associated with the Western Hemisphere summit scheduled to be held in Miami, Florida in December 1994.

(c)<sup>14</sup> REPEAL.—Effective October 1, 1995, section 401(a)(3) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) is repealed.

**SEC. 102. INTERNATIONAL ORGANIZATIONS, PROGRAMS, AND CONFERENCES.**

(a)<sup>15</sup> ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated for “Contributions to International Organizations”, \$865,885,000 for the fiscal year 1994 and \$873,222,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

<sup>14</sup> 22 U.S.C. 4851 note.

<sup>15</sup> The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1187), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$860,885,000: *Provided*, That any payment of arrearages made from these funds shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations, ten percent of said assessment shall be available for obligation only upon a certification to the Congress by the Secretary of State that the United Nations has established an independent office with responsibilities and powers substantially similar to offices of Inspectors General authorized by the Inspector General Act of 1978, as amended: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1762), provided the following:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$877,222,000, of which not to exceed \$4,000,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure pursuant to section 401(a)(2) of Public Law 103-236 until a certification is made under section 401(b) of said Act: *Provided further*, that certification under section 401(b) of Public Law 103-236 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103-236 at least 15 days in advance of the proposed certification: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.”



(b)<sup>16</sup> ASSESSED CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated for “Contributions for International Peacekeeping Activities”, \$401,607,000 for the fiscal year 1994 and \$510,204,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) PEACEKEEPING OPERATIONS.—There are authorized to be appropriated for “Peacekeeping Operations”, \$75,623,000 for the fiscal year 1994 and \$75,000,000 for the fiscal year 1995 for the Department of State to carry out section 551 of Public Law 87-195.

(d) SUPPLEMENTAL PEACEKEEPING.—In addition to amounts authorized to be appropriated for such purpose by subsection (b), there are authorized to be appropriated \$670,000,000 for “Assessed Contributions for International Peacekeeping Activities” for the period beginning on the date of enactment of this Act and ending September 30, 1995.

(e)<sup>17</sup> INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,000,000 for the fiscal year 1994 and \$6,000,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect

<sup>16</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1187), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, \$401,607,000: *Provided*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided the following:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$533,304,000, of which not to exceed \$288,000,000 is available to pay arrearages accumulated in fiscal year 1994 and not to exceed \$23,092,000 is available to pay other outstanding arrearages: *Provided*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.”

<sup>17</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1187), provided the following:

“INTERNATIONAL CONFERENCES AND CONTINGENCIES

“For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672, and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, \$6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed \$200,000 may be expended for representation as authorized by 22 U.S.C. 4085.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided the same terms and amounts for fiscal year 1995.

to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(f) FOREIGN CURRENCY EXCHANGE RATES.—In addition to amounts otherwise authorized to be appropriated by subsections (a) and (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 and 1995 to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g)<sup>18</sup> WITHHOLDING OF FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated for the United Nations and its affiliated agencies in<sup>19</sup> “Contributions for International Organizations” shall be reduced in the amount of \$118,875,000 for fiscal year<sup>20</sup> 1995, and for each year thereafter, until<sup>21</sup> the President certifies to the Speaker of the House of Representatives and the President of the Senate that no United Nations<sup>22</sup> agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones<sup>23</sup> or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization.

#### SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)<sup>24</sup> for “Salaries and Expenses” \$11,200,000 for the fiscal year 1994 and \$15,358,000 for the fiscal year 1995; and

(B)<sup>25</sup> for “Construction” \$14,400,000 for the fiscal year 1994 and \$10,398,000 for the fiscal year 1995.

<sup>18</sup> 22 U.S.C. 287e note. Functions vested in the President in sec. 107(g) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Assistant Secretary for International Organization Affairs (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>19</sup> Sec. 1(o)(1) of Public Law 103-415 (108 Stat. 4301) inserted “the United Nations and its affiliated agencies in” after “appropriated for”.

<sup>20</sup> Sec. 1(o)(2) of Public Law 103-415 (108 Stat. 4301) struck out “each of the fiscal years 1994 and” and inserted in lieu thereof “fiscal year”.

<sup>21</sup> Sec. 1(o)(3) of Public Law 103-415 (108 Stat. 4301) struck out “unless” and inserted in lieu thereof “until”.

<sup>22</sup> Sec. 1(o)(4) of Public Law 103-415 (108 Stat. 4301) struck out “States” and inserted in lieu thereof “Nations”.

<sup>23</sup> Sec. 1(o)(5) of Public Law 103-415 (108 Stat. 4301) struck out “promotes, condones,” and inserted in lieu thereof “promotes and condones”.

<sup>24</sup> The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$11,200,00 for “Salaries and Expenses” for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided \$12,858,000 for “Salaries and Expenses”.

<sup>25</sup> The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$14,400,000 for “Construction” for fiscal year 1994.

(2)<sup>26</sup> INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$740,000 for the fiscal year 1994 and \$740,000 for the fiscal year 1995.

(3)<sup>26</sup> INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,550,000 for the fiscal year 1994 and \$3,550,000 for the fiscal year 1995.

(4)<sup>27</sup> INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$16,200,000 for the fiscal year 1994 and \$14,669,000 for the fiscal year 1995.

#### SEC. 104.<sup>28</sup> MIGRATION AND REFUGEE ASSISTANCE.

##### (a) AUTHORIZATION OF APPROPRIATIONS.—

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided \$6,644,000 for “Construction”.

<sup>26</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided the following:

###### “AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,290,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1763), provided the following:

###### “AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182; \$5,800,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.”

<sup>27</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided the following:

###### “INTERNATIONAL FISHERIES COMMISSIONS

“For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$16,200,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1764), provided \$14,669,000 for international fisheries commissions.

<sup>28</sup>Appropriations for Migration and Refugee Assistance administered by the Department of State are provided in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 1994 appropriations levels and conditions were provided in title II of Public Law 103-87 (107 Stat. 940, 941):

###### “MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$670,688,000: *Provided*, That not less than \$80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not more than \$11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

###### “UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$49,261,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.”

For fiscal year 1995, title II of Public Law 103-306 (108 Stat. 1618, 1619) provided the following:

Continued

(1) There are authorized to be appropriated for "Migration and Refugee Assistance" for authorized activities, \$589,188,000 for the fiscal year 1994 and \$592,000,000 for the fiscal year 1995.

(2) There are authorized to be appropriated \$80,000,000 for the fiscal year 1994 and \$80,000,000 for the fiscal year 1995 for assistance for refugees resettling in Israel.

(3) There are authorized to be appropriated \$1,500,000 for the fiscal year 1994 and \$1,500,000 for the fiscal year 1995 for humanitarian assistance, including but not limited to, food, medicine, clothing, and medical and vocational training to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to be available until expended.

#### SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1)<sup>29</sup> UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For "United States Bilateral Science and Technology Agreements", \$4,275,000 for the fiscal year 1994.

(2)<sup>30</sup> ASIA FOUNDATION.—For "Asia Foundation", \$16,000,000 for the fiscal year 1994 and \$16,068,000 for the fiscal year 1995.

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#### "MIGRATION AND REFUGEE ASSISTANCE

"For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$671,000,000: *Provided*, That not more than \$11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That not less than \$80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

\* \* \* \* \*

#### "UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

"For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose."

<sup>29</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$4,275,000 for fiscal year 1994.

<sup>30</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1188), provided \$16,000,000 for the Asia Foundation, for fiscal year 1994.

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1764), provided \$10,000,000 for the Asia Foundation.

**SEC. 106. UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.**

(a)<sup>31</sup> **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act—

(1) \$53,500,000 for the fiscal year 1994 and \$59,292,000 for the fiscal year 1995; and

(2) such sums as may be necessary for each of the fiscal years 1994 and 1995 for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

(b)<sup>32</sup> \* \* \*

**PART B—AUTHORITIES AND ACTIVITIES****SEC. 121. AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.**

(a) **END FISCAL YEAR 1994 LEVELS.**—The number of members of the Foreign Service authorized to be employed as of September 30, 1994—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 820 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 1,200, of whom not more than 175 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 250 shall be members of the Senior Foreign Service.

(b) **END FISCAL YEAR 1995 LEVELS.**—The number of members of the Foreign Service authorized to be employed as of September 30, 1995—

<sup>31</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 107 Stat. 1189), provided the following:

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses, not otherwise provided, for arms control and disarmament activities, including not to exceed \$100,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), \$53,500,000, of which not less than \$9,500,000 is available until expended only for payment of United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons.”

For fiscal year 1995, the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1764), provided the following:

“ARMS CONTROL AND DISARMAMENT AGENCY

“ARMS CONTROL AND DISARMAMENT ACTIVITIES

“For necessary expenses not otherwise provided, for arms control and disarmament activities, \$54,500,000, of which not less than \$9,500,000 is available until expended only for activities related to the implementation of the Chemical Weapons Convention, and of which not to exceed \$100,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.): *Provided*, That of the budgetary resources available in fiscal year 1995 in this account, \$122,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, ‘procurement’ includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).”

<sup>32</sup>Subsec. (b) amended sec. 49 of the Arms Control and Disarmament Act (22 U.S.C. 2589).

(1) for the Department of State, shall not exceed 9,100, of whom not more than 770 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, not to exceed 1,200, of whom not more than 165 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 240 shall be members of the Senior Foreign Service.

(c) DEFINITION.—For the purposes of this section, the term “members of the Foreign Service” is used within the meaning of such term under section 103 of the Foreign Service Act of 1980 (22 U.S.C 3903), except that such term does not include—

(1) members of the Service under paragraphs (6) and (7) of such section;

(2) members of the Service serving under temporary resident appointments abroad;

(3) members of the Service employed on less than a full-time basis;

(4) members of the Service subject to involuntary separation in cases in which such separation has been suspended pursuant to section 1106(8) of the Foreign Service Act of 1980; and

(5) members of the Service serving under non-career limited appointments.

(d)<sup>33</sup> WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of State, the Director of the United States Information Agency, or the Administrator of the Agency for International Development<sup>34</sup> may waive any limitation under subsection (a) or (b) which applies to the Department of State, the United States Information Agency, or the Agency for International Development,<sup>35</sup> as the case may be, to the extent that such waiver is necessary to carry on the foreign affairs functions of the United States.

(2) Not less than 15 days before any agency head implements a waiver under paragraph (1), such agency head shall notify the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such notice shall include an explanation of the circumstances and necessity for such waiver.

\* \* \* \* \*

<sup>33</sup>The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

<sup>34</sup>Sec. 1(a)(1) of Public Law 103-415 (108 Stat. 4299) struck out “and the Director of the United States Information Agency” and inserted in lieu thereof “, the Director of the United States Information Agency, or the Administrator of the Agency for International Development”.

<sup>35</sup>Sec. 1(a)(2) of Public Law 103-415 (108 Stat. 4299) struck out “or the United States Information Agency” and inserted in lieu thereof “, the United States Information Agency, or the Agency for International Development”.

<sup>36</sup>Sec. 127(a) amended “An Act to regulate the issue and validity of passports and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a); see page 1214. Sec. 127(b) amended “An Act to provide for the reorganization of the consular service of the United States”, approved April 5, 1906 (22 U.S.C. 4221).

**SEC. 127.<sup>36</sup> CONSULAR AUTHORITIES. \* \* \*****SEC. 128.<sup>37</sup> REPORT ON CONSOLIDATION OF ADMINISTRATIVE OPERATIONS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of State, jointly with the Director of the United States Information Agency, the Director of the Arms Control and Disarmament Agency, and the Administrator of the Agency for International Development) shall submit, to the Committee on Foreign Affairs<sup>38</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate, a report concerning the feasibility of consolidating domestic administrative operations for the Department of State, the Agency for International Development, the Arms Control and Disarmament Agency and the United States Information Agency. Such report shall include specific recommendations for implementation.

**SEC. 129.<sup>39</sup> FACILITATING ACCESS TO THE DEPARTMENT OF STATE BUILDING.**

(a) PROCEDURES TO FACILITATE ACCESS.—The Department of State shall maintain procedures to ensure that the members and staff of the congressional committees of jurisdiction are granted easy access to the Department of State in the conduct of their duties.

(b) PARKING.—The Department of State shall also make available adequate parking for members and staff of the congressional committees of jurisdiction in order to facilitate attendance of meetings at the Department of State.

**SEC. 130. REPORT ON SAFETY AND SECURITY OF UNITED STATES PERSONNEL IN SARAJEVO.**

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Affairs<sup>38</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to enhance the security and physical safety of United States diplomatic personnel in Sarajevo, Bosnia-Herzegovina.

**SEC. 131. PASSPORT SECURITY.**

(a) SENSE OF CONGRESS.—The Congress strongly urges the Secretary of State to ensure that any new passport issuances should, to the maximum extent practicable—

(1) be secure against counterfeiting, alteration, duplication, or simulation;

(2) be easily verifiable with appropriate inspection by public officials and private and commercial personnel; and

(3) contain only United States-sourced materials and technology.

(b) REPORT TO CONGRESS.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the

<sup>37</sup>The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

<sup>38</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>39</sup>22 U.S.C. 2680-2.

Committee on Foreign Affairs<sup>38</sup> of the House of Representatives detailing actions taken by the Department of State to accomplish the goals set forth in subsection (a).

**SEC. 132.<sup>40</sup> RECORD OF PLACE OF BIRTH FOR TAIWANESE-AMERICANS.**

For purposes of the registration of birth or certification of nationality or issuance of a passport<sup>41</sup> of a United States citizen born in Taiwan, the Secretary of State shall permit the place of birth to be recorded as Taiwan.

**SEC. 133. TERRORISM REWARDS AND REPORTS.**

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

(1)<sup>42</sup> \* \* \*

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

(b)<sup>43</sup> ANNUAL REPORTS ON TERRORISM.—\* \* \*

**SEC. 134.<sup>44</sup> PROPERTY AGREEMENTS.**

Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act, 1926<sup>45</sup> (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations.

**SEC. 135.<sup>46</sup> CAPITAL INVESTMENT FUND.**

(a) ESTABLISHMENT.—There is established within the Department of State a Capital Investment Fund to provide for the procurement and enhancement<sup>47</sup> of information technology and other related capital investments for the Department of State and to ensure the efficient management, coordination, operation, and utilization of such resources.

(b) FUNDING.—Funds otherwise available for the purposes of subsection (a) may be deposited in such Fund.

(c) AVAILABILITY.—Amounts deposited into the Fund shall<sup>48</sup> remain available until expended.

(d) EXPENDITURES FROM THE FUND.—Amounts deposited in the Fund shall be available for purposes of subsection (a).<sup>49</sup>

<sup>40</sup>22 U.S.C. 2705 note.

<sup>41</sup>Sec. 1(r) of Public Law 103-415 (108 Stat. 4302) inserted “or issuance of a passport” after “nationality”.

<sup>42</sup>Para. (1) amended sec. 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708).

<sup>43</sup>Subsec. (b) amended sec. 140(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f); and sec. 304(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

<sup>44</sup>22 U.S.C. 292 note.

<sup>45</sup>Sec. 1(z) of Public Law 103-415 (108 Stat. 4302) inserted “, 1926” after “Act”.

<sup>46</sup>22 U.S.C. 2684a.

<sup>47</sup>Sec. 2209(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), inserted “and enhancement” after “procurement”.

<sup>48</sup>Sec. 2209(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), struck out “are authorized to” and inserted in lieu thereof “shall”.

<sup>49</sup>Sec. 2209(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), struck out “for expenditure to procure capital equipment and information technology” and inserted in lieu thereof “for purposes of subsection (a)”.



(e)<sup>50</sup> REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

\* \* \* \* \*

#### SEC. 140.<sup>51</sup> VISAS.

(a)<sup>52</sup> SURCHARGE FOR PROCESSING CERTAIN VISAS.—

(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

(2) Fees collected under the authority of paragraph (1)<sup>53</sup> shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. Such fees shall remain available for obligation until expended.

(3)<sup>54</sup> For the fiscal year 2003, any amount that exceeds \$460,000,000 may be made available only if a notification is

<sup>50</sup> Sec. 2209(4) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-811), amended and restated subsec. (e). It formerly read as follows:

“(e) REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.”

The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2320), provided the following:

#### “CAPITAL INVESTMENT FUND

“For necessary expenses of the Capital Investment Fund, \$58,895,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.”

<sup>51</sup> Authority in this section delegated to the Secretary of State is further delegated to the Under Secretary of State for Management, pursuant to Public Notice 2003, Delegation of Authority No. 212 (59 F.R. 26332; May 19, 1994).

The paragraph pertaining to “Diplomatic and Consular Programs” in the Department of State and Related Agencies Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106-113; 113 Stat. 1501A-38), provided the following:

“\* \* \* *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, fees may be collected during fiscal years 2000 and 2001, under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 2000 and 2001 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended”.

<sup>52</sup> 8 U.S.C. 1351 note.

<sup>53</sup> Sec. 1(bb) of Public Law 103-415 (108 Stat. 4302) struck out “subsection (a)” and inserted in lieu thereof “paragraph (1)”.

<sup>54</sup> Sec. 234 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1373), added para. (3).

Previously, sec. 103(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 547) struck out a para. (3), which had read, as amended by sec. 231(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-425), as follows:

“(3) For each of the fiscal years 2000, 2001, and 2002, any amount collected under paragraph (1) that exceeds \$316,715,000 for fiscal year 2000, \$316,715,000 for fiscal year 2001, and \$316,715,000 for fiscal year 2002 may be made available only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956.”

Sec. 231(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public

Continued

submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956.

(b)<sup>55</sup> AUTOMATED VISA LOOKOUT SYSTEM.—Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities.

(c)<sup>55</sup> PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.—

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

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

(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious injury, loss of life, or significant destruction of property<sup>56</sup> in the United States, the Secretary of State shall convene an Accountability Review Board under the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(d)<sup>55</sup> ACCESS TO THE INTERSTATE IDENTIFICATION INDEX.—

(1) Subject to paragraphs (2) and (3), the Department of State Consolidated Immigrant Visa Processing Center shall have on-line access, without payment of any fee or charge, to the Interstate Identification Index of the National Crime Information Center solely for the purpose of determining whether a visa applicant has a criminal history record indexed in such Index. Such access does not entitle the Department of State to

Law 106-113; 113 Stat. 1501A-425), also struck out paras. (4) and (5), which had read as follows:

<sup>54</sup>(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

<sup>55</sup>(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States."

<sup>55</sup> 8 U.S.C. 1182 note.

<sup>56</sup>Sec. 1(d) of Public Law 103-415 (108 Stat. 4299) struck out "serious loss of life or property" and inserted in lieu thereof "serious injury, loss of life, or significant destruction of property".

obtain the full content of automated records through the Interstate Identification Index. To obtain the full content of a criminal history record, the Department shall submit a separate request to the Identification Records Section of the Federal Bureau of Investigation, and shall pay the appropriate fee as provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162).

(2) The Department of State shall be responsible for all one-time start-up and recurring incremental non-personnel costs of establishing and maintaining the access authorized in paragraph (1).

(3) The individual primarily responsible for the day-to-day implementation of paragraph (1) shall be an employee of the Federal Bureau of Investigation selected by the Department of State, and detailed to the Department on a fully reimbursable basis.

(e)<sup>57</sup> FINGERPRINT CHECKS.—

(1) Effective not later than March 31, 1995, the Secretary of State shall in the ten countries with the highest volume of immigrant visa issuance for the most recent fiscal year for which data are available require the fingerprinting of applicants over sixteen years of age for immigrant visas. The Department of State shall submit records of such fingerprints to the Federal Bureau of Investigation in order to ascertain whether such applicants previously have been convicted of a felony under State or Federal law in the United States, and shall pay all appropriate fees.

(2) The Secretary shall prescribe and publish such regulations as may be necessary to implement the requirements of this subsection, and to avoid undue processing costs and delays for eligible immigrants and the United States Government.

(f)<sup>57, 58</sup> Not later than December 31, 1996, the Secretary of State and the Director of the Federal Bureau of Investigation shall jointly submit to the Committee on Foreign Affairs<sup>59</sup> and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report on the effectiveness of the procedures authorized in subsections (d) and (e).

(g)<sup>57, 58</sup> Subsections (d) and (e) shall<sup>60</sup> cease to have effect after December 31, 1997.

\* \* \* \* \*

<sup>57</sup>Sec. 505 of the Department of State Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1765), inserted subsec. (e) after subsec. (d)(3), redesignated paras. (4) and (5) of subsec. (d) as subsections (f) and (g), and further amended those paras. by striking out "procedure" and inserting in lieu thereof "procedures", and by striking out "this subsection" and inserting in lieu thereof "subsections (d) and (e)".

<sup>58</sup>Sec. 671(g)(2)(A) of Public Law 104-208 (110 Stat. 3009) amended the indentation of subsections (f) and (g).

<sup>59</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>60</sup>Sec. 671(g)(2)(B) of Public Law 104-208 (110 Stat. 3009) struck out "(g)" and all that follows through "shall", and inserted in lieu thereof "(g) Subsections (d) and (e) shall". However, the subsection remains unchanged, as it read as such after being amended by Public Law 103-317.

**SEC. 142. WOMEN'S HUMAN RIGHTS PROTECTION.**

(a) SENSE OF CONGRESS.—The Congress makes the following declarations:

(1) The State Department should designate a senior advisor to the appropriate Undersecretary to promote international women's human rights within the overall human rights policy of the United States Government.

(2) The purpose of assigning a special assistant on women's human rights issues is not<sup>61</sup> to segregate such issues, but rather to assure that they are considered along with other human rights issues in the development of United States foreign policy.

(3) A specifically designated special assistant is necessary because,<sup>61</sup> within the human rights field and the foreign policy establishment, the issues of gender-based discrimination and violence against women have long been ignored or made invisible.

(4) The Congress believes that abuses against women would have greater visibility and protection of women's human rights would improve if the advocate were responsible for integrating women's human rights issues into United States foreign policy, bilateral assistance, multilateral diplomacy, trade policy, and democracy promotion.

(b)<sup>62</sup> CONGRESSIONAL NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall notify the Congress of the steps taken to fulfill the objectives detailed in subsection (a).

**PART C—DEPARTMENT OF STATE ORGANIZATION****SEC. 161. ORGANIZATION OF THE DEPARTMENT OF STATE.**

(a)<sup>63</sup> \* \* \*

(b)<sup>64</sup> APPLICATION.—The amendments made by this section and section 162<sup>65</sup> shall apply with respect to officials, offices, and bureaus of the Department of State when executive orders, regulations, or departmental directives implementing such amendments become effective, or 90 days after the date of enactment of this Act, whichever comes earlier.

(c)<sup>64, 66</sup> TRANSITION.—Any officer of the Department of State holding office on the date of the enactment of this Act shall not be required to be reappointed to any other office, at the Department of State at the same level performing similar functions, as determined by the President, by reason of the enactment of the amendments made by this section and section 162.

<sup>61</sup>Sec. 1(e) of Public Law 103-415 (108 Stat. 4299) struck out a comma after "not" in para. (2), and in para. (3) inserted a comma after "because".

<sup>62</sup>The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Global Affairs (Department of State Public Notice 2086; sec. 5 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>63</sup>Sec. 161(a) amended and restated sec. 1 of the State Department Basic Authorities Act (22 U.S.C. 2651a).

<sup>64</sup>22 U.S.C. 2651a note.

<sup>65</sup>Sec. 1(f)(2) of Public Law 103-415 (108 Stat. 4300) struck out "133" and inserted in lieu thereof "162".

<sup>66</sup>Functions vested in the President in sec. 161(c) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

(d)<sup>64</sup> REFERENCES IN OTHER ACTS.—Except as specifically provided in this Act, or the amendments made by this Act, a reference in any other provision of law to an official or office of the Department of State affected by the amendment made by subsection (a) (other than the Inspector General of the Department of State and the Chief Financial Officer of the Department of State) shall be deemed to be a reference to the Secretary of State or the Department of State, as may be appropriate.

(e)<sup>67</sup> \* \* \* [Repealed—1998]

(f)<sup>68</sup> \* \* \* [Repealed—1998]

#### SEC. 162. TECHNICAL AND CONFORMING AMENDMENTS.

(a)–(j) \* \* \*

(k) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—(1) Section 35 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2707) is amended—\* \* \*

(iv) by inserting before paragraph (2) (as so redesignated) the following:

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

(v)–(vi) \* \* \*

<sup>67</sup>Sec. 2301(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-824), struck out subsec. (e). Subsec. 2301(a) of that Act amended sec. 1 of the State Department Basic Authorities Act of 1956 to provide for the “Coordinator for Counterterrorism”. Subsec. (e) formerly read as follows:

“(e) OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM.—Notwithstanding any other provision of this section, for not less than one year after the date of the enactment of this Act there shall be in the Department of State an Office of the Coordinator for Counterterrorism which shall be headed by a Coordinator for Counterterrorism. The office shall have the same responsibilities and functions as the Office of the Coordinator for Counterterrorism at the Department of State had as of January 20, 1993.”

<sup>68</sup>Sec. 2302 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-825), struck out subsec. (f), which, amended, had formerly read as follows:

“(f) DEPUTY ASSISTANT SECRETARY FOR BURDENSARING.—

“(1) ESTABLISHMENT.—None of the funds authorized to be appropriated by this Act shall be available for obligation or expenditure during fiscal year 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State the position of Deputy Assistant Secretary for Burdensharing, the incumbent of which shall be an official of ambassadorial rank, appointed by the President by and with the advice and consent of the Senate.

“(2) RESPONSIBILITIES.—The Deputy Assistant Secretary for Burdensharing shall perform such duties and exercise such authorities as the Secretary of State shall prescribe, including the following:

“(A) The principal duty of negotiating increased in-kind and financial support (including increased payment of basing costs) by countries allied to the United States for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries.

“(B) In consultation with the Department of Defense, assist in negotiations with the host governments for the recoupment of funds associated with financial commitments from such countries for paying the United States the residual value of United States facilities in such countries that the United States relinquishes to such countries upon the termination of the use of such facilities by the United States.”.

(2)<sup>69</sup> Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.

(3) \* \* \*

(4) \* \* \*

(m)-(q) \* \* \* 70

\* \* \* \* \*

## PART D—PERSONNEL

### SUBPART 1—GENERAL PROVISIONS

\* \* \* \* \*

#### SEC. 172. WAIVER OF LIMITATION FOR CERTAIN CLAIMS FOR PERSONAL PROPERTY DAMAGE OR LOSS.

(a)<sup>71</sup> \* \* \*

(b)<sup>72</sup> RETROACTIVE APPLICATION.—The amendments made by subsection (a) shall apply with respect to claims arising on or after October 31, 1988.

#### SEC. 173. SENIOR FOREIGN SERVICE PERFORMANCE PAY.

(a)<sup>73</sup> PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

(b)<sup>73</sup> AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

(c)<sup>73</sup> APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the United States<sup>74</sup> Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the United States<sup>74</sup> Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.

<sup>69</sup> 22 U.S.C. 2707 note.

<sup>70</sup> Sec. 162 has no subsec. (l).

<sup>71</sup> Subsec. (a) amended 31 U.S.C. 3721(b), relating to claims resulting from emergency evacuation in a foreign country.

<sup>72</sup> 31 U.S.C. 3721 note.

<sup>73</sup> 22 U.S.C. 3965 note.

<sup>74</sup> Sec. 1(gg) of Public Law 103-415 (108 Stat. 4303) inserted “United States” before “Arms Control and Disarmament Agency”.

(d) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—\* \* \*

\* \* \* \* \*

**SEC. 175. REPORT ON CLASSIFICATION OF SENIOR FOREIGN SERVICE POSITIONS.**

(a) AUDIT AND REVIEW.—Not later than December 31, 1994, the Comptroller General of the United States shall conduct a classification audit of all Senior Foreign Service positions in Washington, District of Columbia, assigned to the Department of State, the Agency for International Development, and the United States Information Agency and shall review the methods for classification of such positions.

(b) REPORT.—Not later than March 1, 1995, the Comptroller General shall submit a report of such audit and review to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>75</sup> of the House of Representatives.

**SEC. 176.<sup>76</sup> ALLOWANCES. \* \* \***

\* \* \* \* \*

**SEC. 178.<sup>77</sup> MID-LEVEL WOMEN AND MINORITY PLACEMENT PROGRAM.**

(a) PURPOSE.—It is the purpose of this section to promote the acquisition and retention of highly qualified, trained, and experienced women and minority personnel within the Foreign Service, to provide the maximum opportunity for the Foreign Service to meet staffing needs and to acquire the services of experienced and talented women and minority personnel, and to help alleviate the impact of downsizing, reduction-in-force, and budget restrictions occurring in the defense and national security-related agencies of the United States.

(b) ESTABLISHMENT.—For each of the fiscal years 1994 and 1995, the Secretary of State shall to the maximum extent practicable appoint to the Foreign Service qualified women and minority applicants who are participants in the priority placement program of the Department of Defense, the Department of Defense out-placement referral program, the Office of Personnel Management Automated Applicant Referral System, or the Office of Personnel Management Interagency Placement Program. The Secretary shall make such appointments through the mid-level entry program of the Department of State under section 306 of the Foreign Service Act of 1980.

(c)<sup>78</sup> REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit a report concerning the implementation of subsection (a) to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include recommendations on methods to improve implementation of the purpose of this section.

<sup>75</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>76</sup> Sec. 176 amended 5 U.S.C. 5924(4)(A) and (B).

<sup>77</sup> 22 U.S.C. 3922a note.

<sup>78</sup> The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

**SEC. 179.<sup>79</sup> EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF THE FOREIGN SERVICE.**

(a) REFERRAL SYSTEM.—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act.

(b) CERTAIN MEMBERS OF THE FOREIGN SERVICE.—For purposes of this section, the term "members of the Foreign Service" means any individuals holding career or career candidate appointments<sup>80</sup> under chapter 3 of the Foreign Service Act of 1980.

\* \* \* \* \*

**SEC. 181. REDUCTION IN FORCE AUTHORITY WITH REGARD TO CERTAIN MEMBERS OF THE FOREIGN SERVICE.**

(a)<sup>81</sup> IN GENERAL.—\* \* \*

(b) MANAGEMENT RIGHTS.—\* \* \*

(c)<sup>82</sup> CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system,<sup>83</sup> the head of that agency)<sup>83</sup> shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.

**SEC. 182. RESTORATION OF WITHHELD BENEFITS.**

(a)<sup>84</sup> ELIGIBILITY.—With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense have<sup>85</sup> approved the employment or the holding of a position pursuant to the provisions of section 1060 of title 10, United States Code, before April 30, 1994,<sup>86</sup> the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.

(b) TECHNICAL CORRECTION.—Subsection (d) of section 1433 of Public Law 103-160 is repealed.

<sup>79</sup> 22 U.S.C. 4010a note.

<sup>80</sup> Sec. 1(g) of Public Law 103-415 (108 Stat. 4300) struck out "individual holding a career or career candidate appointment" and inserted in lieu thereof "individuals holding career or career candidate appointments".

<sup>81</sup> Sec. 181(a) amended the Foreign Service Act of 1980 by adding a new sec. 611, relating to reductions in force, and made corresponding technical amendments.

<sup>82</sup> 22 U.S.C. 4010a note.

<sup>83</sup> Sec. 1(i) of Public Law 103-415 (108 Stat. 4301) moved the close parenthesis from "system," to "that agency".

<sup>84</sup> 10 U.S.C. 1058 note.

<sup>85</sup> Sec. 1(j) of Public Law 103-415 (108 Stat. 4301) struck out "has" and inserted in lieu thereof "have".

<sup>86</sup> Sec. 1070(d)(7) of the National Defense Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-337; 108 Stat. 2858), struck out "section 1058, title 10, United States Code, before the date of enactment of this Act," and inserted in lieu thereof "section 1060 of title 10, United States Code, before April 30, 1994,".



SUBPART 2—FOREIGN LANGUAGE COMPETENCE WITHIN THE  
FOREIGN SERVICE

**SEC. 191.<sup>87</sup> FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE.**

(a)<sup>88</sup> REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall promulgate regulations—

(1) establishing hiring preferences for Foreign Service Officer candidates competent in languages, with priority preference given to those languages in which the Department of State has a deficit;

(2) establishing a standard that employees will not receive long-term training in more than 3 languages, and requiring that employees achieve full professional proficiency (S4/R4) in 1 language as a condition for training in a third, with exceptions for priority needs of the service at the discretion of the Director General;

(3) requiring that employees receiving long-term training in a language, or hired with a hiring preference for a language, serve at least 2 tours in jobs requiring that language, with exceptions for certain limited-use languages and priority needs of the service at the discretion of the Director General;

(4) requiring that significant consideration be given to foreign language competence and use in the evaluation, assignment, and promotion of all Foreign Service Officers of the Department of State, the Agency for International Development, and the United States Information Agency;<sup>89</sup>

(5) requiring the identification of appropriate Washington, D.C. metropolitan area positions as language-designated; and

(6) requiring remedial training and suspension of language differential payments for employees receiving such payments who have failed to maintain required levels of proficiency.

(b) REPEAL.—Section 164 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4001 note; Public Law 101-246) is repealed.

**SEC. 192.<sup>90</sup> DESIGNATION OF FOREIGN LANGUAGE RESOURCES COORDINATOR.**

(a) POLICY.—It is the sense of the Congress that—

(1) the Department of State, by virtue of the Secretary's overall responsibility under section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4011(a)) for training and instruction in the field of foreign relations to meet the needs of all Federal agencies, should take the lead in this interagency effort; and

(2) in order to promote efficiency and quality in the training provided by the Secretary of State and other Federal agencies, the Secretary should call upon other agencies to share in the

<sup>87</sup>The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

<sup>88</sup>22 U.S.C. 3926 note.

<sup>89</sup>Sec. 1(u) of Public Law 103-415 (108 Stat. 4302) inserted before the semicolon “, the Agency for International Development, and the United States Information Agency”.

<sup>90</sup>22 U.S.C. 4021 note.

joint management and coordination of Federal foreign language resources.

(b) FOREIGN LANGUAGE RESOURCES COORDINATOR.—

(1) The Secretary of State should appoint a Foreign Language Resources Coordinator (in this subsection referred to as the “Coordinator”) who shall be responsible—

(A) for coordinating the efforts of the appropriate agencies of Government—

(i) to strengthen mechanisms for sharing of foreign language resources; and

(ii) to identify Federal foreign language resource requirements in the areas of diplomacy, military preparedness, international security, and other foreign policy objectives; and

(B) for making recommendations to the Secretary of State as to which Federal foreign language assets, if any, should be made available to the private sector in support of national global economic competitiveness goals.

(2) All appropriate United States Government agencies maintaining and utilizing Federal foreign language training and related resources shall cooperate fully with any Coordinator.

SEC. 193.<sup>91</sup> FOREIGN LANGUAGE SERVICES.

(a) SURCHARGE FOR CERTAIN FOREIGN LANGUAGE SERVICES.—Notwithstanding any other provision of law, the Secretary of State is authorized to require the payment of an appropriate fee, surcharge, or reimbursement for providing other Federal agencies with foreign language translation and interpretation services.

(b) USE OF FUNDS.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing translation or interpretation services in any foreign language. Such funds may remain available until expended.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS<sup>92</sup>

\* \* \* \* \*

TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT<sup>92</sup>

\* \* \* \* \*

<sup>91</sup>22 U.S.C. 2695a. The Secretary of State delegated functions authorized under this section to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

<sup>92</sup>For titles II and III, relating to U.S. informational, educational, and cultural programs, USIA and related agencies, and international broadcasting, see beginning at page 1476.

## TITLE IV—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS REFORM AND PEACEKEEPING OPERATIONS<sup>93</sup>**SEC. 401. UNITED NATIONS OFFICE OF INSPECTOR GENERAL.**

(a) WITHHOLDING OF PORTION OF CERTAIN ASSESSED CONTRIBUTIONS.—Until a certification is made under subsection (b), the following amounts shall be withheld from obligation and expenditure (in addition to any amounts required to be withheld by any other provision of this Act):

(1) FY 1994 ASSESSED CONTRIBUTIONS FOR U.N. REGULAR BUDGET.—Of the funds appropriated for “Contributions to International Organizations” for fiscal year 1994, 10 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(2) FY 1995 ASSESSED CONTRIBUTIONS FOR U.N. REGULAR BUDGET.—Of the funds appropriated for “Contributions to International Organizations” for fiscal year 1995, 20 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(3) SUPPLEMENTAL ASSESSED PEACEKEEPING CONTRIBUTIONS.—Of the funds appropriated for “Contributions for International Peacekeeping Activities” for a fiscal year pursuant to the authorization of appropriations under section 102(d), 50 percent shall be withheld.

(b)<sup>94</sup> CERTIFICATION.—The certification referred to in subsection (a) is a certification by the President to the Congress that—

(1) the United Nations has established an independent office of Office of Internal Oversight Services<sup>95</sup> to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations;

(2) the Secretary General of the United Nations has appointed an Office of Internal Oversight Services,<sup>95</sup> with the approval of the General Assembly, and that appointment was made principally on the basis of the appointee’s integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations;

(3) the Office of Internal Oversight Services,<sup>95</sup> is authorized to—

(A) make investigations and reports relating to the administration of the programs and operations of the United Nations;

(B) have access to all records, documents, and other available materials relating to those programs and operations; and

<sup>93</sup> See also *Legislation on Foreign Relations Through 2005*, vol. II-B, for United Nations and Other International Organizations.

<sup>94</sup> Functions vested in the President in sec. 401(b) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

<sup>95</sup> Sec. 106(c)(3)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-415), struck out “Inspector General” and inserted in lieu thereof “Office of Internal Oversight Services” throughout subsec. (b).

- (C) have direct and prompt access to any official of the United Nations;
- (4) the United Nations has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the Office of Internal Oversight Services;<sup>95</sup>
- (5) the United Nations has procedures in place designed to ensure compliance with the recommendations of the Office of Internal Oversight Services;<sup>95</sup> and
- (6)<sup>96</sup> the United Nations has procedures in place to ensure that all reports submitted by the Office of Internal Oversight Services are made available to the member states of the United Nations without modification except to the extent necessary to protect the privacy rights of individuals.
- (c) SPECIALIZED AGENCIES.—United States representatives to the United Nations should promote complete Inspector General access to all records and officials of the specialized agencies of the United Nations, and should strive to achieve such access by fiscal year 1996.
- (d) DEFINITION.—For purposes of this part, the term “Inspector General” means the head of an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

**SEC. 402. UNITED STATES PARTICIPATION IN MANAGEMENT OF THE UNITED NATIONS.**

It is the sense of the Congress that, consistent with the United Nations Charter, United States nationals should have equitable representation at senior management levels in the United Nations system, especially in the Department for Administration and Management<sup>97</sup> and in the office of the Inspector General.

**SEC. 403. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE FUNDING FOR UNITED NATIONS PEACEKEEPING OPERATIONS.**

It is the sense of the Senate that beginning October 1, 1995, funds made available to the Department of Defense (including funds for “Operation and Maintenance”) shall be available for—

- (1) United States assessed or voluntary contributions for United Nations peacekeeping operations, or
- (2) the unreimbursable incremental costs associated with the participation of United States Armed Forces in any United Nations peacekeeping operation (other than an operation necessary to protect American lives or United States national interests),

only to the extent that the Congress has authorized, appropriated, or otherwise approved funds for such purposes.

<sup>96</sup>Sec. 106(c)(3)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-415), amended and restated para. (6). It previously read as follows:

“(6) the United Nations has procedures in place to ensure that all annual and other relevant reports submitted by the Inspector General are made available to the General Assembly without modification.”

<sup>97</sup>As enrolled. Should read “Management”.

**SEC. 404. ASSESSED CONTRIBUTIONS FOR UNITED NATIONS PEACEKEEPING OPERATIONS.**

(a) REASSESSMENT OF CONTRIBUTION PERCENTAGES.—The Permanent Representative of the United States to the United Nations should make every effort to ensure that the United Nations completes an overall review and reassessment of each nation's assessed contributions for United Nations peacekeeping operations. As part of the overall review and assessment, the Permanent Representative should make every effort to advance the concept that, when appropriate, host governments and other governments in the region where a United Nations peacekeeping operation is carried out should bear a greater burden of its financial cost.

(b)<sup>98</sup> LIMITATION ON UNITED STATES CONTRIBUTIONS.—

(1) FISCAL YEARS 1994 AND 1995.—Funds authorized to be appropriated for “Contributions for International Peacekeeping Activities” for fiscal years 1994 and 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 30.4 percent of the total of all assessed contributions for that operation, notwithstanding the last sentence of the paragraph headed “Contributions to International Organizations” in Public Law 92-544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note).

(2)<sup>99</sup> SUBSEQUENT FISCAL YEARS.—(A)<sup>100</sup> IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated for “Contributions for International Peacekeeping Activities” for any fiscal year after fiscal year 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total of all assessed contributions for that operation.

(B)<sup>101</sup> REDUCTION IN UNITED STATES SHARE OF ASSESSED CONTRIBUTIONS.—Notwithstanding the percentage limitation contained in subparagraph (A), the United States share of assessed contributions for each United Nations peacekeeping op-

<sup>98</sup> 22 U.S.C. 287e note.

<sup>99</sup> Sec. 911(d) of the United Nations Reform Act of 1999 (title IX of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-476)), provided the following:

“(d) STATUTORY CONSTRUCTION.—For purposes of payments made using funds made available under subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995.”

For full text of sec. 911 and other freestanding provisions of the United Nations Reform Act of 1999, see vol. II-B.

<sup>100</sup> Sec. 402(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1388), struck out “Funds” and inserted in lieu thereof “(A) IN GENERAL.—Except as provided in subparagraph (B), funds”.

<sup>101</sup> Sec. 402(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1389), added subpara. (B).

Sec. 411 of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2905), provided the following:

“SEC. 411. During fiscal year 2005, section 404(b)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 22 U.S.C. 287e note), shall be administered as though the matter following clause (iii) reads as follows:

“(v) For assessments made during calendar year 2005, 27.1 percent.”

eration during the following periods is authorized to be as follows:

- (i) For assessments made during calendar year 2001, 28.15 percent.
  - (ii) For assessments made during calendar year 2002, 27.90 percent.
  - (iii) For assessments made during calendar year 2003, 27.40 percent.
  - (iv) For assessments made during calendar year 2004, 27.40 percent.
- (3)<sup>102</sup> \* \* \*

**SEC. 405. UNITED STATES PERSONNEL TAKEN PRISONER WHILE SERVING IN MULTINATIONAL FORCES.**

It is the sense of the Congress that—

(1) the President should take immediate steps, unilaterally and in appropriate international bodies, to assure that any United States military personnel serving as part of a multinational force who are captured are accorded protections equivalent to those accorded to prisoners of war under the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(2) the President should also take all necessary steps to bring to justice all individuals responsible for any mistreatment or torture of, or for causing the death of, United States military personnel who are captured while serving in a multinational force.

**SEC. 406.<sup>103</sup> TRANSMITTALS OF CERTAIN UNITED NATIONS DOCUMENTS. \* \* \***

**SEC. 407.<sup>104</sup> CONSULTATIONS AND REPORTS.**

(a) \* \* \* [Repealed—1999]

(b)<sup>105</sup> \* \* \*

**SEC. 408.<sup>106</sup> TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS. \* \* \***

**SEC. 409.<sup>107</sup> REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.**

(a) **ASSESSED CONTRIBUTIONS.**—For assessed contributions authorized to be appropriated for “Assessed Contributions to International Organizations” by this Act, the President may withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agen-

<sup>102</sup>Para. (3) amended Public Law 92-544, relating to contributions to the United Nations.

<sup>103</sup>Sec. 406 amended sec. 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b).

<sup>104</sup>Formerly at 22 U.S.C. 287b note. Subsec. (a), pertaining to Presidential consultations with Congress on the status of U.N. peacekeeping operations, was repealed by sec. 724(a)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-465). Sec. 724(a)(1) of that Act amended and restated sec. 4(e) of the United Nations Participation Act of 1945; see vol. II-B.

<sup>105</sup>Subsec. (b) amended sec. 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b).

<sup>106</sup>Sec. 408 added a new sec. 520 to the Foreign Assistance Act of 1961 (22 U.S.C. 2321n), relating to transfers of excess defense articles for international peacekeeping operations.

<sup>107</sup>22 U.S.C. 287e note. Functions vested in the President in sec. 409 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205). The Secretary of State delegated functions authorized under subsections (b) and (d) to the Assistant Secretary for International Organization Affairs, but retained the authorities in subsec. (a) (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

cies for any calendar year if the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states that are the major financial contributors to such assessed budgets.

(b) NOTICE TO CONGRESS.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on Foreign Affairs<sup>108</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) CONTRIBUTIONS FOR PRIOR YEARS.—Subject to the availability of appropriations, payment of assessed contributions for prior years may be made to the United Nations or any of its specialized agencies notwithstanding subsection (a) if such payment would further United States interests in that organization.

(d) REPORT TO CONGRESS.—Not later than February 1 of each year, the President shall submit to the Congress a report concerning the amount of United States assessed contributions paid to the United Nations and each of its specialized agencies during the preceding calendar year.

(e)<sup>109</sup> \* \* \*

**SEC. 410.<sup>110</sup> LIMITATION ON CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED ORGANIZATIONS.**

The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

**SEC. 411. UNITED NATIONS SECURITY COUNCIL MEMBERSHIP.**

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

(1) The effectiveness of the United Nations Security Council in maintaining international peace and security depends on its being representative of the membership of the United Nations.

(2) The requirement of equitable geographic distribution in Article 23 of the United Nations Charter requires that the

<sup>108</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>109</sup> Subsec. (e) repealed sec. 162(a) through (d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

<sup>110</sup> 22 U.S.C. 287e note.

members of the Security Council of the United Nations be chosen by nondiscriminatory means.

(3) The use of informal regional groups of the General Assembly as the sole means for election of the nonpermanent members of the Security Council is inherently discriminatory in the absence of guarantees that all member states will have the opportunity to join a regional group, and has resulted in discrimination against Israel.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should direct the Secretary of State to request the Secretary General of the United Nations to seek immediate resolution of the problem described in this section. The President shall inform the Congress of any progress in resolving this situation, together with the submission to Congress of the request for funding for the “Contributions to International Organizations” account of the Department of State for the fiscal year 1995.

**SEC. 412. REFORMS IN THE WORLD HEALTH ORGANIZATION.**

(a) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that United States contributions to the World Health Organization (WHO) should be utilized in the most effective and efficient manner possible, particularly for the reduction of diseases and disabilities in developing countries.

(b) **POLICY.**—The President shall direct the United States representatives to the World Health Assembly, the Executive Board, and the World Health Organization to monitor the activities of the World Health Organization to ensure that such organizations achieve—

(1) the timely implementation of reforms and management improvements, including those outlined in the resolutions of the 46th World Health Assembly related to the external Auditor (WHA 46.21), the Report of the Executive Board on the WHO Response to Global Change (WHA 46.16) and actions for Budgetary Reform (WHA 46.35); and

(2) the effective and efficient utilization and monitoring of resources, including—

(A) the determination of strategic and financial priorities; and

(B) the establishment of realistic and measurable targets in accordance with the established health priorities.

**SEC. 413. REFORMS IN THE FOOD AND AGRICULTURE ORGANIZATION.**

In light of the longstanding efforts of the United States and the other major donor nations to reform the Food and Agriculture Organization (FAO) and the findings of the ongoing investigation of the General Accounting Office,<sup>111</sup> the Congress makes the following declarations:

(1) It should be the policy of the United States to promote the following reforms in the Food and Agriculture Organization:

<sup>111</sup>Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the “General Accounting Office” as the “Government Accountability Office” and provided that “Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.”



(A) Decentralization of the administrative structure of FAO, including eliminating redundant or unnecessary headquarters staff, increased responsibilities of regional offices, increased time for consideration of budget issues by member states, and a more meaningful and direct role for member states in the decisionmaking process.

(B) Reform of the FAO Council, including formation of an executive management committee to provide oversight of management.

(C) Limitation of the term of the Director General and the number of terms which an individual may serve.

(D) Restructuring of the Technical Cooperation Program (TCP), including reducing the number of nonemergency projects funded through the TCP and establishing procedures to deploy TCP consultants, supplies, and equipment in a timely manner.

(2) In an effort to increase the presence of United States personnel at the international food agencies and to enhance the professionalism of these institutions, it should be the policy of the United States, to the maximum extent practicable, to utilize existing personnel programs such as the United States Department of Agriculture Associate Professional Officer program to place United States personnel with unique skills in the Food and Agriculture Organization, the International Fund for Agricultural Development, and the World Food Program.

**SEC. 414. SENSE OF CONGRESS REGARDING ADHERENCE TO UNITED NATIONS CHARTER.**

It is the sense of the Congress that—

(1) the President should seek an assurance from the Secretary General of the United Nations that the United Nations will comply with Article 100 of the United Nations Charter;

(2) neither the Secretary General of the United Nations nor his staff should seek or receive instructions from any government or from any other authority external to the United Nations; and

(3) the President should report to Congress when he receives such assurance from the Secretary General of the United Nations.

**SEC. 415.<sup>112</sup> DESIGNATED CONGRESSIONAL COMMITTEES.**

For purposes of this part, the term “designated congressional committees” means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs<sup>108</sup> of the House of Representatives.

**PART B—GENERAL PROVISIONS AND OTHER  
INTERNATIONAL ORGANIZATIONS**

**SEC. 421. AGREEMENT ON STATE AND LOCAL TAXATION.**

The President is authorized to bring into force for the United States the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, which was signed by

<sup>112</sup> 22 U.S.C. 287b note.

the United States on April 21, 1992, except that, notwithstanding the provisions of Article 1.B of such Agreement, such Agreement shall not require any refunds of monies paid with respect to tax years ending on or before December 31, 1993.

**SEC. 422. CONFERENCE ON SECURITY AND COOPERATION IN EUROPE.**

The President is authorized to implement, for the United States, the provisions of Annex 1 of the Decision concerning Legal Capacity and Privileges and Immunities, issued by the Council of Ministers of the Conference on Security and Cooperation in Europe on December 1, 1993, in accordance with the terms of that Annex.

**SEC. 423.<sup>113</sup> INTERNATIONAL BOUNDARY AND WATER COMMISSION.**  
\* \* \*

**SEC. 424. UNITED STATES MEMBERSHIP IN THE ASIAN-PACIFIC ECONOMIC COOPERATION ORGANIZATION.**

(a) UNITED STATES MEMBERSHIP.—The President is authorized to maintain membership of the United States in the Asian-Pacific Economic Cooperation (APEC).

(b) PAYMENT OF ASSESSED CONTRIBUTIONS.—For fiscal year 1994 and for each fiscal year thereafter, the United States assessed contributions to APEC may be paid from funds appropriated for “Contributions to International Organizations”.

**SEC. 425. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL COPPER STUDY GROUP.**

(a) UNITED STATES MEMBERSHIP.—The President is authorized to accept the Terms of Reference of and maintain membership of the United States in the International Copper Study Group (ICSG).

(b) PAYMENTS OF ASSESSED CONTRIBUTIONS.—For fiscal year 1995 and thereafter the United States assessed contributions to the ICSG may be paid from funds appropriated for “Contributions to International Organizations”.

**SEC. 426.<sup>114</sup> EXTENSION OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES.** \* \* \*

**SEC. 427. INTER-AMERICAN ORGANIZATIONS.**

Taking into consideration the long-term commitment by the United States to the affairs of this Hemisphere and the need to build further upon the linkages between the United States and its neighbors, it is the sense of the Congress that the Secretary of State, in allocating the level of resources for international organizations, should pay particular attention to funding levels of the Inter-American organizations.

**SEC. 428. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL COFFEE ORGANIZATION.**

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Coffee Organization.

<sup>113</sup>Sec. 423 amended various Public Laws relating to the International Boundary and Water Commission, United States and Mexico.

<sup>114</sup>Sec. 426 amended the International Organizations Immunities Act (22 U.S.C. 288f-4) to classify the International Union for Conservation of Nature and Natural Resources as an international organization for purposes of that Act.

**SEC. 429. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL JUTE ORGANIZATION.**

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Jute Organization.

**SEC. 430.<sup>115</sup> MIGRATION AND REFUGEE AMENDMENTS. \* \* \*****SEC. 431. WITHHOLDING OF UNITED STATES CONTRIBUTIONS FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.**

(a)<sup>116</sup> \* \* \*

(b)<sup>117</sup> UNITED NATIONS DEVELOPMENT PROGRAM.—

(1) Except as provided in paragraphs (2) and (3), for fiscal years 1994 and 1995 none of the funds made available for United Nations Development Program or United Nations Development Program—Administered Funds shall be available for programs and activities in or for Burma.

(2) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1994, \$11,000,000 may be available only if the President certifies to the Congress that the United Nations Development Program's programs and activities in or for Burma promote the enjoyment of internationally guaranteed human rights in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

(3) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1995, \$27,600,000 may be available only if the President certifies to the Congress that—

(A) the United Nations Development Program has approved or initiated no new programs and no new funding for existing programs in or for Burma since the United Nations Development Program Governing Council (Executive Board) meeting of June 1993,

(B) such programs address unforeseen urgent humanitarian concerns, or

(C) a democratically elected government in Burma has agreed to such programs.

<sup>115</sup> Sec. 430 amended the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601), and repealed sec. 745 of Public Law 100-204 (22 U.S.C. 2601 note).

<sup>116</sup> Subsec. (a) amended sec. 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227); see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>117</sup> Functions vested in the President in sec. 431(b) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Assistant Secretary for International Organization Affairs (Department of State Public Notice 2086; sec. 10 of Delegation of Authority No. 214; 59 F.R. 50790).

## TITLE V—FOREIGN POLICY

## PART A—GENERAL PROVISIONS

**SEC. 501.<sup>118</sup> UNITED STATES POLICY CONCERNING OVERSEAS ASSISTANCE TO REFUGEES AND DISPLACED PERSONS.**

(a) **STANDARDS FOR REFUGEE WOMEN AND CHILDREN.**—The United States Government, in providing for overseas assistance and protection of refugees and displaced persons, shall seek to address the protection and provision of basic needs of refugee women and children who represent 80 percent of the world's refugee population. As called for in the 1991 United Nations High Commissioner for Refugees (UNHCR) "Guidelines on the Protection of Refugee Women", whether directly, or through international organizations and nongovernmental voluntary organizations, the Secretary of State shall seek to ensure—

(1) specific attention on the part of the United Nations and relief organizations to recruit and employ female protection officers;

(2) implementation of gender awareness training for field staff including, but not limited to, security personnel;

(3) the protection of refugee women and children from violence and other abuses on the part of governments or insurgent groups;

(4) full involvement of women refugees in the planning and implementation of (A) the delivery of services and assistance, and (B) the repatriation process;

(5) incorporation of maternal and child health needs into refugee health services and education, specifically to include education on and access to services in reproductive health and birth spacing;

(6) the availability of counseling and other services, grievance processes, and protective services to victims of violence and abuse, including but not limited to rape and domestic violence;

(7) the provision of educational programs, particularly literacy and numeracy, vocational and income-generation skills training, and other training efforts promoting self-sufficiency for refugee women, with special emphasis on women heads of household;

(8) education for all refugee children, ensuring equal access for girls, and special services and family tracing for unaccompanied refugee minors;

(9) the collection of data that clearly enumerate age and gender so that appropriate health, education, and assistance programs can be planned;

(10) the recruitment, hiring, and training of more women program professionals in the international humanitarian field; and

(11) gender-awareness training for program staff of the United Nations High Commissioner for Refugees (UNHCR) and nongovernmental voluntary organizations on implementa-

<sup>118</sup> 22 U.S.C. 2601 note.

tion of the 1991 UNHCR “Guidelines on the Protection of Refugee Women”.

(b) PROCEDURES.—The Secretary of State should adopt specific procedures to ensure that all recipients of United States Government refugee and migration assistance funds implement the standards outlined in subsection (a).

(c) REQUIREMENTS FOR REFUGEE AND MIGRATION ASSISTANCE.—The Secretary of State, in providing migration and refugee assistance, should support the protection efforts set forth under this section by raising at the highest levels of government the issue of abuses against refugee women and children by governments or insurgent groups that engage in, permit, or condone—

(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person;

(2) the blockage of humanitarian relief assistance;

(3) gender-specific persecution such as systematic individual or mass rape, forced pregnancy, forced abortion, enforced prostitution, any form of indecent assault or act of violence against refugee women, girls, and children; or

(4) continuing violations of the integrity of the person against refugee women and children on the part of armed insurgents, local security forces, or camp guards.

(d) INVESTIGATION OF REPORTS.—Upon receipt of credible reports of abuses under subsection (c), the Secretary of State should immediately investigate such reports through emergency fact-finding missions or other means of investigating such reports and help identify appropriate remedial measures.

(e) MULTILATERAL IMPLEMENTATION OF THE 1991 UNHCR “GUIDELINES ON THE PROTECTION OF REFUGEE WOMEN”.—The Secretary of State should work to ensure that multilateral organizations fully incorporate the needs of refugee women and children into all elements of refugee assistance programs and work to encourage other governments that provide refugee assistance to adopt refugee assistance policies designed to encourage full implementation of the 1991 UNHCR’s “Guidelines on the Protection of Refugee Women”.

#### SEC. 502. INTERPARLIAMENTARY EXCHANGES.

(a)<sup>119</sup> AUTHORIZATIONS OF APPROPRIATIONS.—\* \* \*

(b)<sup>120</sup> DEPOSIT OF FUNDS IN INTEREST-BEARING ACCOUNTS.—Funds appropriated and disbursed pursuant to section 303 of Title III of Public Law 100-202 (101 Stat. 1329-23; 22 U.S.C. 276 note) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury.

#### SEC. 503. FOOD AS A HUMAN RIGHT.

(a) THE RIGHT TO FOOD AND UNITED STATES FOREIGN POLICY.—

<sup>119</sup>Subsec. (a) amended sec. 2 of Public Law 86-420 and sec. 2 of Public Law 86-42.

<sup>120</sup>22 U.S.C. 276 note.

(1) IN GENERAL.—The United States should, in accordance with its international obligations and in keeping with the long-standing humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) RESPONSIBILITIES OF ASSISTANT SECRETARY OF STATE.—The responsibilities of the Assistant Secretary of State who is responsible for human rights and humanitarian affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

(b) INTERNATIONAL EFFORT TO STRENGTHEN THE RIGHT TO FOOD.—It is the sense of the Congress that a major effort should be made to strengthen the right to food in international law to assure the access of all persons to adequate food supplies.

**SEC. 504. TRANSPARENCY IN ARMAMENTS.**

It is the sense of the Congress that—

(1) no sale of any defense article or defense service should be made, no license should be issued for the export of any defense article or defense service, and no agreement to transfer in any way any defense article or defense service should be made to any nation that does not fully furnish all pertinent data to the United Nations Register of Conventional Arms pursuant to United Nations General Assembly Resolution 46/36L by the reporting date specified by such register;

(2) if a nation has not submitted the required information by the reporting date of a particular year, but subsequently submits notification to the United Nations that it intends to provide such information at the next reporting date, an agreement may be negotiated with the nation or a license may be issued, but the actual delivery of such defense article or service should not occur until that nation submits such information; and

(3) the President should seek to restart the United Nations Security Council “Perm-5” talks and should report to the Congress on the progress of such talks and the effects of United States agreements since October 1991 to sell arms to the developing world.

**SEC. 505. SENSE OF THE SENATE CONCERNING INSPECTOR GENERAL ACT.**

It is the sense of the Senate that—

(1) there is a growing concern among some of the Members of this body that the unlimited terms of Office of Inspectors General in Federal agencies may be undesirable, therefore

(2) the issue of amending the Inspector General Act to establish term limits for Inspectors General should be examined and considered as soon as possible by the appropriate committees of jurisdiction.

**SEC. 506. TORTURE CONVENTION IMPLEMENTATION.**(a) <sup>121</sup> \* \* \*

(b) \* \* \*

(c) <sup>122</sup> **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**SEC. 507. UNITED STATES POLICY CONCERNING IRAQ.**(a) **POLICY.**—It is the sense of the Congress that the President should—

(1) take steps to encourage the United Nations Security Council—

(A) to reaffirm support for the protection of all Iraqi Kurdish and other minorities pursuant to Security Council Resolution 688;

(B) to maintain the United Nations embargo on the Iraqi regime until Iraq complies with all relevant Security Council resolutions;

(C) to consider lifting selectively the United Nations embargo on the areas under the administration of the democratically-elected leadership of Iraqi Kurdistan, subject to the verifiable conditions that—

(i) the inhabitants of such areas do not conduct trade with the Iraqi regime, and

(ii) the partial lifting of the embargo will not materially assist the Iraqi regime;

(D) to consider extending international protection, including the establishment of a safe haven, to the marsh Arabs in southern Iraq; and

(E) to pursue international judgments against Iraqi officials responsible for war crimes and crimes against humanity, based upon documentary evidence obtained from Iraqi and other sources;

(2) continue to advocate the maintenance of Iraq's territorial integrity and the transition to a unified, democratic Iraq;

(3) take steps to encourage the provision of humanitarian assistance for the people fleeing from the marshes in southern Iraq;

(4) design a multilateral assistance program for the people of Iraqi Kurdistan to support their drive for self-sufficiency; and

(5) take steps to intensify discussions with the Government of Turkey, whose support and cooperation in the protection of the people of Iraqi Kurdistan is critical, to ensure that the stability of both Turkey and the entire region are enhanced by the measures taken under this section.

**SEC. 508. HIGH-LEVEL VISITS TO TAIWAN.**

It is the sense of the Congress that—

<sup>121</sup> Subsec. (a) added a new chapter 113B to 18 U.S.C.<sup>122</sup> 18 U.S.C. 2340 note.

(1) the President should be commended for meeting with Taiwan's Minister of Economic Affairs during the Asia-Pacific Economic Cooperation Conference in Seattle;

(2) the President should send Cabinet-level appointees to Taiwan to promote United States interests and to ensure the continued success of United States business in Taiwan; and

(3) in addition to Cabinet-level visits, the President should take steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member.

**SEC. 509. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVE ALLIES STOCKPILE TO THE REPUBLIC OF KOREA.**

(a) **AUTHORITY.**—(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are equipment, tanks, weapons, repair parts, and ammunition that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of enactment of this Act, are located in a stockpile in the Republic of Korea.

(b) **CONCESSIONS.**—The value of the concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) **ADVANCE NOTIFICATION OF TRANSFER.**—Not less than 30 days before making a transfer under the authority of this section, the President shall transmit to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs<sup>123</sup> of the House of Representatives, and the congressional defense committees a notification of the proposed transfer. The notification shall identify the items to be transferred and the concessions to be received.

(d) **EXPIRATION OF AUTHORITY.**—No transfer may be made under the authority of this section more than two years after the date of the enactment of this Act.

**SEC. 510. EXTENSION OF THE FAIR TRADE IN AUTO PARTS ACT OF 1988.**

(a) **IN GENERAL.**—Section 2125 of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4704) is amended by striking “1993” and inserting “1998”.

(b)<sup>124</sup> **EFFECTIVE DATE.**—The amendment made by this section shall take effect on December 30, 1993.

<sup>123</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>124</sup> 15 U.S.C. 4704 note.



**SEC. 511. REPORT ON THE USE OF FOREIGN FROZEN OR BLOCKED ASSETS.**

Not later than 60 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>123</sup> of the House of Representatives a report containing a detailed accounting analysis and justification for all expenditures made from the assets of foreign governments that have been frozen or blocked by the United States Government, including expenditures from frozen or blocked assets of Haiti, Iraq, and Iran.

**SEC. 512.<sup>125</sup> EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.**  
\* \* \***SEC. 513. POLICY REGARDING THE CONDITIONS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA SHOULD MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.**

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

(1) In an Executive Order of May 28, 1993, the President established conditions for renewal of most-favored-nation (MFN) status for the People's Republic of China in 1994.<sup>126</sup>

(2) The Executive Order requires that in making a recommendation about the further extension of MFN status to China, the Secretary of State shall not recommend extension unless the Secretary determines that—

(A) extension will substantially promote the freedom of emigration objectives of section 402 of the Trade Act of 1974; and

(B) China is complying with the 1992 bilateral agreement between the United States and China concerning prison labor.

(3) The Executive Order further requires that in making a recommendation, the Secretary of State shall determine whether China has made overall, significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the non-violent expression of their political and religious beliefs, including such expression of religious beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations;

(D) protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive Order further requires the Executive Branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow

<sup>125</sup>Sec. 512 amended secs. 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167).

<sup>126</sup>Executive Order 12850 (58 F.R. 31327).

fair, nondiscriminatory trade practices in dealing with United States businesses, and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Chinese government should cooperate with international efforts to obtain North Korea's full, unconditional compliance with the Nuclear Non-Proliferation Treaty.

(6) The President has initiated an intensive high-level dialogue with the Chinese government which began last year with a meeting between the Secretary of State and the Chinese Foreign Minister, including a meeting in Seattle between the President and the President of China, meetings in Beijing with the Secretary of the Treasury, the Assistant Secretary for Human Rights and others, a recent meeting in Paris between the Secretary of State and the Chinese Foreign Minister, and recent meetings in Washington with several Under Secretaries and their Chinese counterparts.

(7) The President's efforts have led to some recent progress on some issues of concern to the United States.

(8) Notwithstanding this, substantially more progress is needed to meet the standards in the President's Executive Order.

(9) The Chinese government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress critics and failed to control abuses by its own security forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that the President of the United States should use all appropriate opportunities, in particular more high-level exchanges with the Chinese government, to press for further concrete progress toward meeting the standards for continuation of MFN status as contained in the Executive Order.

**SEC. 514.<sup>127</sup> IMPLEMENTATION OF PARTNERSHIP FOR PEACE.**

(a) REPORT TO CONGRESS.—The President shall submit annually, beginning 90 days after the date of enactment of this Act, a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>123</sup> of the House of Representatives on the implementation of the "Partnership for Peace" initiative, including an assessment of the progress made by former members of the Warsaw Treaty Organization in meeting the criteria for full membership articulated in Article 10 of the North At-

<sup>127</sup> 22 U.S.C. 1928 note. Sec. 205 of the NATO Participation Act of 1994 (title II of Public Law 103-447; 108 Stat. 4697) provided the following:

**"SEC. 205. REPORTING REQUIREMENT.**

"The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

"(1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d).

"(2) A description, on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d)."

lantic Treaty, wherein any other European state may, by unanimous agreement, be invited to accede to the North Atlantic Treaty if it is in a position to further the principles of the Treaty and to contribute to the security of the North Atlantic area.

(b)<sup>128</sup> **AUTHORITY OF THE PRESIDENT.**—The President is authorized to confer, pursuant to agreement with any country eligible to participate in the Partnership for Peace, rights in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of that country in the United States comparable to the rights conferred by that country in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of the United States in that country.

**SEC. 515. POLICY TOWARD THAILAND, CAMBODIA, LAOS, AND BURMA.**

It is the sense of the Congress that—

(1) the creation of a new Cambodian government through United Nations sponsored elections offers a unique opportunity for the revival of the Cambodian nation, an opportunity which the United States should help realize;

(2) the President should enunciate a clear policy toward Burma and, in so doing, be guided by the approach in Senate Resolution 112;<sup>129</sup>

(3) the government and people of Thailand are to be commended for Thailand's return to civilian, democratic rule, and for its contribution to the implementation of the Paris Peace Accords on Cambodia;

(4) the President of the United States should convey to Thailand United States concern over the continued support for the Khmer Rouge by elements of the Thai military and to urge the

<sup>128</sup> Functions vested in the President in sec. 514(b) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

<sup>129</sup> Senate Resolution 112, agreed to in the Senate May 27, 1993, provided the following:

“Resolution Urging sanctions to be imposed against the Burmese government, and for other purposes.

“Whereas the military junta in Burma known as the State Law and Order Restoration Council (in this preamble referred to as the ‘SLORC’) brutally suppressed peaceful democratic demonstrations in September 1988;

“Whereas the Senate of the United States has repeatedly condemned and continues its condemnation of the SLORC;

“Whereas the SLORC does not represent the people of Burma, since the people of Burma gave the National League for Democracy a clear victory in the election of May 27, 1990;

“Whereas the SLORC has held Daw Aung San Suu Kyi, a leader of the National League for Democracy and the winner of the Nobel Peace Prize for 1991, under house arrest since July 1989;

“Whereas the United Nations Human Rights Commission unanimously adopted on March 5, 1993, a resolution deploring the human rights situation in Burma and the continued arrest of Daw Aung San Suu Kyi; and

“Whereas on March 12, 1992, the Committee on Foreign Relations of the Senate unanimously stated that (1) the SLORC does not represent the Burmese people and should transfer power to the winners of the 1990 elections, (2) United States military attaché should be withdrawn from Burma, and (3) the United States should oppose United Nations Development Program funding for Burma: *Now, therefore, be it*

Resolved, That it is the sense of the Senate that the President, the Secretary of State, and other United States Government representatives should—

“(1) seek the immediate release of Daw Aung San Suu Kyi from arrest and the transfer of power to the winners of the 1990 elections in Burma; and

“(2) encourage the adoption by the United Nations Security Council of an arms embargo and other sanctions against the regime of the State Law and Order Restoration Council in Burma.

“SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.”

Thai Government to intensify its efforts to terminate that support, in accordance with the Paris Peace Accords;

(5) the Government of Thailand should continue to allow the democratic leaders of Burma to operate freely within Thailand and to grant them free passage to allow them to present their case at the United Nations and other international gatherings;

(6) the President of the United States should urge the Government of Thailand to prosecute, with the full force of law, those responsible for the trafficking, forced labor, and physical and sexual abuse of women and children in Thailand, and to protect the civil and human rights of Burmese women in Thailand and prevent their further victimization; and

(7) the United States should work with the United Nations High Commissioner for Refugees, the Government of Thailand, and other relevant parties to ensure that the rights of asylum seekers in Thailand, and in particular the Hmong people from Laos, are fully respected and that force is not used in any repatriations.

**SEC. 516. PEACE PROCESS IN NORTHERN IRELAND.**

It is the sense of the Congress that the United States should—

(1) strongly encourage all parties to the conflict in the North of Ireland to renounce violence and to participate in the current search for peace in the region; and

(2) assist in furthering the peace process where appropriate.

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

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

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

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

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

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

(5) Since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international criminal court with jurisdiction over crimes of an international character.

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

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

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

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

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

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

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

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

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

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

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

(c) REQUIRED REPORT.—Not later than 14 days after the date of enactment of this Act the President shall submit to the Committee on Foreign Relations of the Senate a detailed report on developments relating to, and United States efforts in support of, the establishment of an international criminal court with jurisdiction over crimes of an international character.

#### SEC. 518. INTERNATIONAL CRIMINAL COURT PARTICIPATION.

The United States Senate will not consent to the ratification of a treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international nature which permits representatives of any terrorist organization, including but not limited to the Palestine Liberation Organization, or citizens, nationals or residents of any country listed by the Secretary of State under section 6(j) of the Export Administration Act of 1979 as having repeatedly provided support for acts of international terrorism, to sit in judgement<sup>130</sup> on American citizens.

#### SEC. 519. PROTECTION OF FIRST AND FOURTH AMENDMENT RIGHTS.

The United States Senate will not consent to the ratification of any Treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international character unless American citizens are guaranteed, in the terms establishing such a court, and in the court's operation, that

<sup>130</sup> As enrolled. Should read "judgment".

the court will take no action infringing upon or diminishing their rights under the First and Fourth Amendments of the Constitution of the United States, as interpreted by the United States.

**SEC. 520. POLICY ON TERMINATION OF UNITED STATES ARMS EMBARGO.**

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

(1) On July 10, 1991, the United States adopted a policy suspending all licenses and other approvals to export or otherwise transfer defense articles and defense services to Yugoslavia.

(2) On September 25, 1991, the United Nations Security Council adopted Resolution 713, which imposed a mandatory international embargo on all deliveries of weapons and military equipment to Yugoslavia.

(3) The United States considered the policy adopted July 10, 1991, to comply fully with Resolution 713 and therefore took no additional action in response to that resolution.

(4) On January 8, 1992, the United Nations Security Council adopted Resolution 727, which decided that the mandatory arms embargo imposed by Resolution 713 should apply to any independent states that might thereafter emerge on the territory of Yugoslavia.

(5) On February 29 and March 1, 1992, the people of Bosnia and Herzegovina voted in a referendum to declare independence from Yugoslavia.

(6) On April 7, 1992, the United States recognized the Government of Bosnia and Herzegovina.

(7) On May 22, 1992, the Government of Bosnia and Herzegovina was admitted to full membership in the United Nations.

(8) Consistent with Resolution 727, the United States has continued to apply the policy adopted July 10, 1991, to independent states that have emerged on the territory of the former Yugoslavia, including Bosnia and Herzegovina.

(9) Subsequent to the adoption of Resolution 727 and Bosnia and Herzegovina's independence referendum, the siege of Sarajevo began and fighting spread to other areas of Bosnia and Herzegovina.

(10) The Government of Serbia intervened directly in the fighting by providing significant military, financial, and political support and direction to Serbian-allied irregular forces in Bosnia and Herzegovina.

(11) In statements dated May 1 and May 12, 1992, the Conference on Security and Cooperation in Europe declared that the Government of Serbia and the Serbian-controlled Yugoslav National Army were committing aggression against the Government of Bosnia and Herzegovina and assigned to them prime responsibility for the escalation of bloodshed and destruction.

(12) On May 30, 1992, the United Nations Security Council adopted Resolution 757, which condemned the Government of Serbia for its continued failure to respect the territorial integrity of Bosnia and Herzegovina.

(13) Serbian-allied irregular forces have occupied approximately 70 percent of the territory of Bosnia and Herzegovina,

committed gross violations of human rights in the areas they have occupied, and established a secessionist government committed to eventual unification with Serbia.

(14) The military and other support and direction provided to Serbian-allied irregular forces in Bosnia and Herzegovina constitutes an armed attack on the Government of Bosnia and Herzegovina by the Government of Serbia within the meaning of Article 51 of the United Nations Charter.

(15) Under Article 51, the Government of Bosnia and Herzegovina, as a member of the United Nations, has an inherent right of individual or collective self-defense against the armed attack from the Government of Serbia until the United Nations Security Council has taken measures necessary to maintain international peace and security.

(16) The measures taken by the United Nations Security Council in response to the armed attack on Bosnia and Herzegovina have not been adequate to maintain international peace and security.

(17) Bosnia and Herzegovina have been unable successfully to resist the armed attack from Serbia because it lacks the means to counter heavy weaponry that Serbia obtained from the Yugoslav National Army upon the dissolution of Yugoslavia, and because the mandatory international arms embargo has prevented Bosnia and Herzegovina from obtaining from other countries the means to counter such heavy weaponry.

(18) On December 18, 1992, with the affirmative vote of the United States, the United Nations General Assembly adopted Resolution 47/121, which urged the United Nations Security Council to exempt Bosnia and Herzegovina from the mandatory arms embargo imposed by Resolution 713.

(19) In the absence of adequate measures to maintain international peace and security, continued application to the Government of Bosnia and Herzegovina of the mandatory international arms embargo imposed by the United Nations Security Council prior to the armed attack on Bosnia and Herzegovina undermines that government's right of individual or collective self-defense and therefore contravenes Article 51 of the United Nations Charter.

(20) Bosnia and Herzegovina's right of self-defense under Article 51 of the United Nations Charter includes the right to ask for military assistance from other countries and to receive such assistance if offered.

(b) POLICY ON TERMINATION OF ARMS EMBARGO.—(1) It is the sense of the Congress that the President should terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(2) As used in this subsection, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under

the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

(c) **POLICY ON MILITARY ASSISTANCE.**—The President should provide appropriate military assistance to the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

**SEC. 521. SENSE OF SENATE ON RELATIONS WITH VIETNAM.**

It is the sense of the Senate that—

(1) the Government of the United States is committed to seeking the fullest possible accounting of American servicemen unaccounted for during the war in Vietnam;

(2) cooperation by the Government of Vietnam on resolving the fate of those American servicemen unaccounted for has increased significantly over the last three years and is essential to the resolution of outstanding POW/MIA cases;

(3) substantial and tangible progress has been made in the POW/MIA accounting process;

(4) cooperative efforts between the United States and Vietnam should continue in order to resolve all outstanding questions concerning the fate of Americans missing-in-action;

(5) United States senior military commanders and United States personnel working in the field to account for United States POW/MIAs in Vietnam believe that lifting the United States trade embargo against Vietnam will facilitate and accelerate the accounting efforts;

(6) therefore, in order to maintain and expand further United States and Vietnamese efforts to obtain the fullest possible accounting, the President should lift the United States trade embargo against Vietnam expeditiously; and

(7) moreover,<sup>131</sup> as the United States and Vietnam move toward normalization of relations, the Government of Vietnam should demonstrate further improvements in meeting internationally recognized standards of human rights.

**SEC. 522. REPORT ON SANCTIONS ON VIETNAM.**

Not later than 30 days after the date of enactment of this Act, the President shall submit a report, taking into account information available to the United States Government, to the Senate and the House of Representatives on achieving the fullest possible accounting of United States personnel unaccounted for from the Vietnam War, including—

(1) progress on recovering and repatriating American remains from Vietnam;

(2) progress on resolution of discrepancy cases;

(3) the status of Vietnamese cooperation in implementing trilateral investigations with Laos; and

<sup>131</sup> As enrolled. Should read "moreover".



(4) progress on accelerated efforts to obtain all POW/MIA related documents from Vietnam.

**SEC. 523.<sup>132</sup> REPORT ON PEOPLE'S MUJAHEDDIN OF IRAN.**

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Affairs<sup>133</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate a report detailing the structure, current activities, external support, and history of the People's Mujaheddin of Iran. Such report shall include information on any current direct or indirect support by the People's Mujaheddin for acts of international terrorism.

(b) CONSULTATION.—In compiling the report required under subsection (a), the President shall consult with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Transportation, the intelligence community, and such law enforcement agencies as may be appropriate.

(c) CLASSIFICATION.—The President should, to the maximum extent possible, submit the report required under subsection (a) in an unclassified form.

**SEC. 524. AMENDMENTS TO THE PLO COMMITMENTS COMPLIANCE ACT. \* \* \***

**SEC. 525. FREE TRADE IN IDEAS.**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should not restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions, between the United States and any other country.

(b)<sup>134</sup> \* \* \*

(2)<sup>135</sup> The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.

(c)<sup>136</sup> AMENDMENTS TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—\* \* \*

(2)<sup>137</sup> The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in

<sup>132</sup> Functions vested in the President in sec. 523 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>133</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>134</sup> Subsec. (b) amended sec. 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

<sup>135</sup> 50 U.S.C. App. 5 note.

<sup>136</sup> Subsec. (c) amended sec. 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)).

<sup>137</sup> 50 U.S.C. 1702 note.

effect on such date and to actions taken under such section on or after such date.

(3)<sup>137</sup> Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act.

**SEC. 526. EMBARGO AGAINST CUBA.**

It is the sense of the Congress that the President should advocate and seek a mandatory international United Nations Security Council embargo against the dictatorship of Cuba.

**SEC. 527.<sup>138</sup> EXPROPRIATION OF UNITED STATES PROPERTY.**

(a) PROHIBITION.—None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described in subsection (d))—

(1) has on or after January 1, 1956—

(A) nationalized or expropriated the property of any United States person,

(B) repudiated or nullified any contract with any United States person, or

(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

(2) has not, within the period specified in subsection (c), either—

(A) returned the property,

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

(b)<sup>139</sup> OTHER ACTIONS.—The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to pro-

<sup>138</sup> 22 U.S.C. 2370a.

<sup>139</sup> In a memorandum of January 4, 1995, for the Secretary of the Treasury, the President delegated to the Secretary of the Treasury the functions under sec. 527(b) (60 F.R. 3335).

grams which serve the basic human needs of the citizens of that country.

(c) PERIOD FOR SETTLEMENT OF CLAIMS.—The period of time described in subsection (a)(2) is the latest of the following—

(1) 3 years after the date on which a claim was filed,

(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

(3) 90 days after the date of enactment of this Act.

(d) EXCEPTED COUNTRIES AND TERRITORIES.—This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

(e)<sup>140</sup> RESUMPTION OF ASSISTANCE.—A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

(f)<sup>141</sup> REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

(3) The period of time in which each such claim has been outstanding.

(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

(5) Each project a United States Executive Director voted against as a result of the action described in subsection (b).

(g)<sup>142</sup> WAIVER.—The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

<sup>140</sup> Functions vested in the President in sec. 527(e) were delegated to the Secretary of State, in consultation with the Secretary of the Treasury and the heads of other departments and agencies, as appropriate (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Economic, Business and Agricultural Affairs (Department of State Public Notice 2086; sec. 3 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>141</sup> The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Economic, Business and Agricultural Affairs (Department of State Public Notice 2086; sec. 3 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>142</sup> Functions vested in the President in sec. 527(g) were delegated to the Secretary of State, in consultation with the Secretary of the Treasury and the heads of other departments and agencies, as appropriate (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

(h) DEFINITIONS.—For the purpose of this section, the term “United States person” means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

(i)<sup>143</sup> CERTAIN CLAIMS FOR EXPROPRIATION BY THE GOVERNMENT OF NICARAGUA.—

(1) Any action of the types set forth in subparagraphs (A), (B), and (C) of subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, shall not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2).

(2) An action shall be deemed presented for purposes of paragraph (1) if it is—

(A) in writing; and

(B) received by the United States Department of State on or before 120 days after the date specified in paragraph (3) at—

(i) the headquarters of the United States Department of State in Washington, D.C.; or

(ii) the Embassy of the United States of America to Nicaragua.

(3) The date to which paragraph (2) refers is a date after enactment of this subsection that is specified by the Secretary of State, in the Secretary’s discretion, in a notice published in the Federal Register.

**SEC. 528.<sup>144</sup> REPORT ON RUSSIAN MILITARY OPERATIONS IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

(a) IN GENERAL.—Not later than 5 months after the date of enactment of this Act, the President shall submit to Congress a report on the operations and activities of the armed forces of the Russian Federation, including elements purportedly operating outside the chain of command of the armed forces of the Russian Federation, outside the borders of the Russian Federation and, specifically, in the other independent states that were a part of the former Soviet Union and in the Baltic States.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include, but not be limited to—

(1) an assessment of the numbers and types of Russian armed forces deployed in each of the other independent states of the former Soviet Union and in the Baltic States and a sum-

<sup>143</sup> Sec. 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108-447; 118 Stat. 3032), added subsec. (i). Pursuant to para. (3), the Director, Office of Central American Affairs, Bureau of Western Hemisphere Affairs, Department of State, on March 25, 2005, established “April 1, 2005 as the date from which the 120 day period will be calculated, in accordance with Section 584(c)(i) of H.R. 4818, Consolidated Appropriations Act, 2005, which amends Section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.” (Department of State Public Notice 5046; 70 F.R. 18446).

<sup>144</sup> Functions vested in the President in sec. 528 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790). Sec. 16 of the same delegation of authority, however, reserves authorities in this section for the Secretary of State.

mary of their operations and activities since the demise of the Soviet Union in December 1991;

(2) a detailed assessment of the involvement of Russian armed forces in conflicts in or involving Armenia, Azerbaijan, Georgia, Moldova, and Tajikistan, including support provided directly or indirectly to one or more parties to these conflicts;

(3) an assessment of the political and military objectives of the operations and activities discussed in paragraphs (1) and (2) and of the strategic objectives of the Russian Federation in its relations with the other independent states of the former Soviet Union and the Baltic States;

(4) an assessment of other significant actions, including political and economic, taken by the Russian Federation to influence the other independent states of the former Soviet Union and the Baltic States in pursuit of its strategic objectives; and

(5) an analysis of the new Russian military doctrine adopted by President Yeltsin on November 2, 1993, with particular regard to its implications for Russian policy toward the other independent states of the former Soviet Union and the Baltic States.

(c) DEFINITIONS.—For the purposes of this section—

(1) “the other independent states of the former Soviet Union” means Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(2) “the Baltic States” means Latvia, Lithuania, and Estonia.

**SEC. 529. UNITED STATES POLICY ON NORTH KOREA.**

It is the sense of the Congress that:

(1) It is in the United States national security interest to curtail the proliferation of weapons of mass destruction, particularly nuclear weapons.

(2) The North Korea nuclear weapons program is one of the most pressing national security challenges the United States currently faces.

(3) North Korea’s development of other weapons of mass destruction and of ballistic missiles further threatens United States national security interests and regional security.

(4) United States policy should ensure that North Korea does not possess a nuclear bomb or the capability to build one.

(5) United States forces in Korea must remain vigilant and maintain a robust defense posture.

(6) While diplomacy is the preferable method of dealing with the North Korean nuclear challenge, all options, including the appropriate use of force, remain available.

(7) In fashioning an appropriate policy for dealing with the challenge presented by North Korea’s nuclear program, the Administration should consult closely with United States treaty allies, particularly Japan and the Republic of Korea, as well as with China, Russia, and other members of the United Nations Security Council.

(8) United States policy should support the efforts of the International Atomic Energy Agency (IAEA), as the international community’s designated body for verifying compliance

with the Treaty on the Nonproliferation of Nuclear Weapons,<sup>145</sup> to perform inspections of North Korea's nuclear program.

(9) The United States should encourage strong and expeditious action by the United Nations Security Council inasmuch as North Korea has proved unwilling to comply fully with the following:

(A) North Korea's December 1991 denuclearization agreement with South Korea pledging not to possess, manufacture, or use nuclear weapons, not to possess plutonium reprocessing facilities, and to negotiate the establishment of a nuclear inspection system.

(B) The nuclear safeguards agreement North Korea signed with the IAEA on January 30, 1992.

(C) The agreement on IAEA inspections North Korea accepted on February 15, 1994.

(10) Unless North Korea unequivocally adheres to the Treaty on the Nonproliferation of Nuclear Weapons<sup>145</sup> and abides by all provisions of that treaty, the President should seek international consensus to isolate North Korea, including the imposition of sanctions, in an effort to persuade Pyongyang to halt its nuclear weapons program and permit IAEA inspections of all its nuclear facilities.

(11) Recognizing that within the international community China has significant influence over Pyongyang, the nature and extent of Chinese cooperation with the rest of the international community on the North Korean nuclear issue, including Chinese support for international sanctions should such sanctions be proposed and/or adopted, will inevitably be a significant factor in United States-China relations.

(12) If unable to achieve an international consensus to isolate North Korea, the President should employ all unilateral means of leverage over North Korea, including, but not limited to, the prohibition of any transaction involving the commercial sale of any good or technology to North Korea.

(13) The President should consult with United States allies in the region regarding the military posture of North Korea and the ability of the United States and its allies to deter a North Korean attack, or to defeat such an attack should it occur.

(14) Toward these ends, the United States and South Korea should take all steps necessary to ensure that United States and South Korean forces stationed on the Korean peninsula can defend themselves, including the holding of Team Spirit or other joint military exercises, the deployment of Patriot missiles to South Korea, and other appropriate measures.

(15) The problem posed by North Korea's nuclear program is not a bilateral problem between the United States and North Korea, but a problem in which virtually the entire global community is united against North Korea.

<sup>145</sup>Sec. 1(dd) of Public Law 103-415 (108 Stat. 4302) struck out "Nuclear Nonproliferation Treaty" at each point it appeared in sec. 529, and inserted in lieu thereof "Treaty on the Nonproliferation of Nuclear Weapons".

(16) The international community must insist upon full compliance by North Korea with all its nonproliferation commitments including acceptance of regular and ad hoc inspections of its declared nuclear facilities on a continuing basis, as well as special inspections of all suspected nuclear sites as the IAEA deems appropriate.

(17) International concerns about North Korea's nuclear intentions and capabilities will not be adequately addressed until North Korea cooperates fully with the IAEA, all North Korea nuclear facilities and materials are placed under fullscope safeguards, and North Korea adheres unequivocally to the Treaty on the Nonproliferation of Nuclear Weapons<sup>145</sup> as well as to its 1991 denuclearization agreement with South Korea.

(18) The Administration should work to encourage a productive dialogue between North and South Korea that adequately addresses all security concerns on the Korean peninsula.

**SEC. 530.<sup>146</sup> ENFORCEMENT OF NONPROLIFERATION TREATIES.**

(a) **POLICY.**—It is the sense of the Congress that the President should instruct the United States Permanent Representative to the United Nations to enhance the role of that institution in the enforcement of nonproliferation treaties through the passage of a United Nations Security Council resolution which would state that, any non-nuclear weapon state that is found by the United Nations Security Council, in consultation with the International Atomic Energy Agency (IAEA), to have terminated, abrogated, or materially violated an IAEA full-scope safeguards agreement would be subjected to international economic sanctions, the scope of which to be determined by the United Nations Security Council.

(b) **PROHIBITION.**—Notwithstanding any other provision of law, no United States assistance under the Foreign Assistance Act of 1961 shall be provided to any non-nuclear weapon state that is found by the President to have terminated, abrogated, or materially violated an IAEA full-scope safeguard agreement or materially violated a bilateral United States nuclear cooperation agreement entered into after the date of enactment of the Nuclear Non-Proliferation Act of 1978.

(c) **WAIVER.**—The President may waive the application of subsection (b) if—

(1) the President determines that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security; and

(2) the President reports such determination to the Congress at least 15 days in advance of any resumption of assistance to that state.

**SEC. 531. TAIWAN.**

In view of the self-defense needs of Taiwan, the Congress makes the following declarations:

(1) Sections 2 and 3 of the Taiwan Relations Act are reaffirmed.

<sup>146</sup> 22 U.S.C. 2429a-2.

(2) Section 3 of the Taiwan Relations Act take primacy over statements of United States policy, including communiques, regulations, directives, and policies based thereon.

(3) In assessing the extent to which the People's Republic of China is pursuing its "fundamental policy" to strive peacefully to resolve the Taiwan issue, the United States should take into account both the capabilities and intentions of the People's Republic of China.

(4) The President should on a regular basis assess changes in the capabilities and intentions of the People's Republic of China and consider whether it is appropriate to adjust arms sales to Taiwan accordingly.

**SEC. 532. WAIVER OF SANCTIONS WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA TO PROMOTE DEMOCRACY ABROAD.**

(a)<sup>147</sup> **AUTHORITY.**—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against the Federal Republic of Yugoslavia those United States-supported programs, projects, or activities involving reform of the electoral process, or the development of democratic institutions or democratic political parties.

(b) **POLICY.**—The President, acting through the United States Permanent Representative to the United Nations, should propose that any action, past or future, by the Security Council pursuant to Article 41 of the United Nations Charter, with respect to the Federal Republic of Yugoslavia, should take account of the exemption described in subsection (a).

**SEC. 533.<sup>148</sup> FREEDOM OF INFORMATION EXEMPTION FOR CERTAIN OPEN SKIES TREATY DATA.**

(a) **IN GENERAL.**—Data with respect to a foreign country collected by sensors during observation flights conducted in connection with the Treaty on Open Skies, including flights conducted prior to entry into force of the treaty, shall be exempt from disclosure under the Freedom of Information Act—

(1) if the country has not disclosed the data to the public; and

(2) if the country has not, acting through the Open Skies Consultative Commission or any other diplomatic channel, authorized the United States to disclose the data to the public.

(b) **STATUTORY CONSTRUCTION.**—This section constitutes a specific exemption within the meaning of section 552(b)(3) of title 5, United States Code.

(c) **DEFINITIONS.**—For the purposes of this section—

(1) the term "Freedom of Information Act" means the provisions of section 552 of title 5, United States Code;

(2) the term "Open Skies Consultative Commission" means the commission established pursuant to Article X of the Treaty on Open Skies; and

(3) the term "Treaty on Open Skies" means the Treaty on Open Skies, signed at Helsinki on March 24, 1992.

<sup>147</sup> Functions vested in the President in sec. 532(a) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

<sup>148</sup> 5 U.S.C. 552 note.



**SEC. 534. STUDY OF DEMOCRACY EFFECTIVENESS.**

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>149</sup> of the House of Representatives on a streamlined, cost-effective organization of United States democracy assistance. The report shall include a review of all activities funded by the United States Government, including those funded through the National Endowment for Democracy, the United States Information Agency, and the Agency for International Development.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of all United States-sponsored programs to promote democracy, including identification and discussion of those programs that are overlapping.

(2) A clear statement of achievable goals and objectives for all United States-sponsored democracy programs, and an evaluation of the manner in which current democracy activities meet these goals and objectives.

(3) A review of the current United States Government organization for the delivery of democracy assistance and recommended changes to reduce costs and streamline overhead involved in the delivery of democracy assistance.

(4) Recommendations for coordinating programs, policies, and priorities to enhance the United States Government's role in democracy promotion.

(5) A review of all agencies involved in delivering United States Government funds in the form of democracy assistance and a recommended focal point or lead agency within the United States Government for policy oversight of the effort.

(6) A review of the feasibility and desirability of mandating non-United States Government funding, including matching funds and in-kind support, for democracy promotion programs. If it is determined that such non-Government funding is feasible and desirable, recommendations should be made regarding goals and procedures for implementation.

**SEC. 535. SENSE OF CONGRESS CONCERNING UNITED STATES CITIZENS VICTIMIZED BY GERMANY DURING WORLD WAR II.**

It is the sense of the Congress that United States citizens who were victims of war crimes and crimes against humanity committed by the Government of Germany during the period 1939 to 1945 should be compensated by the Government of Germany.

**SEC. 536.<sup>150</sup> REPORTING REQUIREMENTS ON OCCUPIED TIBET.**

(a) REPORT ON UNITED STATES-TIBET RELATIONS.—Because Congress has determined that Tibet is an occupied sovereign country under international law and that its true representatives are the Dalai Lama and the Tibetan Government in exile—

(1) it is the sense of the Congress that the United States should seek to establish a dialogue with those recognized by

<sup>149</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>150</sup>22 U.S.C. 2656 note. The Secretary of State delegated functions authorized under this section to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790).

Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, concerning the situation in Tibet and the future of the Tibetan people and to expand and strengthen United States-Tibet cultural and educational relations, including promoting bilateral exchanges arranged directly with the Tibetan Government in exile; and

(2) not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall transmit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, and on conditions in Tibet.

(b) SEPARATE TIBET REPORTS.—

(1) It is the sense of the Congress that whenever a report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

(2) The reports referred to in paragraph (1) include, but are not limited to, reports transmitted under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights).

#### PART B—SPOILS OF WAR ACT

**SEC. 551.<sup>151</sup> SHORT TITLE.**

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

**SEC. 552.<sup>152</sup> TRANSFERS OF SPOILS OF WAR.**

(a) ELIGIBILITY FOR TRANSFER.—Spoils of war in the possession, custody, or control of the United States may be transferred to any other party, including any government, group, or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) TERMS AND CONDITIONS.—Any transfer pursuant to subsection (a) shall be subject to all of the terms, conditions, and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

**SEC. 553.<sup>153</sup> PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.**

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

<sup>151</sup> 50 U.S.C. 2201 note.

<sup>152</sup> 50 U.S.C. 2201.

<sup>153</sup> 50 U.S.C. 2202.

**SEC. 554.<sup>154</sup> REPORT ON PREVIOUS TRANSFERS.**

Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained subsequent to August 2, 1990 that were transferred to any party, including any government, group, or person, before the date of enactment of this Act. Such report shall be submitted in unclassified form to the extent possible.

**SEC. 555.<sup>155</sup> DEFINITIONS.**

As used in this part—

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>149</sup> of the House of Representatives, or, where required by law for certain reporting purposes, the Select Committee on Intelligence of the Senate and the Select Committee on Intelligence of the House of Representatives;

(2) the term “enemy” means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term “person” means—

(A) any natural person;

(B) any corporation, partnership, or other legal entity;

and

(C) any organization, association, or group; and

(4) the term “spoils of war” means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

**SEC. 556.<sup>156</sup> CONSTRUCTION.**

Nothing in this part shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

<sup>154</sup> 50 U.S.C. 2203.

<sup>155</sup> 50 U.S.C. 2204.

<sup>156</sup> 50 U.S.C. 2205.

## PART C—ANTI-ECONOMIC DISCRIMINATION ACT

**SEC. 561.<sup>157</sup> SHORT TITLE.**

This part may be cited as the “Anti-Economic Discrimination Act of 1994”.

**SEC. 562. ISRAEL’S DIPLOMATIC STATUS.**

It is the sense of the Congress that the Secretary of State should make the issue of Israel’s diplomatic status a priority and urge countries that receive United States assistance to immediately establish full diplomatic relations with the state of Israel.

**SEC. 563. POLICY ON MIDDLE EAST ARMS SALES.**

(a)<sup>158</sup> \* \* \*

(b)<sup>159</sup> **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report concerning steps taken to ensure that the goals of section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 are being met.

**SEC. 564.<sup>160</sup> PROHIBITION ON CERTAIN SALES AND LEASES.**

(a) **PROHIBITION.**—No defense article or defense service may be sold or leased by the United States Government to any country or international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary<sup>161</sup> boycott of Israel, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

(b) **WAIVER.**—

(1) **1-YEAR WAIVER.**—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organi-

<sup>157</sup> 22 U.S.C. 2679c note.

<sup>158</sup> Subsec. (a) amended sec. 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

<sup>159</sup> The Secretary of State delegated functions authorized under this subsection to the Under Secretary for International Security Affairs (Department of State Public Notice 2086; sec. 2 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>160</sup> 22 U.S.C. 2751 note.

On April 30, 1996, the President issued the following determination (Presidential Determination No. 96-23; 61 F.R. 26029):

“Pursuant to the authority vested in me by Section 564 of the Foreign Relations Authorization Act (“the Act”), Fiscal Years 1994 and 1995, Public Law 103-236, as amended, I hereby:

“(1) determine and certify that the following countries do not currently maintain a policy or practice of sending letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary boycott of Israel:

“Jordan and Mauritania;

“(2) determine that extension of suspension of the application of Section 564(a) of the Act to the following countries until May 1, 1997, will promote the objectives of Section 564:

“Algeria, Bahrain, Bangladesh, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.”

Earlier Presidential Determination No. 95-20, May 1, 1995, may be found at 60 F.R. 22245. In a memorandum of April 24, 1997 (62 F.R. 24797), the President delegated to the Secretary of State the functions in sec. 564.

See also 48 CFR 625.70.

<sup>161</sup> Sec. 1(l) of Public Law 103-415 (108 Stat. 4301) struck out “primary or secondary” and inserted in lieu thereof “secondary or tertiary”.

zation if the President determines, and reports to the appropriate congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

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

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>149</sup> of the House of Representatives; and

(2) the terms “defense article” and “defense service” have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

**SEC. 565.<sup>162</sup> PROHIBITION ON DISCRIMINATORY CONTRACTS.**

(a) PROHIBITION.—

(1) Except for real estate leases and as provided in subsection (b), the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))—

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking, except that for purposes of this paragraph, the term “United States person” as used in subparagraphs (B) and (C) of section 8(a)(1) of such Act shall be deemed to mean “person”; and

(B) the term “foreign person” means any person other than a United States person as defined in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

<sup>162</sup> 22 U.S.C. 2679c.

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)). Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(b)<sup>163</sup> WAIVER BY SECRETARY OF STATE.—The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

(c)<sup>163</sup> RESPONSES TO CONTRACT SOLICITATIONS.—(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a), includes the following clause, in substantially the following form:

“ARAB LEAGUE BOYCOTT OF ISRAEL

“(a) DEFINITIONS.—As used in this clause—

“(1) the term ‘foreign person’ means any person other than a United States person as defined in paragraph (2); and

“(2) the term ‘United States person’ means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

“(b) CERTIFICATION.—By submitting this offer, the Offeror certifies that it is not—

“(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking; or

“(2) discriminating in the award of subcontracts on the basis of religion.”

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State

<sup>163</sup>The Secretary of State delegated functions authorized under subsecs. (b) and (c) to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)).

(d) REVIEW AND TERMINATION.—(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(e) <sup>164</sup> \* \* \* [Repealed—1998]

#### PART D—THE CAMBODIAN GENOCIDE JUSTICE ACT

##### SEC. 571.<sup>165</sup> SHORT TITLE.

This part may be cited as the “Cambodian Genocide Justice Act”.

##### SEC. 572.<sup>165</sup> POLICY.

(a) IN GENERAL.—Consistent with international law, it is the policy of the United States to support efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979.

(b) SPECIFIC ACTIONS URGED.—To that end, the Congress urges the President—

(1) to collect, or assist appropriate organizations and individuals to collect relevant data on crimes of genocide committed in Cambodia;

(2) in circumstances which the President deems appropriate, to encourage the establishment of a national or international criminal tribunal for the prosecution of those accused of genocide in Cambodia; and

(3) as necessary, to provide such national or international tribunal with information collected pursuant to paragraph (1).

##### SEC. 573.<sup>165</sup> ESTABLISHMENT OF STATE DEPARTMENT OFFICE.

(a) ESTABLISHMENT.—(1) None of the funds authorized to be appropriated by this Act for “Diplomatic and Consular Programs” shall be available for obligation or expenditure during fiscal years 1994 and 1995 unless, not later than 90 days after the date of en-

<sup>164</sup>Sec. 1336(3) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-790) repealed subsec. (e), which had read as follows:

“(e) UNITED STATES INFORMATION AGENCY.—The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State.”.

<sup>165</sup>22 U.S.C. 2656 note.

actment of this Act, the Secretary of State has established within the Department of State under the Assistant Secretary for East Asia and Pacific Affairs (or any successor Assistant Secretary) the Office of Cambodian Genocide Investigation (hereafter in this part referred to as the "Office").

(2) The Office may carry out its activities inside or outside of Cambodia, except that not less than 75 percent of the funds made available for the Office and its activities shall be used to carry out activities within Cambodia.

(b) **PURPOSE.**—The purpose of the Office shall be to support, through organizations and individuals with whom the Secretary of State may contract to carry out the operations of the Office, as appropriate, efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979, including—

(1) to investigate crimes against humanity committed by national Khmer Rouge leaders during that period;

(2) to provide the people of Cambodia with access to documents, records, and other evidence held by the Office as a result of such investigation;

(3) to submit the relevant data to a national or international penal tribunal that may be convened to formally hear and judge the genocidal acts committed by the Khmer Rouge; and

(4) to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia.

(c) <sup>166</sup> **CONTRACTING AUTHORITY.**—The Secretary of State shall, subject to the availability of appropriations, contract with appropriate individuals and organizations to carry out the purpose of the Office.

(d) **NOTIFICATION TO CONGRESS.**—The Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs <sup>167</sup> and the Committee on Appropriations of the House of Representatives shall be notified of any exercise of the authority of section 34 of the State Department Basic Authorities Act of 1956 with respect to the Office or any of its programs, projects, or activities at least 15 days in advance in accordance with procedures applicable to notifications under that section.

**SEC. 574.**<sup>165, 168</sup> **REPORTING REQUIREMENT.**

(a) **IN GENERAL.**—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees—

<sup>166</sup>The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

<sup>167</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>168</sup>Functions vested in the President in sec. 574 were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205), and further delegated to the Under Secretary for Political Affairs (Department of State Public Notice 2086; sec. 1 of Delegation of Authority No. 214; 59 F.R. 50790).



(1) that describes the activities of the Office, and sets forth new facts learned about past Khmer Rouge practices, during the preceding 6-month period; and

(2) that describes the steps the President has taken during the preceding 6-month period to promote human rights, to support efforts to bring to justice the national political and military leadership of the Khmer Rouge, and to prevent the recurrence of human rights abuses in Cambodia through actions which are not related to United Nations activities in Cambodia.

(b) DEFINITION.—For purposes of this section, the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>167</sup> of the House of Representatives.

#### PART E—MIDDLE EAST PEACE FACILITATION

##### SEC. 581. SHORT TITLE.

This part may be cited as the “Middle East Peace Facilitation Act of 1994”.

##### SEC. 582. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel’s right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

##### SEC. 583. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), beginning July 1, 1994, the President may suspend for a period of not more than 6 months any provision of law specified in subsection (c).<sup>169</sup> The

<sup>169</sup>Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103-125; 107 Stat. 1309), authorized the President to suspend certain provisions of law as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in the Middle East Peace Facilitation Act of 1994 (Public Law 103-236), and again in the Middle East Peace Facilitation Act of 1995 (Public Law 104-107).

President may continue the suspension for a period or periods of not more than 6 months until March 31, 1996,<sup>170</sup> if, before each such period, the President satisfies the requirements of subsection (b). Any suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1)<sup>171</sup> CONSULTATION.—Prior to each exercise of the authority provided in subsection (a), the President shall consult with the relevant congressional committees. The President may not exercise that authority until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

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The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94-13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94-30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95-12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95-31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95-36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95-50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96-5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96-8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96-20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96-32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96-41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97-17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102); see secs. 534(d), 544, 547, and 550. See also sec. 555, restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, sec. 558, prohibiting assistance to the Palestinian Broadcasting Corporation, and sec. 559, West Bank and Gaza Program.

On December 5, 1997, the President waived the provisions of sec. 1003 of the Anti-Terrorism Act of 1987 (Public Law 100-204) through June 4, 1998 (Presidential Determination No. 98-8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98-29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98-5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99-25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination No. 00-2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000-19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01-13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002-03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002-14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03-03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003-20; April 16, 2003; 68 F.R. 20327); through April 14, 2004 (Presidential Determination No. 2004-04; October 14, 2003; 68 F.R. 60841); through October 14, 2004 (Presidential Determination No. 2004-28; April 14, 2004; 69 F.R. 21679); through April 14, 2005 (Presidential Determination No. 2005-02; October 14, 2004; 69 F.R. 62795); through October 14, 2005 (Presidential Determination No. 2005-22; April 14, 2005; 70 F.R. 21611); and through April 14, 2006 (Presidential Determination No. 2006-01; October 14, 2005; 70 F.R. 62225).

<sup>170</sup>Sec. 1 of Public Law 104-17 (109 Stat. 191) extended this authority from July 1, 1995 to August 15, 1995. Further extensions were provided in Public Law 104-22 (109 Stat. 260)—extending to October 1, 1995; Public Law 104-30 (109 Stat. 277)—extending to November 1, 1995; Public Law 104-47 (109 Stat. 423)—extending to December 31, 1995; and Public Law 104-89 (109 Stat. 960)—extending to March 31, 1996. The latter extensions further provided the following, with appropriate dates adjusted:

“(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.”

<sup>171</sup>Functions vested in the President in sec. 583(b)(1) and (b)(6) were delegated to the Secretary of State (Presidential memorandum of July 26, 1994; 59 F.R. 40205).

- (A) it is in the national interest of the United States to exercise such authority; and
- (B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).
- (3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (c) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).
- (4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—
- (A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—
- (i) recognize the right of the State of Israel to exist in peace and security;
  - (ii) accept United Nations Security Council Resolutions 242 and 338;
  - (iii) renounce the use of terrorism and other acts of violence;
  - (iv) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators;
  - (v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and
  - (vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and
- (B) in, and resulting from, the good faith implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.
- (5) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—
- (A) renouncing the Arab League boycott of Israel;
  - (B) urging the nations of the Arab League to end the Arab League boycott of Israel;
  - (C) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel; and
  - (D) condemning individual acts of terrorism and violence.
- (6)<sup>171</sup> REPORTING REQUIREMENT.—As part of the President's written policy justification referred to in paragraph (1), the President will report on the PLO's response to individual acts of terrorism and violence, as well as its actions concerning the Arab League boycott of Israel as enumerated in paragraph (5)

and on the status of the PLO office in the United States as enumerated in subsection (c)(3).

(c) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227)<sup>172</sup> as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 5202).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w)<sup>173</sup> as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term “other official status” does not include membership in the International Monetary Fund.

(d) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term “relevant congressional committees” means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs,<sup>174</sup> and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

#### TITLE VI—PEACE CORPS<sup>175</sup>

##### SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$219,745,000 for the fiscal year 1994 and \$234,745,000 for the fiscal year 1995 to carry out the Peace Corps Act.

(b) AVAILABILITY OF FUNDS.—Funds made available to the Peace Corps pursuant to the authorization under subsection (a) shall be available for the fiscal year for which appropriated and the subsequent fiscal year.

<sup>172</sup> For text, see *Legislation on Foreign Relations Through 2005*, vol. I–A.

<sup>173</sup> For text, see *Legislation on Foreign Relations Through 2005*, vol. III.

<sup>174</sup> Sec. 1(a)(2) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall be treated as referring to the Committee on Banking and Financial Services of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

<sup>175</sup> For other legislation relating to the Peace Corps, see *Legislation on Foreign Relations Through 2005*, vol. I–B.

**SEC. 602.**<sup>176</sup> **AMENDMENTS TO THE PEACE CORPS ACT.** \* \* \*

## TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF  
1994<sup>177</sup>

\* \* \* \* \*

PART B—AMENDMENTS TO THE ARMS EXPORT CONTROL  
ACT<sup>178</sup>

\* \* \* \* \*

TITLE VIII—NUCLEAR PROLIFERATION PREVENTION  
ACT<sup>179</sup>**SEC. 801. SHORT TITLE.**

This title may be cited as the “Nuclear Proliferation Prevention Act of 1994”.

PART A—REPORTING ON NUCLEAR EXPORTS<sup>180</sup>

\* \* \* \* \*

PART B—SANCTIONS FOR NUCLEAR PROLIFERATION<sup>181</sup>**SEC. 821. IMPOSITION OF PROCUREMENT SANCTION ON PERSONS EN-  
GAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO  
PROLIFERATION.**

## (a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.—The sanction shall be imposed pursuant to paragraph (1) on—

<sup>176</sup>Sec. 602 amended secs. 10(c) and 10(j) of the Peace Corps Act (22 U.S.C. 2509(c), 2509(j)).

<sup>177</sup>Part A of title VII, for the most part, contains amendments to the Arms Control and Disarmament Act; 5 United States Code; the Arms Export Control Act (see *Legislation on Foreign Relations Through 2005*, vol. I-A), and Nuclear Non-Proliferation Act of 1978 (see *Legislation on Foreign Relations Through 2005*, vol. IV). For freestanding provisions of part A, see vol. II-B.

<sup>178</sup>Part B consists entirely of amendments to the Foreign Assistance Act of 1961, the Arms Export Control Act (see *Legislation on Foreign Relations Through 2005*, vol. I-A) and the Export Administration Act of 1979 (see *Legislation on Foreign Relations Through 2005*, vol. III).

<sup>179</sup>22 U.S.C. 3201 note.

<sup>180</sup>Part A amends the Nuclear Non-Proliferation Act of 1978; see *Legislation on Foreign Relations Through 2005*, vol. IV.

<sup>181</sup>Sec. 831 of this Act provided:

**“SEC. 831. EFFECTIVE DATE.**

“The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.”.

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.—The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term “requisite knowledge” means situations in which a person “knows”, as “knowing” is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs<sup>182</sup> of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any deter-

<sup>182</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

mination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanction under this section—

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

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

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

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

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

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

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

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

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

(E) to medical or other humanitarian items.

(d)<sup>183</sup> ADVISORY OPINIONS.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.—The sanction imposed pursuant to this section shall apply for a period of at least 12 months

<sup>183</sup>The Secretary of State delegated functions authorized under this subsection to the Under Secretary for International Security Affairs (Department of State Public Notice 2086; sec. 2 of Delegation of Authority No. 214; 59 F.R. 50790).

following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

#### SEC. 822. ELIGIBILITY FOR ASSISTANCE.

(a)<sup>184</sup> AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—\* \* \*

(b) FOREIGN ASSISTANCE ACT OF 1961.—

(1) PRESIDENTIAL DETERMINATION 82-7.—Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982,<sup>185</sup> made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 102(a)(1) of the Arms Export Control Act arising on or after the effective date of this part.

<sup>184</sup> Subsec. (a) amended secs. 3 and 40 of the Arms Export Control Act (22 U.S.C. 2753, 2780).

<sup>185</sup> Presidential Determination No. 82-7 of February 10, 1982 (47 F.R. 9805), issued as a memorandum for the Secretary of State, read as follows:

“By the authority vested in me as President by the Constitution and statutes of the United States of America, including sections 620E and 670(a)(2) of the Foreign Assistance Act of 1961, as amended (“the Act”), I hereby:

“(1) determine, pursuant to section 620E(d) of the Act, that the provision of assistance to Pakistan under the Act through September 30, 1987, is in the national interest of the United States and therefore waive the prohibitions of section 669 of the Act with respect to that period;

“(2) determine and certify, pursuant to section 670(a)(2) of the Act, that not providing assistance referred to in section 670(a)(1) of the Act to Pakistan would be seriously prejudicial to the achievement of United States nonproliferation objectives and otherwise jeopardize the common defense and security;

“(3) authorize the provision of assistance referred to in sections 669(a)(1) and 670(a)(1) of the Act to Pakistan beginning thirty (30) days following submission of this determination and certification to the Congress.”.



(2)<sup>186</sup> \* \* \*

**SEC. 823. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a) **IN GENERAL.**—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b)<sup>187</sup> \* \* \*

**SEC. 824. PROHIBITION ON ASSISTING NUCLEAR PROLIFERATION THROUGH THE PROVISION OF FINANCING.**

(a) **PROHIBITED ACTIVITY DEFINED.**—For purposes of this section, the term “prohibited activity” means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material;

or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device, by any individual, group, or non-nuclear-weapon state.

(b) **PROHIBITION.**—To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) **PRESIDENTIAL DETERMINATION AND ORDER WITH RESPECT TO UNITED STATES AND FOREIGN PERSONS.**—If the President determines,<sup>188</sup> that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) **SANCTIONS.**—The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

(1) **BAN ON DEALINGS IN GOVERNMENT FINANCE.**—

(A) **DESIGNATION AS PRIMARY DEALER.**—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) **SERVICE AS DEPOSITARY.**—The person may not serve as a depositary for United States Government funds.

(2) **RESTRICTIONS ON OPERATIONS.**—The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

<sup>186</sup> Para. (2) amended sec. 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)).

<sup>187</sup> Subsec. (b) amended sec. 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)).

<sup>188</sup> Sec. 157(b)(1) of Public Law 104-164 (110 Stat. 1440) struck out “in writing after opportunity for a hearing on the record” (resulting in a double comma).

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e)<sup>189</sup> CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination under subsection (c) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—

(A) SUSPENSION OF PERIOD FOR IMPOSING SANCTIONS.—In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) COORDINATION WITH ACTIVITIES OF FOREIGN GOVERNMENT.—Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) EXTENSION OF PERIOD.—After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) REPORT TO CONGRESS.—Before the end of the 90-day period beginning on the date on which an order is issued under subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(f)<sup>189</sup> TERMINATION OF THE SANCTIONS.—Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

<sup>189</sup>Sec. 157(b)(2) and (3) of Public Law 104-164 (110 Stat. 1440) struck out subsec. (e) and redesignated subsecs. (f) through (k) as subsecs. (e) through (j), respectively. Former subsec. (e) had provided that: "Any determination of the President under subsection (c) shall be subject to judicial review in accordance with chapter 7 of part I of title 5, United States Code."

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(g)<sup>189</sup> **WAIVER.**—The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(h)<sup>189</sup> **ENFORCEMENT ACTION.**—The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

- (1) any violation of subsection (b); or
- (2) any order issued pursuant to subsection (c).

(i)<sup>189</sup> **KNOWINGLY DEFINED.**—

(1) **IN GENERAL.**—For purposes of this section, the term “knowingly” means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) **KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR CIRCUMSTANCE.**—If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(j)<sup>189</sup> **SCOPE OF APPLICATION.**—This section shall apply with respect to prohibited activities which occur on or after the date this part takes effect.

**SEC. 825.**<sup>190</sup> **EXPORT-IMPORT BANK.** \* \* \*

**SEC. 826.**<sup>191</sup> **AMENDMENT TO THE ARMS EXPORT CONTROL ACT.** \* \* \*

**SEC. 827.**<sup>192</sup> **REWARD.** \* \* \*

**SEC. 828. REPORTS.**

(a)<sup>193</sup> **CONTENT OF ACDA ANNUAL REPORT.**—\* \* \*

(b) **REPORTING ON DEMARCHES.**—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from for-

<sup>190</sup>Sec. 825 amended sec. 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)).

<sup>191</sup>Sec. 826(a) added a new chapter 10 to the Arms Export Control Act, relating to nuclear proliferation controls (22 U.S.C. 2799aa *et seq.*). Sec. 826(b) repealed secs. 669 and 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429, 2429a). Sec. 826(c) made corresponding technical amendments.

<sup>192</sup>Sec. 827 amended sec. 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)).

<sup>193</sup>Sec. 828(a) amended sec. 51(a) of the Arms Control and Disarmament Act.

eign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term “demarche” means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

\* \* \* \* \*

#### SEC. 830. DEFINITIONS.

For purposes of this part—

(1) the term “foreign person” means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term “goods or technology” means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term “IAEA safeguards” means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term “nuclear explosive device” means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term “non-nuclear-weapon state” means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term “special nuclear material” has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

(7) the term “United States person” means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term “unsafeguarded special nuclear material” means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

**SEC. 831. EFFECTIVE DATE.**

The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.

**PART C—INTERNATIONAL ATOMIC ENERGY AGENCY**<sup>194</sup>

**SEC. 841. BILATERAL AND MULTILATERAL INITIATIVES.**

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

<sup>194</sup> See related legislation under “Energy, Natural Resources, and Environment,” in *Legislation on Foreign Relations Through 2005*, vol. IV.

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

#### **SEC. 842. IAEA INTERNAL REFORMS.**

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures,

and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

**SEC. 843. REPORTING REQUIREMENT.**

(a) **REPORT REQUIRED.**—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 841 and 842, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 841 and 842.

(b) **CONTENTS OF REPORT.**—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 841 and 842;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 841 and 842;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 841 and 842.

**SEC. 844. DEFINITIONS.**

As used in this part—

(1) the term “highly enriched uranium” means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term “IAEA” means the International Atomic Energy Agency;

(3) the term “near real time material accountancy” means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term “special fissionable material” has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term “the Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms “IAEA safeguards”, “non-nuclear-weapon state”, “nuclear explosive device”, and “special nuclear material” have the meanings given those terms in section 830 of this Act.

PART D—TERMINATION \* \* \* [Repealed—1996]<sup>195</sup>

TITLE IX—COMMISSION ON PROTECTING AND REDUCING  
GOVERNMENT SECRECY

**SEC. 901.<sup>196</sup> SHORT TITLE.**

This title may be cited as the “Protection and Reduction of Government Secrecy Act”.

**SEC. 902.<sup>196</sup> FINDINGS.**

The Congress makes the following findings:

(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decisionmaking.

(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States,

<sup>195</sup> Sec. 157(a) of Public Law 104-164 (110 Stat. 1440) repealed part D, which consisted only of sec. 851, which had provided the following:

**“SEC. 851. TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT.**

“On the date of enactment of the first Foreign Relations Authorization Act that is enacted after the enactment of this Act, the provisions of parts A and B of this title shall cease to be effective, the amendments made by those parts shall be repealed, and any provision of law repealed by those parts shall be reenacted.”

<sup>196</sup> 50 U.S.C. 401 note.



and the selective and unauthorized public disclosure of classified information.

(4) It has been estimated that private businesses spend more than \$14 billion each year implementing government mandated regulations for protecting classified information.

(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that "more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information".

(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

**SEC. 903.<sup>196</sup> PURPOSE.**

It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

**SEC. 904.<sup>196</sup> COMPOSITION OF THE COMMISSION.**

(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the "Commission").

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

(1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a

quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title.

(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

**SEC. 905.<sup>196</sup> FUNCTIONS OF THE COMMISSION.**

The functions of the Commission shall be—

(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances; and

(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation.

**SEC. 906.<sup>196</sup> POWERS OF THE COMMISSION.**

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

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

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

(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

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

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, es-

timates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(d) <sup>197</sup> ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

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

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

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

**SEC. 907.<sup>196</sup> STAFF OF THE COMMISSION.**

(a) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

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

**SEC. 908.<sup>196</sup> COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect

<sup>197</sup>The Secretary of State delegated functions authorized under this subsection to the Under Secretary for Management (Department of State Public Notice 2086; sec. 4 of Delegation of Authority No. 214; 59 F.R. 50790; pursuant to Delegation of Authority No. 198, September 16, 1992).

for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

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

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

**SEC. 909.<sup>196</sup> SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

**SEC. 910.<sup>196</sup> FINAL REPORT OF COMMISSION; TERMINATION.**

(a) FINAL REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

**m. Foreign Relations Authorization Act, Fiscal Years 1992  
and 1993**

Partial text of Public Law 102-138 [H.R. 1415], 105 Stat. 647, approved October 28, 1991; as amended by Public Law 102-182 [Chemical and Biological Weapons Control and Warfare Elimination Act of 1991; title III of H.R. 1724], 105 Stat. 1233, approved December 4, 1991; Public Law 102-395 [Department of State and Related Agencies Appropriations Act, 1993; H.R. 5678], 106 Stat. 1828 at 1864, approved October 6, 1992; Public Law 102-511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681-765, approved October 21, 1998

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE.**

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

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TITLE I—DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) DIPLOMATIC AND ONGOING OPERATIONS.—The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law (other than the diplomatic security program):



(1)<sup>2</sup> SALARIES AND EXPENSES.—For “Salaries and Expenses”, of the Department of State \$1,725,005,000 for the fiscal year 1992 and \$1,822,650,000 for the fiscal year 1993.

(2)<sup>3</sup> ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For “Acquisition and Maintenance of Buildings Abroad”, \$304,034,000 for the fiscal year 1992 and \$300,192,000 for the fiscal year 1993.

(3)<sup>4</sup> REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$4,802,000 for the fiscal year 1992 and \$5,000,000 for the fiscal year 1993.

(4)<sup>5</sup> EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$7,500,000 for the fiscal year 1992 and \$8,000,000 for the fiscal year 1993.

(5)<sup>6</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$23,928,000 for the fiscal year 1992 and \$26,650,000 for the fiscal year 1993.

<sup>2</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 816), provided \$2,015,335,000 for “Salaries and Expenses” for fiscal year 1992.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1864), provided \$2,134,000,000 for “Salaries and Expenses” for fiscal year 1993.

<sup>3</sup>For “Acquisition and Maintenance of Building Abroad”, the Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided “\$545,000,000, of which \$100,000,000 is available for construction of chancery facilities in Moscow, U.S.S.R., to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.”

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1865), provided “\$570,500,000, of which not to exceed \$140,000,000 is available for construction of chancery facilities in Moscow, Russian Federation, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.”

<sup>4</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$4,802,000, for “Representation Allowances”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1865), provided \$4,900,000, for “Representation Allowances”.

<sup>5</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$7,500,000 for “Emergencies in the Diplomatic and Consular Service”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided:

“\* \* \* \$8,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That not more than \$1,000,000 shall be available for representation expenses.

“In addition, notwithstanding any other provision of law, funds appropriated to the Emergencies in the Diplomatic and Consular Service appropriation in Public Law 102-27, Emergency Supplemental Appropriations Act, Fiscal Year 1991, are available for any and all unforeseen emergencies that may arise in fiscal year 1992 and thereafter, pursuant to the requirements of 31 U.S.C. 3526(e).”

<sup>6</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$23,037,000, for the “Office of the Inspector General”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1865), provided:

“OFFICE OF INSPECTOR GENERAL

“For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), \$15,805,000.”

(6)<sup>7</sup> PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$13,784,000 for the fiscal year 1992 and \$14,500,000 for the fiscal year 1993.

(7)<sup>3</sup> MOSCOW EMBASSY.—For “Acquisition and Maintenance of Buildings Abroad”, subject to the provisions of section 132, for construction of a new United States Embassy office building in Moscow, Soviet Union, \$130,000,000 for fiscal year 1992 and \$130,000,000 for fiscal year 1993. Amounts appropriated under this paragraph are authorized to be available until expended.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the fiscal years 1992 and 1993 for the Department of State to carry out the diplomatic security program:

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$299,828,000 for the fiscal year 1992 and \$315,000,000 for the fiscal year 1993. Of the amounts authorized to be appropriated by this paragraph \$4,000,000 is authorized to be appropriated for each of the fiscal years 1992 and 1993 for “counterterrorism, research, and development”.

(2)<sup>8</sup> PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$11,464,000 for the fiscal year 1992 and \$16,464,000 for the fiscal year 1993.

(c) LIMITATIONS.—

(1) Of the amount authorized to be appropriated for “Emergencies in the Diplomatic and Consular Service” under subsection (a)(4), not more than \$2,000,000 for each of the fiscal years 1992 and 1993 is authorized to be appropriated for activities authorized under subparagraphs (C), (D), (E), (F), (G), (H), and (J) of section 4(b)(2) of the State Department Basic Authorities Act of 1956.

(2) Of the amount authorized to be appropriated for “Salaries and Expenses” under subsection (a)(1)—

(A) \$10,000,000 for each of the fiscal years 1992 and 1993 is authorized to be available for the Foreign Service Institute<sup>9</sup> and the Geographic Bureaus for language training programs;

(B) not more than \$4,100,000 shall be available for fiscal year 1992, and not more than \$5,400,000 shall be available for fiscal year 1993, only for procurement of ADP equipment for the Beltsville Information Management Center;

<sup>7</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$13,784,000, for “Payment to the American Institute in Taiwan”.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided \$15,543,000.

<sup>8</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided \$10,464,000, for “Protection of Foreign Missions and Officials”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided \$10,814,000.

<sup>9</sup>Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center’.”.

(C) not more than \$750,000 of the amounts appropriated for fiscal year 1992 are authorized to be available until expended to pay shared costs of the Conference on Security and Cooperation in Europe (CSCE) parliamentary meetings and CSCE parliamentary assessments (including shared costs of the CSCE Secretariat) and any shared costs and assessments for CSCE parliamentary activities for fiscal year 1991;

(D) for the fiscal year 1992—

(i) \$550,000 is authorized for United States preparations and related travel for the 1992 United Nations Conference on Environment and Development (UNCED), for United States contributions to the Voluntary Fund for UNCED, and for United States contributions to the Trust Fund for Preparatory Activities; and

(ii) up to \$25,000 is authorized on a matching grant basis to promote participation in the UNCED and in the UNCED preparatory conferences by nongovernmental organizations; and

(E) \$1,500,000 is authorized to be available for fiscal year 1993 for the Department of State to enter into contracts with the International Career Program in order for students from historically-black colleges and universities to enter into programs of recruitment and training for careers in the Foreign Service and in other areas of international affairs.

(3) Of the amount authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” under subsection (a)(2) not more than \$41,500,000 shall be available for fiscal year 1992, and not more than \$44,700,000 for fiscal year 1993, for administration.

(4) Of the amount authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” under subsection (a)(2) and amounts authorized to be appropriated under section 401 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 a total of not more than \$55,466,000 is authorized to be appropriated for fiscal year 1992 for capital programs.

(5)<sup>10</sup> Funds authorized to be appropriated by subsection (a)(1) are also authorized to be appropriated under the heading

<sup>10</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 817), provided the following:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans as authorized by 22 U.S.C. 2671 as follows: Cost of direct loans, \$74,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed \$780,000. In addition, for administrative expenses necessary to carry out the direct loan program, \$145,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.”

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided:

“REPATRIATION LOANS PROGRAM ACCOUNT

“For the cost of direct loans, \$624,000, as authorized by 22 U.S.C. 2671: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out

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“Repatriation Loans Program Account” for the administrative expenses of such program.

(6) Amounts appropriated for “Acquisition and Maintenance of Buildings Abroad” pursuant to this section, and made available for new posts in Estonia, Latvia, Lithuania, republics in the Soviet Union, and republics which have declared independence from the Soviet Union, shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

**SEC. 102. INTERNATIONAL ORGANIZATIONS AND CONFERENCES.**

(a)<sup>11</sup> ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—(1) There are authorized to be appropriated for “Contributions to International Organizations”, \$1,120,541,000 for the fiscal year 1992 and \$766,681,000 for the fiscal year 1993 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) Of the amounts authorized to be appropriated under paragraph (1) for fiscal year 1992, not more than \$370,876,000 are authorized to be appropriated to pay arrearages for assessed contributions for prior years, of which not more than \$92,719,000 may be made available for obligation or expenditure during each of the fiscal years 1992, 1993, 1994, and 1995. Authorizations of appropriations for arrearage payments under this subsection shall be available until the appropriations are made.

the direct loan program, \$193,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.”

<sup>11</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided “\* \* \* \$842,384,000, of which not to exceed \$92,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.”

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866; 22 U.S.C. 269a note), provided:

“INTERNATIONAL ORGANIZATIONS AND CONFERENCES

“CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

“For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$913,214,000, of which not to exceed \$92,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.”

Sec. 2(c) of the International Peacekeeping Act of 1992 (Public Law 102-311; 106 Stat. 277) authorized the following:

“(c) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—In addition to such amounts as are authorized to be appropriated in section 102(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, there are authorized to be appropriated \$53,814,000 for fiscal year 1993 for ‘Contributions to International Organizations’.”

(3)<sup>12</sup> None of the amounts authorized to be appropriated under paragraph (2) shall be disbursed to the United Nations or any affiliated organization until the President reports to the Congress the specific elements of the plan by which the United Nations, and each affiliated organization authorized to receive such funds, intends to expend or otherwise use such funds.

(b)<sup>13</sup> CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—(1) There are authorized to be appropriated for “Contributions to International Peacekeeping Activities”, \$201,292,000 for the fiscal year 1992 and \$72,254,000 for the fiscal year 1993, for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(2) Of the amounts authorized to be appropriated by paragraph (1) for the fiscal year 1992, not more than \$132,423,000 are authorized to be appropriated to pay arrearages, of which not more than \$38,400,000 may be made available for obligation or expenditure during the fiscal year 1992 and not more than \$31,400,000 may be made available for obligation or expenditure for each of the fiscal years 1993, 1994, and 1995. Authorizations of appropriations for arrearage payments under this subsection shall be available until the appropriations are made.<sup>13</sup>

(c)<sup>14</sup> INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated for “International Conferences

<sup>12</sup>In a memorandum of February 10, 1992, the President delegated functions in secs. 102(a)(3), 162(b), and 162(d), relating to payment to the United Nations and its specialized agencies of U.S. assessments and arrears, to the Secretary of State in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs (57 F.R. 5365; February 14, 1992).

Such functions were further delegated to the Under Secretary for Management, in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs, by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992), as amended by Delegation of Authority 193-3 of June 25, 1992 (Public Notice 1661; 57 F.R. 32042; July 20, 1992).

<sup>13</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$107,229,000, of which not to exceed \$38,360,000, shall be made available to pay arrearages, for United Nations peacekeeping forces, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1866), provided:

“CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

“For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, \$460,315,000 of which not to exceed \$21,992,000 is available to pay arrearages: *Provided*, That funds shall be available for the United Nations Transitional Authority in Cambodia (UNTAC) only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for UNTAC equal to those being given to foreign manufacturers and suppliers, and that the United States Mission to the United Nations has established procedures to provide information on all United Nations procurement regulations and solicitations to American manufacturers and suppliers.”

<sup>14</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 818), provided \$5,500,000, for “International Conferences and Contingencies”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided:

“INTERNATIONAL CONFERENCES AND CONTINGENCIES

“For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the

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and Contingencies”, \$5,500,000 for the fiscal year 1992 and \$5,775,000 for the fiscal year 1993 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

**SEC. 103. INTERNATIONAL COMMISSIONS.**

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)<sup>15</sup> for “Salaries and Expenses” for the fiscal year 1992, \$11,400,000 and, for the fiscal year 1993, \$12,000,000; and

(B)<sup>16</sup> for “Construction” for the fiscal year 1992, \$10,525,000 and, for the fiscal year 1993, \$19,925,000.

(2)<sup>17</sup> INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$768,000 for the fiscal year 1992 and \$805,000 for the fiscal year 1993.

(3)<sup>17</sup> INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,732,000 for the fiscal year 1992 and \$3,920,000 for the fiscal year 1993.

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United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, \$5,600,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed \$200,000 may be expended for representation as authorized by 22 U.S.C. 4085.”

<sup>15</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$11,400,000, for “Salaries and Expenses”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided \$11,330,000.

<sup>16</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$10,277,000, for “Construction”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided \$14,790,000.

<sup>17</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided:

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1867), provided:

“AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

“For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,403,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

(4)<sup>18</sup> INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$14,000,000 for the fiscal year 1992 and \$16,500,000 for the fiscal year 1993.

**SEC. 104.<sup>19</sup> MIGRATION AND REFUGEE ASSISTANCE.**

(a) AUTHORIZATION OF APPROPRIATIONS.—(1)(A) There are authorized to be appropriated for “Migration and Refugee Assistance”

<sup>18</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$14,000,000, for “International Fisheries Commissions”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided:

“INTERNATIONAL FISHERIES COMMISSIONS

“For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$14,200,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.”

<sup>19</sup>Appropriations for Migration and Refugee Assistance administered by the Department of State are provided in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Fiscal year 1992 appropriations levels and conditions were provided in H.R. 2621 as passed by the House on June 19, 1991, pursuant to secs. 115 and 116 of Public Law 102-145 (105 Stat. 968). H.R. 2621 provided the following for fiscal year 1992:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$630,000,000: *Provided*, That not less than \$80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than \$1,500,000 shall be available for Tibetan refugees: *Provided further*, That not less than \$1,500,000 shall be available for voluntary repatriation of Hmong refugees from Thailand to Laos through nongovernmental organizations: *Provided further*, That not less than \$315,000,000 shall be available for overseas refugee programs (in addition to amounts available for Soviet, Eastern European, and other refugees resettling in Israel): *Provided further*, That not more than \$11,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.”

Fiscal year 1992 appropriations levels were reduced by 1.4781 percent in sec. 126 of Public Law 102-145, as amended, to \$620,688,000 and \$49,261,000 respectively.

For fiscal year 1993, title II of the Foreign Operations, Export financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391; 106 Stat. 1652) provided the following:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; \$620,688,000: *Provided*, That not less than \$80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than \$35,000,000 shall be available for refugees in Bosnia, Croatia, and Slovenia: *Provided further*, That in the event that circumstances make unlikely the effective use of any of the funds earmarked under this heading for Bosnia, Croatia, and Slovenia, such funds may be used for assistance for any purposes of this heading: *Provided further*, That not less than \$1,500,000 shall be available for Tibetan refugees: *Provided further*, That not less than \$315,000,000 shall be available for overseas refugee programs (in addition to amounts available for Soviet, Eastern European, and other refugees resettling in Israel): *Provided further*, That not more than \$11,500,000 of the funds appropriated

Continued

for authorized activities, \$547,250,000 for the fiscal year 1992 and \$592,250,000 for the fiscal year 1993.

(B) Of the amounts authorized to be appropriated by subparagraph (A), \$5,000,000 is authorized to be available for each of the fiscal years 1992 and 1993 for migration assistance to displaced ethnic Armenians resettling in Armenia.

(2) There are authorized to be appropriated \$80,000,000 for the fiscal year 1992 and \$90,000,000 for the fiscal year 1993 for assistance for refugees resettling in Israel.

(3) There are authorized to be appropriated \$1,750,000 for the fiscal year 1992, and \$1,750,000 for the fiscal year 1993, for assistance to unaccompanied minor children and other cases of special humanitarian concern that have generally been referred to special committees established pursuant to the Comprehensive Plan of Action for Indochinese Refugees in first asylum countries in Southeast Asia and Hong Kong. The President shall seek to ensure that such assistance supplements, and does not supplant, United Nations High Commissioner for Refugees and other funding that would have been directed toward assistance to unaccompanied minors and other cases of special humanitarian concern in the absence of this paragraph. Assistance may be provided under this paragraph notwithstanding any other provision of law.

(4) There are authorized to be appropriated \$1,000,000 for fiscal year 1992 and \$1,000,000 for fiscal year 1993 for humanitarian assistance, including but not limited to food, medicine, clothing, and medical and vocational training, to Burmese displaced as a result of civil conflict.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to be available until expended.

#### SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1)<sup>20</sup> UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For “United States Bilateral Science and Technology Agreements”, \$2,250,000 for the fiscal year 1992 and \$6,000,000 for the fiscal year 1993.

under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

#### “UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$49,261,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.”

<sup>20</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$4,500,000, for “United States Bilateral Science and Technology Agreements”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided \$4,500,000.



(2)<sup>21</sup> SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For “Soviet-East European Research and Training”, \$4,784,000 for the fiscal year 1992 and \$5,025,000 for the fiscal year 1993.

(3)<sup>22</sup> ASIA FOUNDATION.—For “Asia Foundation”, \$16,000,000 for the fiscal year 1992 and \$18,000,000 for the fiscal year 1993.

## PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

\* \* \* \* \*

### SEC. 116.<sup>23</sup> MULTIYEAR CONTRACTING FOR MOSCOW.

(a) MULTIYEAR CONTRACT.—For purposes of this section the term “multiyear contract” means a contract in effect for a period not to exceed five years.

(b) AUTHORITY.—The Secretary of State may enter into multiyear contracts for the acquisition of property and the construction of diplomatic facilities in Moscow, as authorized by the Foreign Service Buildings Act, 1926, if—

(1) there are sufficient funds available for United States Government liability for—

(A) total payments under the full term of a contract; or

(B) payments for the first fiscal year for which the contract is in effect, and for all estimated cancellation costs; and

(2) the Secretary of State determines that—

(A) a multiyear contract will serve the best interests of the United States Government by—

(i) achieving economies in administration, performance, and operation;

(ii) increasing quality of performance by, or service from, the contractor; or

(iii) encouraging effective competition; and

(B) a multiyear contract will not inhibit small business concerns from submitting a bid or proposal for such contract.

(c) CONTRACT PROVISIONS.—

(1) Unless funds are available for United States liability for payments under the full term of a multiyear contract, a multiyear contract shall provide that United States Government payments and performance under the contract during the

<sup>21</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$4,784,000, for “Soviet-East European Research and Training”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided the following:

“RUSSIAN, EURASIAN, AND EAST EUROPEAN RESEARCH AND TRAINING PROGRAM

“For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, \$4,961,000.”

<sup>22</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 819), provided \$16,000,000, for “Asia Foundation”, for fiscal year 1992.

For fiscal year 1993, the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided \$16,693,000.

<sup>23</sup>Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

second and any subsequent fiscal year of the contract period are contingent on the availability of funds for such year.

(2) A multiyear contract may provide for payment to the contractor of a reasonable cancellation charge for a contingency under paragraph (1).

(3) The Secretary is authorized to use such funds as may be available from the Foreign Service Buildings Fund for payments under paragraph (2).

(d) SUNSET PROVISION.—This section shall cease to have effect after September 30, 1993.

\* \* \* \* \*

**SEC. 122.<sup>24</sup> ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.**

(a) ESTABLISHMENT OF POSITION.—There is established in the Department of State the position of Assistant Secretary of State for South Asian Affairs.<sup>25</sup>

(b) APPOINTMENT.—The Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c)<sup>26</sup> \* \* \* [Repealed—1994]

(d)<sup>25</sup> CONFORMING AMENDMENT.—

(1)<sup>27</sup> \* \* \* [Repealed—1994]

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall take effect on October 1, 1991.

(e)<sup>28</sup> IMPLEMENTATION.—In order to carry out this section, the Secretary of State shall reprogram the position of Deputy Assistant Secretary for South Asian Affairs.

\* \* \* \* \*

**SEC. 125. MAINTENANCE MANAGEMENT OF OVERSEAS PROPERTY.**

The Director of the Office of Foreign Buildings Operations shall—

(1) direct overseas posts to make annual building condition assessments of buildings and facilities used by the post;

(2) not later than 90 days after the date of the enactment of this Act, revise the Foreign Affairs Manual to stipulate that the Buildings and Maintenance Handbook shall be used by each post to identify their maintenance needs, standardize their maintenance operations, and conduct annual assessments as required by paragraph (1);

<sup>24</sup> 22 U.S.C. 2652b.

<sup>25</sup> Sec. 162(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), struck out “, which is in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652)” in subsec. (a).

<sup>26</sup> Sec. 162(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), struck out subsec. (c), which defined the responsibilities of the Assistance Secretary of State for South Asian Affairs as those relating to “India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, Afghanistan, and the Maldives”.

<sup>27</sup> Sec. 162(c)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), struck out subsec. (d)(1), which had amended 5 U.S.C. 5315 to provide for the position of “Assistant Secretary for South Asian Affairs, Department of State.” in the U.S. Code. See also sec. 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2662), as amended by sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, which states the organization of the Department of State including the establishment of 20 Assistant Secretaries of State (sec. 1(c)).

<sup>28</sup> Functions vested in the Secretary of State in this subsection were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(3) direct the Office of Foreign Buildings Operations to provide proper training and assistance to posts to ensure that annual surveys are effectively completed; and

(4) direct overseas posts to ensure that all maintenance program fiscal transactions are properly encoded in the Department of State accounting system to enable compilation of actual expenditures on routine maintenance and specific maintenance funded by the Office of Foreign Buildings Operations.

\* \* \* \* \*

**SEC. 128.<sup>29</sup> VISA LOOKOUT SYSTEMS.**

(a) VISAS.—The Secretary of State may not include in the Automated Visa Lookout System, or in any other system or list which maintains information about the inadmissibility<sup>30</sup> of aliens under the Immigration and Nationality Act, the name of any alien who is not inadmissible<sup>30</sup> from the United States under the Immigration and Nationality Act, subject to the provisions of this section.

(b) CORRECTION OF LISTS.—Not later than 3 years after the date of enactment of this Act, the Secretary of State shall—

(1) correct the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, by deleting the name of any alien not excludable under the Immigration and Nationality Act; and

(2) report to the Congress concerning the completion of such correction process.

(c) REPORT ON CORRECTION PROCESS.—

(1) Not later than 90 days after the date of enactment of this Act, the Secretary of State, in coordination with the heads of other appropriate Government agencies, shall prepare and submit to the appropriate congressional committees, a plan which sets forth the manner in which the Department of State will correct the Automated Visa Lookout System, and any other system or list as set forth in subsection (b).

(2) Not later than 1 year after the date of enactment of this Act, the Secretary of State shall report to the appropriate congressional committees on the progress made toward completing the correction of lists as set forth in subsection (b).

(d) APPLICATION.—This section refers to the Immigration and Nationality Act as in effect on and after June 1, 1991.

(e) LIMITATION.—

(1) The Secretary may add or retain in such system or list the names of aliens who are not excludable only if they are included for otherwise authorized law enforcement purposes or other lawful purposes of the Department of State. A name included for other lawful purposes under this paragraph shall include a notation which clearly and distinctly indicates that

<sup>29</sup> 8 U.S.C. 1182 note. Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

Sec. 127 of this Act added a new sec. 51 to the State Department Basic Authorities Act (22 U.S.C. 2723), relating to the denial of certain visas.

<sup>30</sup> Sec. 308(d)(3)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009) struck out “excludability” and “excludable” and inserted in lieu thereof “inadmissibility” and “inadmissible”.

such person is not presently excludable. The Secretary of State shall adopt procedures to ensure that visas are not denied to such individuals for any reason not set forth in the Immigration and Nationality Act.

(2) The Secretary shall publish in the Federal Register regulations and standards concerning maintenance and use by the Department of State of systems and lists for purposes described in paragraph (1).

(3) Nothing in this section may be construed as creating new authority or expanding any existing authority for any activity not otherwise authorized by law.

(f) DEFINITION.—As used in this section the term “appropriate congressional committees” means the Committee on the Judiciary and the Committee on Foreign Affairs<sup>31</sup> of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

**SEC. 129.<sup>32</sup> PROHIBITION ON ISSUANCE OF ISRAEL-ONLY PASSPORTS.**

(a) PURPOSE.—It is the purpose of this section—

(1) to direct the Secretary of State to seek an end to the policy of the majority of Arab League nations of rejecting passports, and denying entrance visas to persons whose passport or other documents reflect that the holder has visited Israel, and to secure the adoption of policies that assure that travel to such Arab League nations by persons who have visited Israel shall not be unreasonably impeded; and

(2) to prohibit United States Government acquiescence in the policy of the majority of Arab League nations of rejecting Israel by rejecting passports of, and denying entrance visas to, persons whose passport or other documents reflect that the holder has visited Israel, especially with respect to travel by officials of the United States.

(b) NEGOTIATIONS.—The Secretary of State shall immediately undertake negotiations to seek an end to the policy of the majority

<sup>31</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>32</sup>Sec. 503 of the Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 820), provided the following:

“SEC. 503. None of the funds provided in this Act shall be used by the Department of State to issue any passport that is designated for travel only to Israel, and 90 days after the enactment of this Act, none of the funds provided in this Act shall be used by the Department of State to issue more than one official or diplomatic passport to any United States Government employee for the purpose of enabling that employee to acquiesce in or comply with the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passports or other documents reflect that that person has visited Israel.”

Sec. 503 of the Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1868), provided the following:

“SEC. 503. None of the funds made available by this Act may be obligated or expended by the Department of State for contracts with any foreign or United States firm that complies with the Arab League Boycott of the State of Israel or with any foreign or United States firm that discriminates in the award of subcontracts on the basis of religion: *Provided*, That the Secretary of State may waive this provision on a country-by-country basis upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on the diplomatic functions of the United States.”

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

In Public Notices 1563 and 1564 of January 22, 1992, the Bureau of Consular Affairs, Department of State, announced the cancellation of all passports that are endorsed as valid only for travel to Israel, effective as of April 25, 1992, to expire on October 28, 2002 (57 F.R. 3454 and 3282; January 29, 1992).

of Arab League nations of rejecting passports of, and denying entrance visas to, private persons and officials of all nations whose passports or other documents reflect that the holder thereof has visited Israel.

(c) REPORT TO CONGRESS.—The Secretary of State shall submit a report to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and the Committee on Foreign Affairs<sup>31</sup> and the Committee on Appropriations of the House of Representatives within 60 days of the date of enactment of this Act. The report shall describe the status of efforts to secure an end to the passport and visa policy of the majority of Arab League nations as described in subsection (a), and describe the prospects that such efforts would be successful within 90 days of the date of enactment of this Act.

(d) PROHIBITION ON THE ISSUANCE OF ISRAEL-ONLY PASSPORTS.—

(1) PROHIBITION.—Notwithstanding any other provision of law, the Secretary of State shall not issue any passport that is designated for travel only to Israel.

(2) CANCELLATION.—Not later than ninety days after the date of enactment of this Act, the Secretary of State shall promulgate regulations for the cancellation not later than 180 days after the enactment of this Act of any currently valid passport which is designated for travel only to Israel.

(e) POLICY ON NONACQUIESCENCE.—

(1) REQUIREMENT OF SINGLE PASSPORT.—The Secretary of State shall not issue more than one official or diplomatic passport to any official of the United States Government for the purpose of enabling that official to acquiesce in or comply with the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passport or other documents reflect that the person has visited Israel.

(2) IMPLEMENTATION OF POLICY OF NONCOMPLIANCE.—The Secretary of State shall promulgate such rules and regulations as are necessary to ensure that officials of the United States Government do not comply with, or acquiesce in, the policy of the majority of Arab League nations of rejecting passports of, or denying entrance visas to, persons whose passport or other documents reflect that the person has visited Israel.

(3) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), this subsection shall take effect 90 days after the date of enactment of this Act.

(B) If the report under subsection (c) is not submitted within 60 days of the date of enactment of this Act, this subsection shall take effect 60 days after the date of enactment of this Act.

## PART C—DIPLOMATIC RECIPROCITY AND SECURITY

\* \* \* \* \*

**SEC. 132.<sup>33</sup> CONSTRUCTION OF DIPLOMATIC FACILITIES.**

(a) <sup>34</sup> EXTRAORDINARY SECURITY SAFEGUARDS.—In carrying out the reconstruction project for the new chancery building at the United States Embassy in Moscow, the Secretary of State shall ensure that extraordinary security safeguards are implemented with respect to all aspects of security, including materials, logistics, construction methods, and site access.

(b) SAFEGUARDS TO BE INCLUDED.—Such extraordinary security safeguards under subsection (a) shall include the following:

- (1) Exclusive United States control over the site during reconstruction.
- (2) Exclusive use of United States or non-Soviet materials with respect to the new chancery structure.
- (3) Exclusive use of United States workmanship with respect to the new chancery structure.
- (4) To the extent feasible, prefabrication in the United States of major portions of the new chancery.
- (5) Exclusive United States control over construction materials during the entire logistical process of reconstruction.

**SEC. 133.<sup>35</sup> \* \* \*** [Repealed—1993]

**SEC. 134.<sup>36</sup> SPECIAL AGENTS.**

(a) REPORT.—Not later than 180 days after the date of enactment of this act, the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary and Foreign Relations of the Senate and the Committees on the Judiciary and Foreign Affairs<sup>37</sup> of the House of Representatives a report and recommendations regarding whether Special Agents of the Diplomatic Security Service should be authorized to make arrests without warrants for offenses against the United States committed in their presence or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony.

(b) TERMS OF REFERENCE.—The report required by subsection (a) shall address at least the following topics:

- (1) Whether similar arrest authority granted other Federal law enforcement agencies such as the Drug Enforcement Agency, the United States Customs Service, United States Mar-

<sup>33</sup> Functions vested in the Secretary of State in this section (except sec. 132(f)(2), which was repealed by sec. 803 of Public Law 102-511) were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

Subsecs. (f) and (g) of this section were repealed by sec. 504 of the Department of State and Related Agencies Appropriations Act, 1993 (Public Law 102-395; 106 Stat. 1869). Sec. 803 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353) also repealed these subsecs. Subsequently, subsecs. (a) through (d), and (h) through (j) were repealed by sec. 502(a)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326).

<sup>34</sup> Sec. 502(a)(2) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) redesignated the remaining subsec. (e) as subsec. (a), and made technical adjustments to reflect para. (e)(1) becoming subsec. (a), para. (e)(2) becoming subsec. (b) with catchline, with appropriate indentations and relettering.

<sup>35</sup> Sec. 133, relating to possible Moscow Embassy security breach, was repealed by sec. 502(b) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326).

<sup>36</sup> Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>37</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

shals, the Secret Service, and the Federal Bureau of Investigation has on balance served the public interest.

(2) Whether execution of the existing statutory responsibilities of the Diplomatic Security Service would be furthered by granting of such authority.

(3) Disadvantages which would be likely to result from granting of such authority, including disadvantages in terms of protection of civil liberties.

(4) Proposed statutory language which would if enacted provide any such authority recommended.

(5) Proposed regulations to implement any such enacted authority.

**SEC. 135.<sup>38</sup> PROTECTION FOR UNITED NATIONS FACILITIES AND MISSIONS. \* \* \***

**(b) PROTECTION OF FOREIGN DIPLOMATIC MISSIONS.—\* \* \***

(5) Protective services provided by a State or local government at any time during the period beginning on January 1, 1989, and ending on September 30, 1991, which were performed in connection with visits described in section 202(8) of title 3, United States Code, as amended by this subsection, shall be deemed to be reimbursement obligations entered into pursuant to section 208(a) of that title as if the amendment made by paragraph (1) of this subsection was in effect during that period and the services had been requested by the Secretary of State.

**SEC. 136. STUDY OF CONSTRUCTION SECURITY NEEDS.**

Not more than one year after the date of enactment of this Act, the Secretary of State shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a report and recommendations regarding security needs for diplomatic construction. The Secretary of State shall review priorities, recommendations, and plans, generally known as the "Inman Report", and address specifically whether changing budgetary and foreign policy priorities since the "Inman Report" continue to justify the "Inman" recommendations. The report should also assess whether authorizations for "Inman" security activities should be modified or repealed in light of changed conditions.

**PART D—PERSONNEL**

\* \* \* \* \*

**SEC. 150.<sup>39</sup> COMMISSION TO STUDY PERSONNEL QUESTIONS AT THE DEPARTMENT OF STATE.**

**(a) MEMBERSHIP.—**

(1) Within 90 days of the date of enactment of this Act, the Secretary of State shall appoint seven distinguished members, at least six of whom shall have a minimum of ten years experience in personnel management, to examine personnel issues

<sup>38</sup>Other than the subparagraph shown, sec. 135 amended other legislation.

<sup>39</sup>Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

affecting both Foreign Service and Civil Service employees at the Department of State.

(2) Appointments to the Commission shall be made in consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Post Office and Civil Service of the House of Representatives,<sup>40</sup> and exclusive representatives (as defined in section 1002(9) of the Foreign Service Act of 1980).

(3) The Secretary of State may reappoint members who served on the Commission authorized under section 171 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

(4) At least two members of the Commission shall have specialized knowledge of the Civil Service in the Department of State.

(b) IMPLEMENTATION REPORT.—Not later than one year after the date of enactment of this Act, the Commission shall report to the Chairmen and ranking Members of the appropriate committees of the Congress on the extent to which the Department of State has implemented recommendations of the Commission authorized in section 171 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

(c) REPORT ON PERSONNEL MATTERS AND CONDITIONS.—

(1) Not more than one year after the date of enactment of this Act, the Commission shall issue a written report to the appropriate committees of the Congress on State Department personnel questions affecting the effective conduct of foreign policy and the efficiency, cost effectiveness, and morale of State Department employees.

(2) The Commission report required under this subsection shall include the following topics:

(A) Matters related to section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007) relating to senior Foreign Service Officers who were working under section 607(d)(2) temporary career extensions on June 2, 1990, and who, because the 14-year time-in-class benefit had been denied them, were involuntarily retired under section 607 after June 2, 1990.

(B) An examination of the contribution of Civil Service personnel to the fulfillment of the mission of the Department of State, including—

(i) recommendations as to how the needs and standing of such employees might be more fully recognized by the Department as full partners in the successful conduct of foreign policy; and

(ii) recommendations as to how Civil Service positions may be better utilized or structured in the De-

<sup>40</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.



partment and abroad to enhance the institutional memory on evolving foreign policy issues.

(C) A study of the management and practices at the United States Mission to the United Nations, taking into account the recommendations of recent reports of the Inspector General of the Department of State.

(d) Definition.—As used in this section the term “appropriate committees of the Congress” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Post Office and Civil Service of the House of Representatives.<sup>40</sup>

**SEC. 151.<sup>41</sup> FOREIGN NATIONAL EMPLOYEES SEPARATION PAY.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to provide separation pay for foreign national employees of agencies of the United States Government, other than the Department of Defense.

(b) FUNDING.—There shall be deposited in such account—

(1) all amounts previously obligated for accrued separation pay of foreign national employees of such agencies of the United States Government; and

(2) amounts obligated for fiscal years after 1991 by such agencies for the current and future costs of separation pay of foreign national employees.

(c) AVAILABILITY.—Amounts shall be deposited in the fund annually and are authorized to be available until expended.

(d) EXPENDITURES FROM THE FUND.—Amounts deposited in the fund shall be available for expenditure to make separation payments to foreign national employees in countries in which such pay is legally authorized.

\* \* \* \* \*

**SEC. 154. COMPENSATION FOR LOSS OF PERSONAL PROPERTY INCIDENT TO SERVICE.**

Not later than 90 days after enactment of this Act, the Department of State shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives, a report on the need for the establishment of a mechanism to compensate employees of the Department of State who have legitimate claims resulting from loss of personal property under circumstances set forth in the Military Personnel and Civilian Employees Claims Act of 1964, as amended (31 U.S.C. 3721c), and whose losses exceed the amounts covered in such Act. This report shall include legislative recommendations, if necessary, to implement these recommendations. Losses covered by this report shall include legitimate claims for losses incurred in Mogadishu, Somalia.

<sup>41</sup> 22 U.S.C. 4012a.

**SEC. 155.<sup>42</sup> LANGUAGE TRAINING IN THE FOREIGN SERVICE.**

The Department of State and the Department of Commerce<sup>43</sup> shall ensure that the precepts for promotion of Foreign Service employees provide that end-of-training reports for employees in full-time language training shall be weighed as heavily as the annual employee efficiency reports, in order to ensure that employees in language training are not disadvantaged in the promotion process.

**PART E—INTERNATIONAL ORGANIZATIONS****SEC. 161. MATERIAL DONATIONS TO UNITED NATIONS PEACEKEEPING OPERATIONS.**

It is the sense of the Congress that the Permanent Representative of the United States to the United Nations should work to ensure that in-kind contributions by the United States and other nations to the United Nations peacekeeping forces are included at their full value when calculating the contributions to United Nations peacekeeping forces.

**SEC. 162.<sup>44</sup> REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.**  
\* \* \* [Subsecs. (a)–(d) Repealed—1994](e)<sup>45</sup> \* \* \***SEC. 163.<sup>46</sup> REPORT TO CONGRESS CONCERNING UNITED NATIONS SECONDMENT.** \* \* \***SEC. 164. PERMANENT INTERNATIONAL ASSOCIATION OF ROAD CONGRESSES.**

(a) REPEAL.—The Act of June 18, 1926 (22 U.S.C. 269) is repealed.

(b)<sup>47</sup> AUTHORITY.—The President is authorized to maintain membership of the United States in the Permanent International Association of Road Congresses.

\* \* \* \* \*

**SEC. 168.<sup>48</sup> BRITISH-AMERICAN INTERPARLIAMENTARY GROUP.**

(a) ESTABLISHMENT AND MEETINGS.—Not to exceed 24 Members of Congress shall be appointed to meet annually and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States), with representatives of the House of Commons and the House of Lords of the Parliament of Great Britain for discussion of common problems in the interest of relations between the United States and Great Britain. The Mem-

<sup>42</sup> 22 U.S.C. 4001 note.<sup>43</sup> Sec. 1335(q)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) replaced a comma before "Department of Commerce" with "and", and struck out "and the United States Information Agency" following the same.<sup>44</sup> Sec. 409(e) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 454), struck out subsecs. (a) through (d), relating to assessed contributions to the United Nations and its implementation of consensus-based decisionmaking process.<sup>45</sup> Subsec. (e) repealed sections of earlier Foreign Relations Authorization Acts.<sup>46</sup> Sec. 163 struck out sec. 701(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 287e note), requiring the Secretary of State to report to Congress on "the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations."<sup>47</sup> 22 U.S.C. 269.<sup>48</sup> 22 U.S.C. 276l.

bers of Congress so appointed shall be referred to as the "United States group" of the United States Interparliamentary Group.

(b) APPOINTMENT OF MEMBERS.—Of the Members of Congress appointed for purposes of this section—

(1) half shall be appointed by the Speaker of the House of Representatives from among Members of the House (not less than 4 of whom shall be members of the Committee on Foreign Affairs),<sup>49</sup> and

(2) half shall be appointed by the President Pro Tempore of the Senate, upon recommendations of the majority and minority leaders of the Senate, from among Members of the Senate (not less than 4 of whom shall be members of the Committee on Foreign Relations) unless the majority and minority leaders of the Senate determine otherwise.

(c) CHAIR AND VICE CHAIR.—(1) The Chair or Vice Chair of the House delegation of the United States group shall be a member from the Committee on Foreign Affairs.<sup>49</sup>

(2) The President Pro Tempore of the Senate shall designate the Chair or Vice Chair of the Senate delegation.

(d) FUNDING.—There is authorized to be appropriated \$50,000 for each fiscal year to assist in meeting the expenses of the United States group for each fiscal year for which an appropriation is made, half of which shall be for the House delegation and half of which shall be for the Senate delegation. The House and Senate portions of such appropriations shall be disbursed on vouchers to be approved by the Chair of the House delegation and the Chair of the Senate delegation, respectively.

(e) CERTIFICATION OF EXPENDITURES.—The certificate of the Chair of the House delegation or the Senate delegation of the United States group shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group.

(f) ANNUAL REPORT.—The United States group shall submit to the Congress a report for each fiscal year for which an appropriation is made for the United States group, which shall include its expenditures under such appropriation.

(g)<sup>50</sup> INTERPARLIAMENTARY CONFERENCE OF NORTH ATLANTIC ASSEMBLY. \* \* \*

**SEC. 169.<sup>51</sup> UNITED STATES DELEGATION TO THE PARLIAMENTARY ASSEMBLY OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE).**

(a) ESTABLISHMENT.—In accordance with the allocation of seats to the United States in the Parliamentary Assembly of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "CSCE Assembly") not to exceed 17 Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other Conference on Secu-

<sup>49</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>50</sup>Subsec. (g) amended sec. 5 of the "Joint resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization", approved July 11, 1956 (22 U.S.C. 1928e).

<sup>51</sup>22 U.S.C. 276m.

ity and Cooperation in Europe (CSCE) member-nations for the purposes of—

(1) assessing the implementation of the objectives of the CSCE;

(2) discussing subjects addressed during the meetings of the Council of Ministers for Foreign Affairs and the biennial Summit of Heads of State or Government;

(3) initiating and promoting such national and multilateral measures as may further cooperation and security in Europe.

(b) APPOINTMENT OF DELEGATION.—For each meeting of the CSCE Assembly, there shall be appointed a United States Delegation, as follows:

(1) In 1992 and every even-numbered year thereafter, 9 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Affairs);<sup>49</sup> and 8 Members shall, upon recommendations of the Majority and Minority leaders of the Senate, be appointed by the President Pro Tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Vice Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President Pro Tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise).

(2) In every odd-numbered year beginning in 1993, 9 Members shall, upon recommendation of the Majority and Minority Leaders of the Senate, be appointed by the President Pro Tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President Pro Tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise); and 8 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Vice Chairman, shall be from the Committee on Foreign Affairs).<sup>49</sup>

(c) ADMINISTRATIVE SUPPORT.—For the purpose of providing general staff support and continuity between successive delegations, each United States Delegation shall have 2 secretaries (one of whom shall be appointed by the Chairman of the Committee on Foreign Affairs<sup>49</sup> of the House of Representatives and one of whom shall be appointed by the Chairman of the Delegation of the Senate).

(d) FUNDING.—

(1) UNITED STATES PARTICIPATION.—There is authorized to be appropriated for each fiscal year \$80,000 to assist in meeting the expenses of the United States delegation. For each fiscal year for which an appropriation is made under this subsection, half of such appropriation may be disbursed on voucher to be approved by the Chairman and half of such appropriation may be disbursed on voucher to be approved by the Vice Chairman.

(2) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(e) ANNUAL REPORT.—The United States Delegation shall, for each fiscal year for which an appropriation is made, submit to the Congress a report including its expenditures under such appropriation. The certificate of the Chairman and Vice Chairman of the United States Delegation shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States Delegation.

**SEC. 170.<sup>52</sup> REPORT CONCERNING THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION.**

Not later than 270 days after the date of the enactment of this Act, the Secretary of State (in consultation with the heads of all appropriate bureaus and offices of the Department of State) shall prepare and submit to the Congress a report on the activities after April 30, 1990 of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

\* \* \* \* \*

**SEC. 172. INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE REPORT.**

It is the sense of the Congress regarding negotiations taking place in the Intergovernmental Negotiating Committee that the framework convention should seek to provide for commitments by all nations to—

- (1) improved coordination of research activities and monitoring of global climate change;
- (2) adoption of measures that are justified for a variety of reasons and which also have the effect of limiting or adapting to any adverse effects of climate change;
- (3) establishment of national strategies to address climate change and to make public accounting of the elements of such strategy and the effect on net emissions of greenhouse gases;
- (4) establishment of verifiable goals for net reductions of greenhouse gases by all nations in an equitable manner; and
- (5) the development of plans by each country to reach those goals.

\* \* \* \* \*

**SEC. 174.<sup>53</sup> HOUSING BENEFITS OF THE UNITED STATES MISSION TO THE UNITED NATIONS.**

(a) REVIEW.—The Secretary of State shall conduct a review and evaluation of policies and procedures for the provision of housing benefits (including leased housing, housing allowances, differential payments, or any comparable benefit) to United States Government personnel assigned to the United States Mission to the United Nations. Such review shall consider the December 1989 recommenda-

<sup>52</sup>Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>53</sup>Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

tions of the Inspector General of the Department of State concerning housing benefits, and other recommendations as appropriate.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a comprehensive report of the findings of such review and evaluation to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include, but not be limited to—

- (1) a summary of all leased housing policy changes;
- (2) information concerning implementation of recommendations of the Inspector General for the Department of State, including an explanation for not implementing any recommendation made by the Inspector General; and
- (3) designation of positions at the United States Mission to the United Nations which require the incumbent to live in the Borough of Manhattan, and specific justification for such designation.

**SEC. 175.<sup>54</sup> ENHANCED SUPPORT FOR UNITED NATIONS PEACEKEEPING.**

(a) **ACTIONS BY THE SECRETARY GENERAL OF THE UNITED NATIONS.**—The Secretary of State, through the United States Representative to the United Nations, should propose to the Secretary General of the United Nations that the United Nations should explore means, including procedures and organizational initiative, for expediting the implementation of peacekeeping operations authorized by the Security Council.

(b) **REPORT OF THE SECRETARY OF STATE.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>49</sup> of the House of Representatives, a report which makes recommendations concerning changes in United States law which would enhance the United States participation in peacekeeping operations authorized by the United Nations. Such report shall include legislative recommendations to expedite the use of appropriated funds for peacekeeping purposes on an emergency basis.

**SEC. 176. SPECIAL PURPOSE INTERNATIONAL ORGANIZATIONS.**

(a) **LIMITATION.**—Of the funds authorized to be appropriated under section 101(a)(1) for “Salaries and Expenses” of the Department of State, \$1,000,000 shall be available only after the submission of the report under subsection (b).

(b) **REPORT TO CONGRESS.**—Not later than March 1, 1992, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the international organizations listed in subsection (c). Such report shall include the following information with respect to each international organization:

- (1) The purpose and activities of the organization.

<sup>54</sup> Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs, in consultation with the Under Secretary for Management, by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(2) The political and economic benefits to the United States of membership in the organization.

(3) The effect on United States consumers and importers of the activities and policies of the organization.

(c) SPECIAL PURPOSE INTERNATIONAL ORGANIZATIONS.—The following international organizations shall be included in the report under this section:

(1) International Center for the Study of Preservation and Restoration of Cultural Property.

(2) International Coffee Organization.

(3) International Cotton Advisory Committee.

(4) International Hydrographic Organization.

(5) International Jute Organization.

(6) International Lead and Zinc Study Group.

(7) International Rubber Organization.

(8) International Office of Epizootics.

(9) International Organization for Legal Metrology.

(10) International Rubber Study Group.

(11) International Sugar Organization.

(12) International Tropical Timber Organization.

(13) International Union for the Conservation of Nature and Natural Resources.

(14) Permanent International Association of Road Congresses.

(15) World Tourism Organization.

#### **SEC. 177. GREAT LAKES FISHERY COMMISSION.**

Of the amounts authorized to be appropriated by section 103(4) of this Act, there is authorized to be appropriated up to \$8,200,000 for fiscal year 1992 and up to \$12,300,000 for fiscal year 1993 for the purpose of enabling the Department of State to carry out its authority, function, duty, and responsibility in the conduct of foreign affairs of the United States in connection with the Great Lakes Fishery Commission.

#### **SEC. 178. INTER-AMERICAN ORGANIZATIONS.**

(a) POLICY.—Taking into consideration the long-term commitment by the United States to the affairs of this hemisphere and the need to build further upon the linkages between the United States and its neighbors, the Congress believes that the Secretary of State, in allocating the level of resources for the “International Organizations and Commissions” account, should pay particular attention to funding levels of the Inter-American organizations.

(b) FINDING.—The Congress finds that the work done by these organizations has been of great benefit to the region, and the United States itself has experienced a positive return from their efforts.

#### **SEC. 179. INTERNATIONAL COFFEE ORGANIZATION.**

It is the sense of the Congress that the President should give the highest priority to the interests of United States consumers in shaping United States policy toward a new international coffee agreement.

**SEC. 180.<sup>55</sup> APPOINTMENT OF SPECIAL COORDINATOR FOR WATER POLICY NEGOTIATIONS AND WATER RESOURCES POLICY.**

(a) DESIGNATION.—The Secretary of State shall designate a Special Coordinator—

(1) to coordinate the United States Government response to international water resource disputes and needs;

(2) to represent the United States Government, whenever appropriate, in multilateral fora in discussions concerning access to fresh water; and

(3) to formulate United States policy to assist in the resolution of international problems posed by the lack of fresh water supplies.

(b) OTHER RESPONSIBILITIES.—The individual designated under subsection (a) may carry out the functions of subsection (a) in addition to other assigned responsibilities.

**SEC. 181.<sup>56</sup> EMPLOYMENT OF UNITED STATES CITIZENS BY CERTAIN INTERNATIONAL ORGANIZATIONS.**

Not less than 180 days after enactment of this Act, and each year thereafter, the Secretary of State shall submit a report to the Congress concerning each international organization which had a geographic distribution formula in effect on January 1, 1991, of whether each such organization—

(1) is taking good faith steps to increase the staffing of United States citizens; and

(2) has met its geographic distribution formula.

**PART F—MISCELLANEOUS PROVISIONS**

**SEC. 191. TRAVEL ADVISORY FOR JALISCO, MEXICO.**

Section 134 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 is repealed.<sup>57</sup>

**SEC. 192.<sup>58</sup> IMPLEMENTATION OF THE NAIROBI FORWARD-LOOKING STRATEGIES FOR THE ADVANCEMENT OF WOMEN.**

(a) REPORT TO CONGRESS.—Two years after the date of the enactment of this Act, the Secretary of State shall submit to the Congress a report on the progress of the United States implementation of the Nairobi Forward-Looking Strategies for the Advancement of Women (Nairobi Strategies), as adopted by the 40th session of the United Nations General Assembly in Resolution 40/108 on December 13, 1985.

(b) FINAL REPORT.—Not later than 90 days prior to the 1995 deadline for submission of the report to the United Nations Secretary General on the United States implementation of the Nairobi

<sup>55</sup> 22 U.S.C. 2686a. Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>56</sup> 22 U.S.C. 276c-4. Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>57</sup> Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, recommended that the Secretary of State issue a travel advisory warning U.S. citizens of the current dangers of traveling in the State of Jalisco, Mexico, site of the 1985 murders of two U.S. Drug Enforcement Administration employees and other assaults against U.S. citizens.

<sup>58</sup> Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).



Strategies, the Secretary of State shall submit to the Congress a preliminary version of such report.

**SEC. 193. STUDY OF TECHNICAL SECURITY AND COUNTERINTELLIGENCE CAPABILITIES.**

(a) **STUDY BY INSPECTOR GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Inspector General of the Department of State shall initiate, with the cooperation of other appropriate Federal agencies, a study of the overseas technical security and counterintelligence capabilities and practices of the Department of State. The study shall be completed not later than one year after the date of enactment of this Act.

(b) **CONTENT.**—The study shall evaluate—

(1) the overseas technical security and counterintelligence capabilities of the Department of State since the enactment of the Omnibus Diplomatic Security and Antiterrorism Act of 1986;

(2) the level of the State Department's capabilities in technical security and counterintelligence relative to the technical and human intelligence threats identified by other appropriate Federal agencies; and

(3) whether the Department of State is the most appropriate Federal agency to carry out overseas technical security and counterintelligence functions.

(c) **REPORT TO CONGRESS.**—Not later than 400 days after the date of the enactment of this Act, the Inspector General of the Department of State shall prepare and submit, with the cooperation of other appropriate Federal agencies, a written report of the findings of such study to the Committee on Foreign Affairs<sup>59</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate. The Inspector General may submit such report in classified form.

**SEC. 194. STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the Department of State has been negligent in carrying out section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, "Study of Sexual Harassment at the Department of State".

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of State shall report to the Committee on Foreign Affairs<sup>59</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate on the reasons for the Department's negligence in adhering to deadlines required by law in implementing section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and what steps, if any, the Department has taken to prevent such a failure from recurring.

<sup>59</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

**SEC. 195.<sup>60</sup> PROHIBITION AGAINST FRAUDULENT USE OF “MADE IN AMERICA” LABELS.**

If it has been finally determined by a court or Federal agency that a person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of State, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

**SEC. 196.<sup>61</sup> DEADLINE FOR RESPONSES TO QUESTIONS FROM CONGRESSIONAL COMMITTEES.**

(a) **IN GENERAL.**—An officer or employee of the Department of State to whom a written or oral question is addressed by any member of a committee specified in subsection (b), acting within his official capacity, shall respond to such question within 21 days unless the Secretary of State submits a letter to such member explaining why a timely response cannot be made.

(b) **SPECIFIED COMMITTEES.**—The committees referred to in subsection (a) are the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>59</sup> of the House of Representatives.

**SEC. 197.<sup>62</sup> INTERNATIONAL CREDIT REPORTS.**

(a) **REPORT ON LOAN CRITERIA.**—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary of State for Economic and Business Affairs, in consultation with the Secretary of the Treasury, shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a report setting forth clear criteria for bilateral loans by which the United States can determine the likelihood of repayment by a country seeking to receive United States loans. The report should include the criteria used for—

- (1) assessing country risk;
- (2) projecting loan repayments; and
- (3) estimating subsidy levels.

(b) **REPORTS ON LOANS.**—Beginning 180 days after the submission of the report in subsection (a) and annually thereafter, the Secretary of State, in consultation with the Secretary of the Treasury, shall submit a report to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives showing actual repayments by country and by program to the United States Government for the previous 5 years and the scheduled repayments to the United States Government for the next 5 years.

<sup>60</sup> 22 U.S.C. 2679b.

<sup>61</sup> 22 U.S.C. 2680-1. Functions vested in the Secretary of State in this section were reserved to the Secretary of State by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>62</sup> 22 U.S.C. 2656h. Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Economic and Agricultural Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

**SEC. 198.<sup>63</sup> THE FOREIGN RELATIONS OF THE UNITED STATES HISTORICAL SERIES.**

(a)<sup>64</sup> AMENDMENT.—\* \* \*

(b)<sup>65</sup> PREVIOUS ADVISORY COMMITTEE ON HISTORICAL DIPLOMATIC DOCUMENTATION.—The Advisory Committee on Historical Documentation for the Department of State established before the date of enactment of this Act shall terminate on such date.

(c) COMPLIANCE.—

(1)<sup>66</sup> The Secretary of State shall ensure that the requirements of section 404 of the State Department Basic Authorities Act of 1956 (as amended by this section) are met not later than one year after the date of enactment of this Act. If the Secretary cannot reasonably meet the requirements of such section, he shall so notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>59</sup> of the House of Representatives, and describe how the Department of State intends to meet the requirements of that section. In no event shall full compliance with the requirements of such section take place later than 2 years after the date of enactment of this Act.

(2)<sup>67</sup> (A) In order to come into compliance with section 401(c) of the State Department Basic Authorities Act of 1956 (as amended by this section) the Secretary of State shall ensure that, by the end of the 3-year period beginning on the date of the enactment of this Act, all volumes of the Foreign Relations of the United States historical series (FRUS) for the years that are more than 30 years before the end of that 3-year period have been published.

(B) If the Secretary cannot reasonably meet the requirements of subparagraph (A), the Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>59</sup> of the House of Representatives and describe how the Department of State plans to meet the requirements of subparagraph (A). In no event shall volumes subject to subparagraph (A) be published later than 5 years after the date of the enactment of this Act.

**TITLE II—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**PART A—UNITED STATES INFORMATION AGENCY<sup>68</sup>**

\* \* \* \* \*

<sup>63</sup> Functions vested in the Secretary of State in this section (except for that part which added a new 406(a) to the State Department Basic Authorities Act) were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>64</sup> Sec. 198(a) added a new title IV to the State Department Basic Authorities Act of 1956 (22 U.S.C. 4351 *et seq.*), entitled “Foreign Relations of the United States Historical Series”.

<sup>65</sup> 22 U.S.C. 4356 note.

<sup>66</sup> 22 U.S.C. 4354 note.

<sup>67</sup> 22 U.S.C. 4351 note.

<sup>68</sup> For text of freestanding provisions in this part relating to the United States Information Agency, see page 1489.

**PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS**<sup>69</sup>

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**PART C—BUREAU OF BROADCASTING**<sup>70</sup>

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**PART D—BOARD FOR INTERNATIONAL BROADCASTING**<sup>71</sup>

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**TITLE III—MISCELLANEOUS FOREIGN POLICY PROVISIONS**

**PART A—FOREIGN POLICY PROVISIONS**

**SEC. 301.**<sup>72</sup> **PERSIAN GULF WAR CRIMINALS**

(a) **INTERNATIONAL CRIMINAL TRIBUNAL.**—

(1) **PROPOSAL FOR ESTABLISHMENT.**—It is the sense of the Congress that the President, acting through the Permanent Representative of the United States to the United Nations, should propose to the Security Council the establishment of an international criminal tribunal for the prosecution of Persian Gulf war criminals who may not more appropriately be prosecuted in Federal and specially appointed courts of the United States.

(2) **ALTERNATIVE MEANS FOR ESTABLISHMENT.**—If the United Nations Security Council fails to take action to establish an international criminal tribunal for the prosecution of Persian Gulf war criminals, it is the sense of the Congress that the President should work with the partners in the coalition of nations participating in Operation Desert Storm to establish such an international criminal tribunal.

(b) **DESIGNATION OF RESPONSIBILITY AT STATE DEPARTMENT.**—The Secretary of State shall designate a high level official with responsibility for—

(1) the development of a proposal for the prosecution of Persian Gulf War criminals in an international tribunal, including proposing in the United Nations the establishment of such a

<sup>69</sup>For text of freestanding provisions in this part relating to the Bureau of Educational and Cultural Affairs, see page 1494.

<sup>70</sup>For text of freestanding provisions in this part relating to the Bureau of Broadcasting, see page 1715.

<sup>71</sup>For freestanding provisions in this part relating to the Board for International Broadcasting, see page 1717.

<sup>72</sup>For other legislation on U.S. policy toward Iraq, see *Legislation on Foreign Relations Through 2005*, vol. I-B.

Sec. 6 of the Iraq Liberation Act (Public Law 105-338; 112 Stat. 3181) provided the following:

**“SEC. 6. WAR CRIMES TRIBUNAL FOR IRAQ.**

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

tribunal, and advising the United States Permanent Representative to the United Nations in any discussion or negotiations concerning such matters;

(2) advising the President on the appropriate jurisdiction for the prosecution of Persian Gulf war criminals; and

(3) supporting and facilitating United States implementation of its duties and responsibilities with respect to any tribunal which may be established for the prosecution of Persian Gulf war criminals.

(c)<sup>73</sup> PRESIDENTIAL REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>59</sup> of the House of Representatives a report—

(1) setting forth the proposal developed under subsection (b)(1);

(2) describing the evidence of crimes under international law that justifies the prosecution of Persian Gulf war criminals before an international criminal tribunal; and

(3) identifying Iraqi authorities who should be prosecuted for committing such crimes.

**SEC. 302.<sup>74</sup> BENEFITS FOR UNITED STATES HOSTAGES CAPTURED IN LEBANON. \* \* \***

**SEC. 303.<sup>75</sup> REPORTS CONCERNING CHINA.**

(a) REPORT TO CONGRESS.—Not later than May 1, 1992 and May 1, 1993, the President shall submit to the Chairmen and Ranking Members of the appropriate congressional committees a report detailing specific progress or lack thereof by the People's Republic of China in the following areas:

(1) Human rights, including—

(A) the surveillance, intimidation, and harassment of Chinese citizens living within China because of their pro-democracy activities;

(B) the surveillance, intimidation, and harassment of Chinese citizens living within the United States because of their pro-democracy activities with particular focus on those whose passports have been confiscated or not renewed in retaliation for pro-democracy activities;

<sup>73</sup>In a memorandum of November 26, 1991 (56 F.R. 64551), to the Secretary of State, the President delegated to the Secretary the reporting requirements of this subsection, to be "exercised in consultation with the Secretary of Defense and the Attorney General".

<sup>74</sup>Sec. 302 amended sec. 599C of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (5 U.S.C. 5561 note), effective as of the date of enactment of that Act (November 5, 1990).

<sup>75</sup>Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

"Sec. 4. *China and Weapons Proliferation.* The reporting functions regarding China and weapons proliferation vested in me by sections 303(a)(2) and 324 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate."

In an earlier memorandum of May 18, 1992, the President delegated functions in secs. 303 and 324, relating to reports concerning weapons proliferation, human rights, and trade practices in the People's Republic of China, to the Secretary of State in consultation with the Secretary of Defense, Secretary of Commerce, Director of the U.S. ACDA, the USTR (with respect to the functions described in sec. 303), and other appropriate departments and agencies (57 F.R. 22409; May 28, February 14, 1992).

- (C) the use of torture or other cruel, inhuman, or degrading treatment or punishment;
  - (D) political prisoners, including those in Tibet, still held against their will and those who have received amnesty from the Chinese Government for their pro-democracy activities;
  - (E) prolonged detention without charges and trials, and sentencing of members of the pro-democracy movement for peaceful demonstrations for democracy;
  - (F) the use of forced labor of prisoners to produce cheap goods for export to countries, including the United States, in violation of labor treaties and United States law;
  - (G) the Chinese Government's willingness to permit access for international human rights monitoring groups to prisoners, trials, and places of detention; and
  - (H) the detention and arrest of religious leaders and members of religious groups, including those under house arrest, detained, or imprisoned as a result of their expressions of religious belief.
- (2) Weapons proliferation—
- (A) Exports by the People's Republic of China which relate to improving the military capabilities of nations in the Middle East and South Asia, including a description of previous and potential future transfers of—
    - (i) M-series ballistic missile systems, and of technology and assistance related to the production of such missile systems;
    - (ii) technologies capable of producing weapons-grade nuclear material; and
    - (iii) technology and materials needed for the production or use of chemical and biological arms.
  - (B) JOINING ARMS SUPPLIER REGIMES.—The adoption of guidelines and restrictions set forth by—
    - (i) the Missile Technology Control Regime;
    - (ii) the Australia Group on Chemical and Biological arms proliferation; and
    - (iii) the Nuclear Suppliers Group.
- (3) Restrictions on trade between the United States and China, which are not described in the National Trade Estimate Report required under section 181 of the Trade Act of 1974, including—
- (A) internal trade barriers to American goods and products, with particular attention paid to those implemented since the Tiananmen Square massacre in 1988;
  - (B) regulations established since 1988 to ensure strict control over more than 100 categories of products;
  - (C) excessive duties imposed on imports to China;
  - (D) excessive licensing requirements for imported goods;
  - (E) restrictions on private ownership of property, including capital;
  - (F) section 301 violations, including attempts to evade United States import quotas; and
  - (G) protection for intellectual property.
- (b) HISTORICAL BACKGROUND.—The report shall also include—

(1) a compendium of the most significant actions taken by the Chinese government since the Tiananmen Square massacre in each of the areas of the report (human rights, arms sales and nuclear proliferation and trade); and

(2) a list of the most significant United States actions taken since 1988 to underscore United States concerns about Chinese policies, including consultations and communications encouraging other governments to take similar actions.

(c) CLASSIFIED ANNEX.—The report may include a classified annex detailing Chinese arms sales and nuclear weapons proliferation activities. All other aspects of the report shall be unclassified.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—The “appropriate congressional committees” referred to in subsection (a) shall include the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs<sup>59</sup> and the Committee on Ways and Means of the House of Representatives.

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

(a) REPORTS TO CONGRESS.—Beginning 90 days after the date of enactment of this Act and every 365 days thereafter, the Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies,<sup>76</sup> shall submit to the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs<sup>59</sup> and the Committee on Ways and Means of the House of Representatives a report describing the nature and extent of assets held in the United States by terrorist countries and any organization engaged in international terrorism. Each such report shall provide a detailed list and description of specific assets.<sup>77</sup>

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

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

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

### PART B—ARMS CONTROL AND PROLIFERATION<sup>78</sup>

#### SEC. 321.<sup>79</sup> LIMITATION ON RESCISSION OF PROHIBITIONS APPLICABLE TO TERRORIST COUNTRIES. \* \* \*

#### SEC. 322.<sup>80</sup> POLICY ON MIDDLE EAST ARMS SALES.

In recognition of the particular volatility of the Middle East, the tremendous cost in human lives and suffering in the aftermath of

<sup>76</sup>Sec. 133(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 396), struck out “Treasury” and inserted in lieu thereof “Treasury, in consultation with the Attorney General and appropriate investigative agencies.”

<sup>77</sup>Sec. 133(b)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 396), added this sentence.

<sup>78</sup>See other arms control legislation, vol. II-B.

<sup>79</sup>Sec. 321 amended sec. 40(f) of the Arms Export Control Act (22 U.S.C. 2780(f)).

<sup>80</sup>Sec. 563(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 483), struck out “and” at the end of para. (2); in para. (3) struck out “and” at the end of subpara. (A); replaced the period at the end of subpara. (B) with “; and” and inserted a new subpara. (C).

the aggression by Iraq, and imperative that stability be maintained in the region while the course toward lasting peace is pursued, the authority to make sales under the Arms Export Control Act or to furnish military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 shall be exercised with regard to the Middle East for the objectives set forth in law and that the President should—

(1) transfer defense articles and services only to those nations that have given reliable assurances that such articles will be used only for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security;

(2) transfer defense articles and services to nations in the region only after it has been determined that such transfers will not contribute to an arms race, will not increase the possibility of outbreak or escalation of conflict and will not prejudice the development of bilateral or multilateral arms control arrangements;

(3) take steps to ensure that each nation of the Middle East that is a recipient of United States defense articles and services—

(A) affirms the right of all nations in the region to exist within safe and secure borders;

(B) supports or is engaged in direct regional peace negotiations; and

(C)<sup>80</sup> does not participate in the Arab League primary or secondary boycott of Israel.

**SEC. 323.<sup>81</sup> MISSILE TECHNOLOGY. \* \* \***

**SEC. 324.<sup>75</sup> REPORT ON CHINESE WEAPONS PROLIFERATION PRACTICES.**

(a) REQUIREMENT.—Within 90 days of the enactment of this Act the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>82</sup> of the House of Representatives on “Chinese Nuclear, Chemical, Biological, and Missile Proliferation Practices”.

(b) CONTENT.—Such report shall be transmitted in classified and unclassified forms and shall describe all actions and policies of the People’s Republic of China which relate to improving the military capabilities of nations in the Middle East and South Asia, including a description of previous and potential future transfers of—

<sup>75</sup> Sec. 563(b) of that Act required:

“(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report concerning steps taken to ensure that the goals of section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 are being met.”.

<sup>81</sup> Sec. 323 amended secs. 73 and 74 of the Arms Export Control Act (22 U.S.C. 2797b and 2797c).

<sup>82</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.



- (1) M-series ballistic missile systems, and of technology and assistance related to the production of such missile systems;
- (2) technologies capable of producing weapons-grade nuclear material; and
- (3) technology and materials needed for the production or use of chemical and biological arms.

(c) SPECIAL REPORT.—At any time that the President determines that the People's Republic of China is preparing to take, or has taken, any action described in subsection (b), he shall so report in writing to Congress.

**SEC. 325. REPORT ON SS-23 MISSILES.**

Pursuant to its constitutional responsibilities of advice and consent in respect to treaties, the Senate requests that before submitting to the Senate for its advice and consent to ratification a Strategic Arms Reduction Treaty, the President provide a classified report with an unclassified summary to the Senate on whether the SS-23 INF missiles of Soviet manufacture, which the Soviets have confirmed have existed in the territories of the former East Germany, Czechoslovakia, and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that the missiles will be destroyed.

**PART C—DECLARATIONS OF CONGRESS**

**SEC. 351. RECIPROCAL DIPLOMATIC STATUS WITH MEXICO.**

It is the sense of Congress that—

- (1) all United States law enforcement personnel serving in Mexico should be accredited in the same manner and accorded the same status as United States diplomatic and consular personnel serving as official representatives at United States posts in Mexico; and
- (2) all Mexican narcotics law enforcement personnel serving in the United States should be accredited in the same manner and accorded the same diplomatic and consular status as United States Drug Enforcement Administration personnel serving in Mexico.

**SEC. 352. UNITED STATES PRESENCE IN LITHUANIA, LATVIA, AND ESTONIA.**

It is the sense of the Congress that in the aftermath of the reestablishment of full diplomatic relations between the United States and Lithuania, Latvia, and Estonia, the United States Government, including the Secretary of State, the Director of the United States Information Agency, and the Director of the Foreign Commercial Service, should provide in Lithuania, Latvia, and Estonia—

- (1) an embassy and full complement of embassy staff and personnel;
- (2) cultural and information officers for the purpose of expanding cultural contacts and promoting citizen, academic, professional, and other exchange programs between the United States and Lithuania, Latvia, and Estonia; and
- (3) commercial representatives for the purpose of expanding commercial and trade relations between the United States and Lithuania, Latvia, and Estonia.

**SEC. 353. LAOTIAN-AMERICAN RELATIONS.**

It is the sense of the Congress that the President, in recognition of the constructive changes taking place in Laos, should—

(1) upgrade the current American diplomatic representation in Vientiane, Laos, from Charge d'Affaires to the level of Ambassador;

(2) ensure that an American military attache is permanently assigned to the United States mission in Vientiane to assist the recovery of American prisoners of war and missing in action; and

(3) ensure that Drug Enforcement Agency personnel are permanently assigned, when practicable, to the United States mission in Vientiane for the purpose of accelerating cooperative efforts in narcotics eradication and interdiction.

**SEC. 354. POW/MIA STATUS.**

It is the sense of the Congress that—

(1) the United States should continue to give the highest national priority to accounting as fully as possible for Americans still missing or otherwise unaccounted for in Southeast Asia and to securing the return of any Americans who may still be held captive in Southeast Asia;

(2) the United States should ensure that there is a viable sustained process of joint cooperation with the Socialist Republic of Vietnam and the Lao People's Democratic Republic to achieve credible answers for the families of America's servicemen and civilians who are missing or otherwise unaccounted for, including primary-next-of-kin access to all records and information resulting from the process of joint investigations, surveys, and excavations;

(3) the United States should encourage and provide all necessary assistance to the families of POW/MIAs and to American veterans organizations, such as the American Legion, Veterans of Foreign Wars, and Vietnam Veterans of America in their efforts to account for POW/MIAs;

(4) General John Vessey should be highly commended for his personal commitment to resolving the POW/MIA issue;

(5) the United States should develop a means to obtain the fullest possible accounting for Americans who are listed as missing or otherwise unaccounted for in Cambodia, without placing this humanitarian objective into conflict with United States efforts to obtain an acceptable political settlement of the Cambodian situation; and

(6) the United States should heighten responsible public awareness of the Americans still missing or otherwise unaccounted for in Southeast Asia through the dissemination of factual data.

**SEC. 355. CHINA'S ILLEGAL CONTROL OF TIBET.**

It is the sense of the Congress that—

(1) Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Quinghai, is an occupied country under the established principles of international law;

(2) Tibet's true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people;

(3) Tibet has maintained throughout its history a distinctive and sovereign national, cultural, and religious identity separate from that of China and, except during periods of illegal Chinese occupation, has maintained a separate and sovereign political and territorial identity;

(4) historical evidence of this separate identity may be found in Chinese archival documents and traditional dynastic histories, in United States recognition of Tibetan neutrality during World War II, and in the fact that a number of countries including the United States, Mongolia, Bhutan, Sikkim, Nepal, India, Japan, Great Britain, and Russia recognized Tibet as an independent nation or dealt with Tibet independently of any Chinese government;

(5) in 1949-1950, China launched an armed invasion of Tibet in contravention of international law;

(6) it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another; and

(7) numerous United States declarations since the Chinese invasion have recognized Tibet's right to self-determination and the illegality of China's occupation of Tibet.

**SEC. 356.<sup>83</sup> RELEASE OF PRISONERS HELD IN IRAQ.**

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

(1) in addition to other requirements of law, the President should not lift United States economic sanctions currently in place against the Iraqi government, and should continue to make every effort to ensure the multinational coalition maintains the full range of economic sanctions as embodied in the appropriate United Nations Security Council resolutions; and

(2) such sanctions should remain in effect until the Iraqi government has released all individuals held prisoner and has accounted as fully as possible for all those missing as a result of Iraq's invasion of Kuwait, including those Kuwaiti citizens and other Kuwaiti residents captured or detained by Iraq.

(b) REPORT TO CONGRESS.—The Secretary of State shall—

(1) continue to consult with the International Committee of the Red Cross (ICRC) on the status of a detailed list of all Kuwaiti citizens and other residents of Kuwait believed to have been captured or detained by the government of Iraq; and

(2) to the extent such information is available, submit a report on the steps which have been taken and planned actions to effect the release of remaining prisoners held by Iraq to the appropriate committees of the Congress not later than 180 days after the date of the enactment of this Act.

<sup>83</sup>Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Political Affairs by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

(c) DEFINITION.—For the purposes of this section the term “appropriate committees of the Congress” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>82</sup> of the House of Representatives.

**SEC. 357. POLICY TOWARD HONG KONG.**

It is the sense of the Congress that the United States should encourage the Government of the United Kingdom to provide the people of Hong Kong all possible civil liberties, including popular election of the territory’s Legislative Council, so that it will bequeath a fully functioning, self-governing democracy to China in 1997.

**SEC. 358. POLICY TOWARD TAIWAN.**

It is the sense of Congress that—

- (1) Taiwan’s economic dynamism is a tribute to the success of the postwar United States assistance program and to Taiwan’s commitment to an international system of free trade;
- (2) Taiwan’s economic growth has made it in recent years an indispensable part of regional and international networks of trade, investment, and finance; and
- (3) the United States should support Taiwan’s interest in playing a role in international and regional economic organizations.

**SEC. 359. HUMAN RIGHTS ABUSES IN EAST TIMOR.**

(a) FINDINGS.—The Congress finds that—

- (1) many tens of thousands out of a population of nearly 700,000 perished in the former Portuguese colony of East Timor between 1975 and 1980, as a result of war-related killings, famine, and disease following the invasion of that territory by Indonesia;
- (2) Amnesty International and other international human rights organizations continue to report evidence in East Timor of human rights violations, including torture, arbitrary arrest, and repression of freedom of expression;
- (3) serious medical, nutritional, and humanitarian problems persist in East Timor;
- (4) a state of intermittent conflict continues to exist in East Timor; and
- (5) the Governments of Portugal and Indonesia have conducted discussions since 1982 under the auspices of the United Nations to find an internationally acceptable solution to the East Timor conflict.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

- (1) the President should urge the Government of Indonesia to take action to end all forms of human rights violations in East Timor and to permit full freedom of expression in East Timor;
- (2) the President should encourage the Government of Indonesia to facilitate the work of international human rights organizations and other groups seeking to monitor human rights conditions in East Timor and to continue and expand cooperation with international humanitarian relief and development organizations seeking to work in East Timor; and
- (3) the Administration should encourage the Secretary General of the United Nations and the governments of Indonesia,

Portugal, and other involved parties, to arrive at an internationally acceptable solution which addresses the underlying causes of the conflict in East Timor.

**SEC. 360. SUPPORT FOR NEW DEMOCRACIES.**

It is the policy of the United States—

(1) to support democratization within the Soviet Union and support self-determination, observer and other appropriate status in international organizations, particularly the Conference on Security and Cooperation in Europe (CSCE) and independence for all republic-level governments which seek such status;

(2) to shape its foreign assistance and other programs to support those republics that pursue a democratic and market-oriented course of development, and demonstrate a commitment to abide by the rule of law;

(3) to strongly support peaceful resolution of conflicts within the Soviet Union and between the central Soviet government and Lithuania, Latvia, and Estonia and republic-level governments;

(4) to condemn the actual and threatened use of martial law, pogroms, military occupation, blockades, and other uses of force which have been used to suppress democracy and self-determination; and

(5) to view the threatened and actual use of force to suppress the self-determination of republic-level governments and Lithuania, Latvia, and Estonia as an obstacle to fully normalized United States-Soviet relations.

**SEC. 361. POLICY REGARDING UNITED STATES ASSISTANCE TO THE SOVIET UNION AND YUGOSLAVIA.**

(a) CONGRESSIONAL STATEMENT.—An essential purpose of United States foreign assistance is to foster the development of democratic institutions and free enterprise systems. Stable economic growth, fostered by free enterprise and free trade, is also important to the development of democratic institutions.

(b) DECLARATION OF UNITED STATES POLICY.—It is the policy of the United States, to the extent feasible and consistent with United States national interest, that—

(1) assistance to the Soviet Union and Yugoslavia, including their successor entities or any constituent part, shall be conditioned on significant steps toward political pluralism based on a democratic multi-party political system, economic reform based on a market-oriented economy, respect for internationally recognized human rights and a willingness to build a friendly relationship with the United States; and

(2) expanded trade with the republics in the Soviet Union and Yugoslavia or their successor entities should be encouraged.

**SEC. 362.**<sup>84</sup> \* \* \* [Repealed—1993]

**SEC. 363. UNITED STATES TACTICAL NUCLEAR WEAPONS DESIGNED FOR DEPLOYMENT IN EUROPE.**

(a) **FINDINGS.**—The Congress finds that—

(1) the Warsaw Pact military alliance no longer exists;

(2) the Soviet Union's capability to pose a military threat to European security has retreated radically; and

(3) in light of the retreating Soviet threat, West European electorates are unlikely to approve the deployment of new United States tactical nuclear weapons on European soil.

(b) **POLICY.**—It is the sense of the Congress that the United States Government should not proceed with the research or development of any tactical nuclear system designed solely for deployment in Europe unless and until the Council of the North Atlantic Treaty Organization has officially announced how, when, and where such tactical nuclear systems will be deployed.

**SEC. 364. UNITED STATES SUPPORT FOR UNCED.**

(a) **FINDINGS.**—The Congress finds that—

(1) the United Nations Conference on Environment and Development (hereinafter in this section referred to as "UNCED") is scheduled to meet in June 1992 in Rio de Janeiro, Brazil; and

(2) UNCED affords a major opportunity to shape international environmental policy as an underpinning of sustainable development for well into the next century.

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

(1) the United States should seek to integrate environmental principles and considerations into all spheres of international economic activity;

(2) the President should accord the UNCED process high-level attention and priority within the executive branch;

(3) the United States should exercise a leadership role in preparations for the June 1992 meeting of the UNCED;

(4) the United States should carefully consider what it hopes to achieve through the UNCED and how United States national security interests may best be advanced in deliberations in that conference;

(5) the United States should seek ways to forge a global partnership and international cooperation among developing and industrialized nations on behalf of environmentally sound economic development;

(6) the United States should actively pursue creative approaches to the spectrum of UNCED issues which the conference will address, and in particular seek innovative solutions to the key cross-sectorial issues of technology transfer and financial resources;

(7) the United States should consider how best to strengthen international legal and institutional mechanisms to effectively address the range of UNCED issues beyond the 1992 Conference and into the next century;

<sup>84</sup>Sec. 362, relating to policy toward the release of political prisoners by South Africa, was repealed by sec. 4(b)(4) of the South African Democratic Transition Act of 1993 (Public Law 103-149; 107 Stat. 1505).

(8) the United States should promote broad international participation in the UNCED process at all levels, from grass roots to national;

(9) the Agency for International Development should assume an appropriate role in the preparations for the June 1992 meeting of the UNCED, in view of the mandate and expertise of that agency regarding the twin conference themes of international environment and development; and

(10) the executive branch should consider funding for appropriate activities related to the UNCED in amounts which are commensurate with United States responsibilities in the world, as such funds can engender good will and further our national interests and objectives in the UNCED process.

#### **TITLE IV—ARMS TRANSFERS RESTRAINT POLICY FOR THE MIDDLE EAST AND PERSIAN GULF REGION**<sup>85</sup>

##### **SEC. 401. FINDINGS.**

The Congress finds that—

(1) nations in the Middle East and Persian Gulf region, which accounted for over 40 percent of the international trade in weapons and related equipment and services during the decade of the 1980's, are the principal market for the worldwide arms trade;

(2) regional instability, large financial resources, and the desire of arms-supplying governments to gain influence in the Middle East and Persian Gulf region, contribute to a regional arms race;

(3) the continued proliferation of weapons and related equipment and services contribute further to a regional arms race in the Middle East and Persian Gulf region that is politically, economically, and militarily destabilizing;

(4) the continued proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons, poses an urgent threat to security and stability in the Middle East and Persian Gulf region;

(5) the continued proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads undermines security and stability in the Middle East and Persian Gulf region;

(6) future security and stability in the Middle East and Persian Gulf region would be enhanced by establishing a stable military balance among regional powers by restraining and reducing both conventional and unconventional weapons;

(7) security, stability, peace, and prosperity in the Middle East and Persian Gulf region are important to the welfare of the international economy and to the national security interests of the United States;

(8) future security and stability in the Middle East and Persian Gulf region would be enhanced through the development

<sup>85</sup> 22 U.S.C. 2778 note.

of a multilateral arms transfer and control regime similar to those of the Nuclear Suppliers' Group, the Missile Technology Control Regime, and the Australia Chemical Weapons Suppliers Group;

(9) such a regime should be developed, implemented, and agreed to through multilateral negotiations, including under the auspices of the 5 permanent members of the United Nations Security Council;

(10) confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, greater multinational transparency on the transfer of defense articles and services prior to agreement or transfer, cooperative verification measures, advanced notification of military exercises, information exchanges, on-site inspections, and creation of a Middle East and Persian Gulf Conflict Prevention Center, are important to implement an effective multilateral arms transfer and control regime;

(11) as an interim step, the United States should consider introducing, during the ongoing negotiations on confidence security-building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the international exchange of information, on an annual basis, on the sale and transfer of major military equipment, particularly to the Middle East and Persian Gulf region; and

(12) such a regime should be applied to other regions with the ultimate objective of achieving an effective global arms transfer and control regime, implemented and enforced through the United Nations Security Council, that—

(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

**SEC. 402. MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.**

(a) IMPLEMENTATION OF THE REGIME.—

(1) CONTINUING NEGOTIATIONS.—The President shall continue negotiations among the 5 permanent members of the United Nations Security Council and commit the United States to a multilateral arms transfer and control regime for the Middle East and Persian Gulf region.

(2) PROPOSING A TEMPORARY MORATORIUM DURING NEGOTIATIONS.—In the context of these negotiations, the President should propose to the 5 permanent members of the United Nations Security Council a temporary moratorium on the sale and transfer of major military equipment to nations in the Middle East and Persian Gulf region until such time as the 5 permanent members agree to a multilateral arms transfer and control regime.



(b) PURPOSE OF THE REGIME.—The purpose of the multilateral arms transfer and control regime should be—

(1) to slow and limit the proliferation of conventional weapons in the Middle East and Persian Gulf region with the aim of preventing destabilizing transfers by—

(A) controlling the transfer of conventional major military equipment;

(B) achieving transparency among arms supplier nations through advanced notification of agreement to, or transfer of, conventional major military equipment; and

(C) developing and adopting common and comprehensive control guidelines on the sale and transfer of conventional major military equipment to the region;

(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons and the technologies necessary to produce or assemble such weapons;

(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

(5) to promote regional arms control in the Middle East and Persian Gulf region.

(c) ACHIEVING THE PURPOSES OF THE REGIME.—

(1) CONTROLLING PROLIFERATION OF CONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsection (b)(1), the United States should pursue the development of a multilateral arms transfer and control regime which includes—

(A) greater information-sharing practices among supplier nations regarding potential arms sales to all nations of the Middle East and Persian Gulf region;

(B) applying, for the control of conventional major military equipment, procedures already developed by the International Atomic Energy Agency, the Multilateral Coordinating Committee on Export Controls (COCOM), and the Missile Technology Control Regime (MTCR); and

(C) other strict controls on the proliferation of conventional major military equipment to the Middle East and Persian Gulf region.

(2) HALTING PROLIFERATION OF UNCONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsections (b) (2) and (3), the United States should build on existing and future agreements among supplier nations by pursuing the development of a multilateral arms transfer and control regime which includes—

(A) limitations and controls contained in the Enhanced Proliferation Control Initiative;

(B) limitations and controls contained in the Missile Technology Control Regime (MTCR);

(C) guidelines followed by the Australia Group on chemical and biological arms proliferation;

- (D) guidelines adopted by the Nuclear Suppliers Group (the London Group); and
- (E) other appropriate controls that serve to halt the flow of unconditional weapons to the Middle East and Persian Gulf region.
- (3) PROMOTION OF REGIONAL ARMS CONTROL AGREEMENTS.—In order to achieve the purposes described in subsections (b) (4) and (5), the United States should pursue with nations in the Middle East and Persian Gulf region—
- (A) the maintenance of the military balance within the region, while eliminating nuclear, biological, and chemical weapons and associated delivery systems, and ballistic missiles;
- (B) the implementation of confidence-building and security-building measures, including advance notification of certain ground and aerial military exercises in the Middle East and the Persian Gulf; and
- (C) other useful arms control measures.
- (d) MAJOR MILITARY EQUIPMENT.—As used in this title, the term “major military equipment” means—
- (1) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;
  - (2) turbine-powered military aircraft;
  - (3) attack helicopters;
  - (4) main battle tanks;
  - (5) submarines and major naval surface combatants;
  - (6) nuclear, biological, and chemical weapons; and
  - (7) such other defense articles and defense services as the President may determine.

**SEC. 403.<sup>86</sup> LIMITATION ON UNITED STATES ARMS SALES TO THE REGION.**

Beginning 60 days after the date of enactment of the International Cooperation Act of 1991 or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, whichever is enacted first, no sale of any defense article or defense service may be made to any nation in the Middle East and Persian Gulf region, and no license may be issued for the export of any defense article or defense service to any nation in the Middle East and Persian Gulf region, unless the President—

- (1) certifies in writing to the relevant congressional committees that the President has undertaken good faith efforts to convene a conference for the establishment of an arms suppliers regime having elements described in section 402; and
- (2) submits to the relevant congressional committees a report setting forth a United States plan for leading the world community in establishing such a multilateral regime to restrict

<sup>86</sup>Executive Order 12851 of June 11, 1993 (58 F.R. 33181) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

“**Sec. 3. Arms Control in the Middle East.** The certification and reporting functions vested in me by sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.”

An earlier memorandum of December 27, 1991 (57 F.R. 1069), made the same delegation.

transfers of advanced conventional and unconventional arms to the Middle East and Persian Gulf region.

**SEC. 404.<sup>86</sup> REPORTS TO THE CONGRESS.**

(a) **QUARTERLY REPORTS.**—Beginning on January 15, 1992, and quarterly thereafter through October 15, 1993, the President shall submit to the relevant congressional committees a report—

(1) describing the progress in implementing the purposes of the multilateral arms transfer and control regime as described in section 402(b); and

(2) describing efforts by the United States and progress made to induce other countries to curtail significantly the volume of their arms sales to the Middle East and Persian Gulf region, and if such efforts were not made, the justification for not making such efforts.

(b) **INITIAL REPORT ON TRANSFERS AND REGIONAL MILITARY BALANCE.**—Not later than 60 days after the date of enactment of the International Cooperation Act of 1991 or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, whichever is enacted first, the President shall submit to the relevant congressional committee a report—

(1) documenting all transfers of conventional and unconventional arms by any nation to the Middle East and Persian Gulf region over the previous calendar year and the previous 5 calendar years, including sources, types, and recipient nations of weapons;

(2) analyzing the current military balance in the region, including the effect on the balance of transfers documented under paragraph (1);

(3) describing the progress in implementing the purposes of the multilateral arms transfer and control regime as described in section 402(b);

(4) describing any agreements establishing such a regime; and

(5) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines such a regime.

(c) **ANNUAL REPORTS ON TRANSFERS AND REGIONAL MILITARY BALANCE.**—Beginning July 15, 1992, and every 12 months thereafter, the President shall submit to the relevant congressional committees a report—

(1) documenting all transfers of conventional and unconventional arms by any nation to the Middle East and Persian Gulf region over the previous calendar year, including sources, types, and recipient nations of weapons;

(2) analyzing the current military balance in the region, including the effect on the balance of transfer documented under paragraph (1);

(3) describing the progress in implementing the purposes of the multilateral arms transfer and control regime as described in section 402(b); and

(4) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines such a regime.

**SEC. 405. RELEVANT CONGRESSIONAL COMMITTEES DEFINED.**

As used in this title, the term “relevant congressional committees” means the Committee on Foreign Affairs<sup>87</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

**TITLE V—CHEMICAL AND BIOLOGICAL WEAPONS  
CONTROL \* \* \* [Repealed—1991]<sup>88</sup>**

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<sup>87</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>88</sup>Title V was repealed by sec. 309 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182; 105 Stat. 1258). See the free-standing provisions of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and sec. 11C of the Export Administration Act as enacted by sec. 305(a) of Public Law 102-182, in *Legislation on Foreign Relations Through 2005*, vol. III; and chapter 8 of the Arms Export Control Act, as enacted by sec. 305(b) of Public Law 102-182, in *Legislation on Foreign Relations Through 2005*, vol. I-A.

## **n. International Peacekeeping Act of 1992**

**Public Law 102-311 [H.R. 4548], 106 Stat. 277, approved July 2, 1992**

AN ACT To authorize contributions to United Nations peacekeeping activities.

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

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “International Peacekeeping Act of 1992”.

### **SEC. 2. UNITED NATIONS PEACEKEEPING ACTIVITIES.**

(a) FISCAL YEAR 1992.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated \$350,000,000 for fiscal year 1992 for the Department of State for assessed and voluntary contributions of the United States to United Nations peacekeeping activities. Authorizations of appropriations under this subsection shall remain available until October 1, 1994.

(b) FISCAL YEAR 1993.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated \$366,069,000 for fiscal year 1993 for the Department of State for assessed contributions of the United States to United Nations peacekeeping activities.

(c) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—In addition to such amounts as are authorized to be appropriated in section 102(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, there are authorized to be appropriated \$53,814,000 for fiscal year 1993 for “Contributions to International Organizations”.

**o. Foreign Relations Persian Gulf Conflict Emergency  
Supplemental Authorization Act, Fiscal Year 1991**

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

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

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

**SECTION 1. SHORT TITLE.**

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

**SEC. 2. SALARIES AND EXPENSES.**

In addition to such amounts as are authorized to be appropriated in section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, there are authorized to be appropriated \$10,000,000 as emergency supplemental appropriations for fiscal year 1991 for “Salaries and Expenses” for the Department of State. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

**SEC. 3. EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**

In addition to such amounts as are authorized to be appropriated in section 101(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, there are authorized to be appropriated \$9,300,000 as emergency supplemental appropriations for fiscal year 1991 for “Emergencies in the Diplomatic and Consular Service” for the Department of State to be available only for costs associated with the evacuation of United States Government employees (including contractor employees) and their dependents and other United States citizens from diplomatic posts. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

**SEC. 4.<sup>1</sup> SPECIAL PURPOSE PASSENGER MOTOR VEHICLES. \* \* \***

**SEC. 5. AGENCY FOR INTERNATIONAL DEVELOPMENT EMERGENCY  
EVACUATION EXPENSES.**

There are authorized to be appropriated \$6,000,000 as emergency supplemental appropriations for fiscal year 1991 for the operating expenses of the Agency for International Development. Such funds shall be available only for the costs of evacuating United States

<sup>1</sup>Sec. 4 amended sec. 2 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669).

Government employees and personal service contractors, and their dependents, and for subsistence allowance payments. Funds authorized to be appropriated under this section are designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

**SEC. 6.<sup>2</sup> BURDENSARING.**

The Congress—

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

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

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<sup>2</sup>See also legislation relating to U.S. policy toward Iraq, in *Legislation on Foreign Relations Through 2005*, vol. I-B.

**p. Foreign Relations Authorization Act, Fiscal Years 1990  
and 1991**

Partial text of Public Law 101-246 [H.R. 3792], 104 Stat. 15, approved February 16, 1990; as amended by Public Law 101-302 [Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 102-511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 102-549 [Jobs Through Exports Act of 1992, H.R. 4996], 106 Stat. 3651, approved October 28, 1992; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-107 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681-802, approved October 21, 1998; Public Law 107-273 [21st Century Department of Justice Appropriations Authorization Act; H.R. 2215], 116 Stat. 1758, approved November 2, 2002; and Public Law 108-447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1990 and 1991”.

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

<sup>1</sup> 22 U.S.C. 2651 note.



## TITLE I—DEPARTMENT OF STATE

### PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

#### SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) **DIPLOMATIC AND ONGOING OPERATIONS.**—The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law (other than the diplomatic security program):

(1)<sup>2</sup> **SALARIES AND EXPENSES.**—For “Salaries and Expenses”, of the Department of State \$1,432,124,000 for the fiscal year 1990 and \$1,583,598,000 for the fiscal year 1991,<sup>3</sup> of which not less than \$250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2)<sup>4</sup> **ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.**—For “Acquisition and Maintenance of Buildings Abroad”, \$218,900,000 for the fiscal year 1990 and \$227,656,000 for the fiscal year 1991.

(3)<sup>5</sup> **REPRESENTATION ALLOWANCES.**—For “Representation Allowances”, \$4,600,000 for the fiscal year 1990 and \$5,000,000 for the fiscal year 1991.

(4)<sup>6</sup> **EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**—For “Emergencies in the Diplomatic and Consular Service.”

<sup>2</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1006), provided \$1,741,239,000 for “Salaries and Expenses”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2124), provided \$1,860,017,000.

Sec. 2 of the Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 (Public Law 102-20; 105 Stat. 68), authorized an additional “\$10,000,000 as emergency supplemental appropriations for fiscal year 1991 for ‘Salaries and Expenses’ for the Department of State.”

<sup>3</sup>Sec. 1102 of this Act waived the text of sec. 101(a) that follows “1991” for fiscal years 1990 and 1991, effective on the date of enactment of this Act (February 16, 1990).

<sup>4</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$348,100,000 for “Acquisitions and Maintenance of Buildings Abroad”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$227,656,000.

<sup>5</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$4,600,000 for “Representation Allowances”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$4,600,000.

<sup>6</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$4,700,000 for “Emergencies in the Diplomatic and Consular Service”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$4,888,000.

Sec. 3 of the Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 (Public Law 102-20; 105 Stat. 68), authorized the following:

#### “SEC. 3. EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

“In addition to such amounts as are authorized to be appropriated in section 101(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, there are authorized to be appropriated \$9,300,000 as emergency supplemental appropriations for fiscal year 1991 for ‘Emergencies in the Diplomatic and Consular Service’ for the Department of State to be available only for costs associated with the evacuation of United States Government employees (including contractor employees) and their dependents and other United States citizens from diplomatic posts. Funds authorized to be appropriated under this section are designated emergency requirements

Continued

ice”, \$4,700,000 for the fiscal year 1990 and \$4,888,000 for the fiscal year 1991.

(5)<sup>7</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$21,000,000 for the fiscal year 1990 and \$21,840,000 for the fiscal year 1991.

(6)<sup>8</sup> PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$11,300,000 for the fiscal year 1990 and \$11,752,000 for the fiscal year 1991.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the fiscal years 1990 and 1991 for the Department of State to carry out the diplomatic security program:

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$309,365,000 for the fiscal year 1990 and \$361,995,000 for the fiscal year 1991.

(2)<sup>9</sup> PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$9,100,000 for the fiscal year 1990 and \$9,464,000 for the fiscal year 1991.

(c)<sup>10</sup> ALLOCATION FOR OFFICE OF MUNITIONS CONTROL.—Of the amounts authorized to be appropriated by this section, there shall be available only for the Office of Munitions Control of the Department of State for each of the fiscal years 1990 and 1991 such amount as is necessary to maintain at least 53 full-time equivalent personnel and any associated costs.

#### SEC. 102. INTERNATIONAL ORGANIZATIONS AND CONFERENCES.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—

(1)<sup>11</sup> There are authorized to be appropriated for “Contributions to International Organizations”, \$714,927,000 for the fiscal year 1990 and \$817,000,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of

pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.”

<sup>7</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$21,000,000 for “Office of Inspector General”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$21,840,000.

<sup>8</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$11,300,000 for “Payment to the American Institute in Taiwan”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$11,752,000.

<sup>9</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1007), provided \$9,100,000 for “Protection of Foreign Missions and Officials”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2125), provided \$9,100,000.

<sup>10</sup>Sec. 1102 of this Act waived sec. 101(c) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

<sup>11</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$622,000,000 for “Contributions to International Organizations”, and also provided “That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$787,605,000, with the same proviso.

the United States with respect to international organizations and for other purposes authorized by law.

(2)<sup>12</sup> Of the amounts authorized to be appropriated by paragraph (1), \$1,249,000 for the fiscal year 1990 shall be available only for the South Pacific Commission.

(b)<sup>13</sup> CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated for “Contributions to International Peacekeeping Activities”, \$111,184,000 for the fiscal year 1990 and \$115,000,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and for other purposes authorized by law.

(c)<sup>14</sup> INTERNATIONAL CONFERENCES AND CONTINGENCIES.—(1) There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,340,000 for the fiscal year 1990 and \$7,300,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and for other purposes authorized by law.

(2) None of the funds authorized to be appropriated under paragraph (1), may be obligated or expended for any United States delegation to any meeting of the Conference on Security and Cooperation in Europe (CSCE) or meetings within the framework of the CSCE unless the United States delegation to any such meeting includes individuals representing the Commission on Security and Cooperation in Europe.

#### SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A)<sup>15</sup> for “Salaries and Expenses” for the fiscal year 1990, \$10,460,000 and, for the fiscal year 1991, \$10,878,000; and

<sup>12</sup>Sec. 1102 of this Act waived sec. 102(a)(2) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

<sup>13</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$81,500,000 for “Contributions for International Peacekeeping Activities”, including arrearages incurred through fiscal year 1989.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$115,000,000.

<sup>14</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$6,340,000 for “International Conferences and Contingencies”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2126), provided \$7,300,000.

<sup>15</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1008), provided \$10,460,000 for “Salaries and Expenses”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$10,500,000.

(B)<sup>16</sup> for “Construction” for the fiscal year 1990, \$11,500,000 and, for the fiscal year 1991, \$11,900,000.

(2)<sup>17</sup> INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$750,000 for the fiscal year 1990 and \$780,000 for the fiscal year 1991.

(3)<sup>17</sup> INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,750,000 for the fiscal year 1990 and \$3,900,000 for the fiscal year 1991.

(4)<sup>18</sup> INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$11,000,000 for the fiscal year 1990 and \$11,440,000 for the fiscal year 1991.

#### SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Migration and Refugee Assistance”—

(1)<sup>19</sup> for authorized activities, \$415,000,000 for the fiscal year 1990 and \$445,000,000 for the fiscal year 1991; and

<sup>16</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$11,500,000 for “Construction”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$10,000,000.

<sup>17</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided the following for “American Sections, International Commissions”:

“For necessary expenses, not otherwise provided for, including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided:

“For necessary expenses, not otherwise provided for including not to exceed \$9,000 for representation expenses incurred by the International Joint Commission, \$4,400,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.”

<sup>18</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$12,300,000 for “International Fisheries Commissions”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$12,147,000.

<sup>19</sup>Sec. 2 of the Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 (Public Law 102-45; 105 Stat. 247), authorized supplemental appropriations for fiscal year 1991, as follows:

#### “SEC. 2. EMERGENCY ASSISTANCE FOR REFUGEES.

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated as supplemental appropriations for fiscal year 1991 for emergency humanitarian assistance for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict, and to reimburse appropriations accounts from which such assistance was provided before the date of the enactment of this Act—

“(1) up to \$150,000,000 for ‘International Disaster Assistance’ under chapter 9 of part I of the Foreign Assistance Act of 1961; and

“(2) up to \$200,000,000 for ‘Migration and Refugee Assistance’ for the Department of State.

“(b) EMERGENCY MIGRATION AND REFUGEE ASSISTANCE.—For purposes of section 2(c)(2) of the Migration and Refugee Assistance Act of 1962, the limitation on appropriations for the ‘United States Emergency Refugee and Migration Assistance Fund’ for fiscal year 1991 shall be deemed to be \$75,000,000.”

Further, chapter II of the Dire Emergency Supplemental Appropriations (Public Law 102-55; 105 Stat. 292) provided the following:

#### “MIGRATION AND REFUGEE ASSISTANCE

##### “(TRANSFER OF FUNDS)

“For an additional amount for ‘Migration and Refugee Assistance’, \$75,000,000: *Provided*, That in addition to amounts otherwise available for such purposes, up to \$250,000 of the funds appropriated under this heading may be made available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That funds made available under this heading shall remain available until September 30, 1992.

(2)<sup>20</sup> for each of the fiscal years 1990 and 1991 for assistance for refugees resettling in Israel, \$25,000,000.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) or (2) of subsection (a) are authorized to remain available until expended.

#### SEC. 105.<sup>21</sup> OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

##### “UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

###### “(TRANSFER OF FUNDS)

“For an additional amount for the ‘United States Emergency Refugee and Migration Assistance Fund’, \$68,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 that would limit the amount of funds that could be appropriated for this purpose.”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1995), provided \$485,648,000 for “Migration and Refugee Assistance”, earmarked for several specific programs.

Public Law 101-513 (104 Stat. 1996) also provided \$35,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”.

The Dire Emergency Supplemental Appropriations Act of 1990 (Public Law 101-302; 104 Stat. 222) provided \$75,000,000 for “Migration and Refugee Assistance”, earmarked for several specific programs; and \$25,000,000 for “United States Emergency Refugee and Migration Assistance Fund”.

Title III of the Continuing Appropriations and Supplemental Appropriations Act (Public Law 101-403; 104 Stat. 874) provided \$10,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1210), provided \$370,000,000 for “Migration and Refugee Assistance”, earmarked for several specific programs.

Public Law 101-167 also provided \$50,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”.

The Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45; 103 Stat. 101) provided the following:

###### “MIGRATION AND REFUGEE ASSISTANCE

“For an additional amount for ‘Migration and refugee assistance’, \$100,000,000, to support emergency refugee admissions and assistance: *Provided*, That this amount may be derived through new budget authority, or the President may transfer to such account for purposes of this paragraph any unobligated and unearmarked funds made available under Public Law 100-461, notwithstanding section 514 as amended by section 589 of Public Law 100-461: *Provided further*, That if the President transfers funds for this paragraph not more than 3.3 per centum of the unobligated and unearmarked funds available under any account in Public Law 100-461 may be transferred: *Provided further*, That any transfer of funds pursuant to this paragraph shall be subject to the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That not less than \$85,000,000 of such amount shall be made available for Soviet and other Eastern European Refugee admissions and for admissions restored to other regions: *Provided further*, That funds provided under this paragraph are available until expended.”.

<sup>20</sup>The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1210), provided that, of the \$370,000,000 appropriated for Migration and Refugee Assistance, “not less than \$25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1995), earmarked \$45,000,000 for Soviet, Eastern European and other refugees resettling in Israel.

The Dire Emergency Supplemental Appropriations Act of 1990 (Public Law 101-302; 104 Stat. 222) earmarked \$5,000,000.

<sup>21</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided for the programs listed here, and for “Payment to the Asia Foundation”: \$13,900,000; and for the “Fishermen’s Guaranty Fund”: \$900,000.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided for the programs listed here, and for “Payment to the Asia Foundation”: \$13,978,000; for the “Fishermen’s Guaranty Fund”: \$900,000; and for the “Fishermen’s Protective Fund”: \$500,000.

(1)<sup>22</sup> UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For “United States Bilateral Science and Technology Agreements”, \$4,000,000 for the fiscal year 1990 and \$4,160,000 for the fiscal year 1991.

(2)<sup>23</sup> SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For “Soviet-East European Research and Training”, \$4,600,000 for the fiscal year 1990 and \$5,200,000 for the fiscal year 1991.

SEC. 106.<sup>24</sup> \* \* \*

SEC. 107.<sup>25</sup> \* \* \*

SEC. 108.<sup>26</sup> \* \* \*

## PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

\* \* \* \* \*

### SEC. 115. ENHANCEMENT OF EVACUATION CAPABILITY AND PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.

\* \* \* \* \*

(d)<sup>27</sup> DEVELOPMENT OF STANDARDIZED PROCEDURES.—

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

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

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

\* \* \* \* \*

<sup>22</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$4,000,000 for “United States Bilateral Science and Technology Agreements”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$4,500,000.

<sup>23</sup>The Department of State Appropriations Act, 1990 (title III of Public Law 101-162; 103 Stat. 1009), provided \$4,600,000 for “Soviet-East European Research and Training”.

The Department of State Appropriations Act, 1991 (title III of Public Law 101-515; 104 Stat. 2127), provided \$4,600,000.

<sup>24</sup>Sec. 106 added a new sec. 11 to the State Department Basic Authorities Act of 1956 (22 U.S.C. 2678), relating to a reduction in earmarks if appropriations are less than authorizations.

<sup>25</sup>Sec. 107 amended sec. 24 of the State Department Basic Authorities Act of 1956.

<sup>26</sup>Sec. 108 amended sec. 1302(b) of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151), to prohibit use of funds “for the conduct of current dialogue on the Middle East peace process with any representative of the Palestine Liberation Organization, if the President knows and advises the Congress that that representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen.” For text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>27</sup>22 U.S.C. 2715 note.

**SEC. 124. OPENING A UNITED STATES CONSULATE IN BRATISLAVA.**

(a) FINDINGS.—The Congress finds that—

(1) the State Department's "special consulate" concept offers a model for reopening a consulate in Bratislava, Czechoslovakia, at modest cost and with significant public diplomacy and political benefits;

(2) the United States still owns the old consulate building and in 1987-1988 spent about \$500,000 to renovate parts of the building;

(3) the building has been productively used for trade and cultural events, but could be more effectively used by restoring it to its original purpose as the locus of official United States representation in the Slovak capital;

(4) Slovakia has been the source of the largest and most recent wave of Czechoslovak emigration to the United States and approximately three and one-half million Americans are of Slovak heritage;

(5) American tourists in Slovakia, many visiting relatives, often require consular assistance and this consular support could best be provided by a consulate in Bratislava;

(6) Slovaks account for more than half of all Czechoslovak tourist travel to the United States and this travel, which should be encouraged, could be expedited by a United States consulate in Bratislava;

(7) the Slovak underground Catholic Church is one of the most vibrant religious forces in Czechoslovakia and each year tens of thousands of Catholics make pilgrimages to Slovakia;

(8) American outreach efforts in Slovakia have been hindered by the absence of a constant and direct American presence in Bratislava; and

(9) with its Hungarian, Polish, and Ukrainian minorities, a United States consulate in Bratislava would provide important information on both regional and local developments.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should take all practicable steps to reopen the United States consulate in Bratislava, Czechoslovakia.

**SEC. 125.<sup>28</sup> CONSTRUCTION OF UNITED STATES EMBASSY IN OTTAWA.**

Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852(a)) shall not apply to the construction or renovation of the United States Embassy in Ottawa, Canada.

**SEC. 126. VOLUNTARY PILOT PROGRAM FOR INCREASED PARTICIPATION BY ECONOMICALLY AND SOCIALLY DISADVANTAGED ENTERPRISES IN FOREIGN RELATIONS ACTIVITIES.**

(a) ESTABLISHMENT OF PILOT PROGRAM FOR VOLUNTARY SET-ASIDES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State (in consultation with the Director of the United States Information Agency) shall prepare and transmit a detailed plan for the establishment for the fiscal years 1990 and 1991 of a pilot program of voluntary set-asides for increased participation, to the extent practicable, by economically and socially disadvantaged enterprises in programs and activities of the Depart-

<sup>28</sup> 22 U.S.C. 4852 note.

ment of State and the United States Information Agency to the Committee on Foreign Affairs<sup>29</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

(b) CONTENTS OF PLAN.—Such plan shall include—

(1) a description of where such pilot program will be located in each such agency's organizational structure and what relevant lines of authority will be established;

(2) a listing of the specific responsibilities that will be assigned to the pilot program to enable it to increase, to the extent practicable and in a rational and effective manner, participation of economically and socially disadvantaged enterprises in activities funded by such agencies;

(3) a detailed design for a time-phase system for bringing about expanded participation, to the extent practicable, by economically and socially disadvantaged enterprises, including—

(A) specific recommendations for percentage allocations of contracts, subcontracts, procurement, grants, and research and development activities by such agencies to such enterprises; and

(B) particular consideration of the participation of economically and socially disadvantaged enterprises in activities in the areas of communications, telecommunications, and information systems;

(4) a proposed reporting system that will permit objective measuring of the degree of participation of economically and socially disadvantaged enterprises in comparison to the total activities funded by such agencies;

(5) a detailed projection of the administrative budgetary impact of the establishment of the pilot program; and

(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of economically and socially disadvantaged enterprises to receive contracts funded by such agencies.

(c) OBJECTIVES.—The objective of the pilot program shall be to increase the participation, to the extent practicable, of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agencies.

(d) RESPONSIBILITIES.—The pilot program shall—

(1) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities funded by the agencies;

(2) design and conduct projects to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, subcontracts, grants, and research and development contracts in order for such enterprises to participate in programs funded by the Department of State and the United States Information Agency;

<sup>29</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.



(3) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities funded by such agencies;

(4) develop support mechanisms which will enable socially and economically disadvantaged enterprises to take advantage of business opportunities in programs funded by such agencies; and

(5) enter into such contracts (to such extent or in such amounts as are provided in advance in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section.

(e) **RESPONSIBILITIES OF THE SECRETARY.**—The Secretary of State (after consultation with the Director of the United States Information Agency) shall provide the pilot program with such relevant information, including procurement schedules, bids, and specifications with respect to programs funded by the Department of State and the United States Information Agency, as may be requested by the pilot program in connection with the performance of its functions under this section.

(f) **DEFINITIONS.**—

(1) For the purposes of this section, the term “economically and socially disadvantaged enterprise” means a business—

(A) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(B) whose management and daily business operations are controlled by one or more such individuals.

(2) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(3) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

(g) **REPORTS TO CONGRESS.**—For each of the fiscal years 1990 and 1991, the Secretary of State shall prepare and submit a report concerning the implementation of the pilot program under this section to the Committee on Foreign Affairs<sup>29</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 127. REPORT ON REORGANIZATION OF THE DEPARTMENT OF STATE.**

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

(1) The Department of State is currently reviewing its organizational structure.

(2) Each of the geographical bureaus deals with a large number of countries and often a broad diversity of cultures, nationalities, and ethnic divisions.

(3) The territory covered by the Bureau of Near Eastern and South Asian Affairs, for example, stretches from the Atlantic coast of Morocco to the Bay of Bengal, includes twenty-five countries, more than a billion people, a number of regional disputes, and several cultural and linguistic divisions. The Bureau of Inter-American Affairs has within its jurisdiction thirty-three countries, including Mexico, the nations of the Caribbean Basin, and Central and South America.

(4) Among the most pressing international issues is the prospect for global warming. Over the next few years, American leadership at the international level will be crucial to worldwide efforts to ensure that global warming does not occur. The Department of State will need to consider appropriate steps to prepare for the leadership role of the United States.

(5) The United States continues to face a foreign intelligence threat, including the danger to United States diplomatic missions. The Department of State will need to improve its ability to detect and prevent intelligence penetration of United States missions abroad.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act<sup>30</sup> the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>29</sup> of the House of Representatives a report assessing the advisability of reorganization of its regional and functional bureaus. The report shall include, but not be limited to, an assessment of the advisability of two bureaus to cover the present responsibilities of the Bureau of Inter-American Affairs, an Office of Diplomatic Security to be headed by an Under Secretary-level Director of Diplomatic Security, and an Office of Global Warming within the Bureau of Oceans, International Environmental and Scientific Affairs. The report shall also include an assessment of the advisability of transferring the jurisdictional responsibility for the Organization of American States from the Bureau of International Organizations to the Bureau of Inter-American Affairs, and of creating a high-level coordinator for United States policy toward Mexico. In the context of the report required by this subsection, it is the sense of the Congress that the Secretary of State should give serious consideration to the establishment of a Bureau of South Asian Affairs within the Department of State.

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### **PART C—DIPLOMATIC IMMUNITY, RECIPROCITY, AND SECURITY**

#### **SEC. 131. EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN SERIOUS CRIMINAL OFFENSES COMMITTED IN THE UNITED STATES.**

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<sup>30</sup>Sec. 320(b)(1) of Public Law 101-302 (104 Stat. 247) struck out “February 3, 1990” and inserted in lieu thereof “120 days after the date of enactment of this Act”.

(d) REPORT CONCERNING COMPENSATION AND DIPLOMATIC IMMUNITY.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the appropriate committees of the Congress a report which considers the need and feasibility of establishing a program which makes compensation awards to United States citizens and permanent resident aliens in the United States for physical injury or financial loss which is the result of criminal activity reasonably believed to have been committed by individuals with immunity from criminal jurisdiction as a result of international obligations of the United States arising from multilateral agreements, bilateral agreements, or otherwise under international law.

(2) Together with such other information as the Secretary of State considers appropriate, the report shall include—

- (A) a plan and feasibility analysis for the establishment of such a program, including—
  - (i) specific recommendations for funding, administration, and procedures and standards for compensation and payment of awards; and
  - (ii) particular consideration of the feasibility of an appeals mechanism;
- (B) an assessment of—
  - (i) the feasibility of establishing a fund;
  - (ii) the availability of existing accounts; or
  - (iii) other sources of funding for the program; and
- (C) consideration of other possible mechanisms for compensation or reimbursement, including direct compensation by the individual with immunity from criminal jurisdiction or by the sending country of that individual.

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**SEC. 134.**<sup>31</sup> \* \* \* [Repealed—1993]

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**SEC. 136.**<sup>32</sup> **INCREASED PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD UNDER THE DIPLOMATIC SECURITY PROGRAM.**

- (a) FINDINGS.—The Congress makes the following findings:
  - (1) State Department policy concerning the advertising of security contracts at Foreign Service buildings has been inconsistent over the years. In many cases, diplomatic and consular posts abroad have been given the responsibility to determine the manner in which the private sector was notified concerning an invitation for bids or a request for proposals with respect to a local guard contract. Some United States foreign missions have only chosen to advertise locally the availability of a local security guard contract abroad.
  - (2) As a result, many United States security firms that provide local guard services abroad have been unaware that local guard contracts were available for bidding abroad and such firms have been disadvantaged as a result.

<sup>31</sup> Sec. 502(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) repealed sec. 134, relating to U.S.-Soviet reciprocity in embassy matters.  
<sup>32</sup> 22 U.S.C. 4864.

(3) Undoubtedly, United States security firms would be interested in bidding on more local guard contracts abroad if such firms knew of the opportunity to bid on such contracts.

(b) OBJECTIVE.—It is the objective of this section to improve the efficiency of the local guard programs abroad administered by the Bureau of Diplomatic Security of the Department of State and to ensure maximum competition for local guard contracts abroad concerning Foreign Service buildings.

(c) PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD.—With respect to local guard contracts for a Foreign Service building which exceed \$250,000 and are entered into after the date of enactment of this Act, the Secretary of State shall—

(1) establish procedures to ensure that all solicitations for such contracts are adequately advertised in the Commerce and Business Daily;

(2)<sup>33</sup> absent compelling reasons, award such contracts through the competitive process;

(3)<sup>34</sup> in evaluating proposals for such contracts, award contracts to the technically acceptable firm offering the lowest evaluated price, except that proposals of United States persons and qualified United States joint venture persons (as defined in subsection (d)) shall be evaluated by reducing the bid price by 10 percent;

(4)<sup>33</sup> in countries where contract denomination and/or payment in local currencies constitutes a barrier to competition by United States firms—

(A) allow solicitations to be bid in United States dollars; and

(B) allow contracts awarded to United States firms to be paid in United States dollars;

(5)<sup>33</sup> ensure that United States diplomatic and consular posts assist United States firms in obtaining local licenses and permits; and<sup>35</sup>

(6)<sup>36</sup> establish procedures to ensure that appropriate measures are taken by diplomatic and consular post management to assure that United States persons and qualified United States

<sup>33</sup>Sec. 141(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), inserted new paras. (2) through (5).

<sup>34</sup>Originally added by sec. 141(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401); amended and restated by sec. 2210(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-811). Formerly read as follows:

“(3) in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical factors and subfactors;”.

<sup>35</sup>Sec. 2210(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-811), inserted “and” at the end of para. (5). Sec. 2210(3) of that Act struck out “; and” at the end of para. (6); and sec. 2210(4) of that Act struck out para. (7), which had read as follows:

“(7) give preference to United States persons and qualified United States joint venture persons where such persons are price competitive to the non-United States persons bidding on the contract, are properly licensed by the host government, and are otherwise qualified to carry out all the terms of the contract.”.

<sup>36</sup>Sec. 141(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), redesignated paras. (2) and (3) as (6) and (7), respectively. Para. (7) was subsequently struck out by sec. 2210(4) of Public Law 105-277 (112 Stat. 2681-811).

joint venture persons are not disadvantaged during the solicitation and bid evaluation process.<sup>35, 37</sup>

(d) DEFINITIONS.—For the purposes of this section—

(1) the term “United States person” means a person which—

(A) is incorporated or legally organized under the laws of the United States, including the laws of any State, locality, or the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to the contract under subsection (c);

(D) has performed within the United States or<sup>38</sup> overseas security services similar in complexity to the contract being bid;

(E) with respect to the contract under subsection (c), has achieved a total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States; and

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(G) has the existing technical and financial resources in the United States to perform the contract;

(2) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture;<sup>39</sup>

(3) the term “Foreign Service building” means any building or grounds of the United States which is in a foreign country and is under the jurisdiction and control of the Secretary of State, including residences of United States personnel assigned overseas under the authority of the Ambassador; and<sup>39</sup>

(4)<sup>40</sup> the term “barrier to local competition” means—

(A) conditions of extreme currency volatility;

(B) restrictions on repatriation of profits;

(C) multiple exchange rates which significantly disadvantage United States firms;

(D) government restrictions inhibiting the free convertibility of foreign exchange; or

(E) conditions of extreme local political instability.

<sup>37</sup> Sec. 141(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), struck out “due to their distance from the post” before the punctuation.

<sup>38</sup> Sec. 141(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), struck out “and” and inserted in lieu thereof “or”.

<sup>39</sup> Sec. 141(2)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), struck out “and” at the end of para. (2); sec. 141(2)(D) of that Act struck out the period at the end of para. (3) and inserted instead “; and”.

<sup>40</sup> Sec. 141(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 401), added a new para. (4).

(e) UNITED STATES MINORITY CONTRACTORS.—Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States minority small business contractors.

(f) UNITED STATES SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States small business contractors.

(g) LIMITATION OF SUBCONTRACTING.—With respect to local guard contracts subject to subsection (c), a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

#### PART D—PERSONNEL

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##### SEC. 149. FOREIGN SERVICE INTERNSHIP PROGRAM.

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

(1) On September 3, 1986, George Shultz, as Secretary of State, issued a statement containing 32 directives concerning equal opportunity in the Foreign Service. In his statement Secretary Shultz affirmed that it was of “fundamental importance that the Foreign Service truly represent the cultural and ethnic diversity of our own society”, and indicated that the lack of such balanced representation was “a foreign policy problem which affects our image as a nation and as a leader of the free world”. Secretary Shultz stated “that representation of women and minorities in the Foreign Service is still unacceptably low” and declared that he was “particularly concerned at the small number of Blacks in the Senior Foreign Service”.

(2) The Secretary approved 32 recommendations included with the statement regarding recruitment, assignments, performance evaluations, and equal employment opportunity procedures within the Foreign Service. The recommendations of Secretary of State Shultz included—

(A) the targeting of historically Black American colleges and universities for special recruitment efforts, including specific information on how to apply for the Foreign Service examination, the testing process, and the mechanics of entry;

(B) independent review of the written exam for any cultural bias against African Americans;

(C) the inclusion of more African Americans on the board of examiners panels;

(D) investigation of methods to increase African American enrollment in university courses which might improve an applicant’s chances of passing the written exam;

(E) development of new recruitment strategies;

(F) the assignment of more African American officers to senior (and visible) role model positions; and

(G) the recruitment of more African American officers into the political and economic cones of the Foreign Service.

(3) During the past 7 years, equal opportunity programs to attract women and minorities to the Foreign Service have been most successful in recruiting women and Asian Americans. Such programs have been less than successful in the recruitment of African Americans, Hispanic Americans, and Native Americans. In 1982, 188 new recruits were appointed to the Foreign Service, 48 were minority appointments constituting 26 percent. In 1985 the number of new appointments had increased 33 percent to 281, but minorities comprised only 10.3 percent of such appointments, a total of 29.

(4) For African Americans and Hispanics the trend of hiring in the Foreign Service is disconcerting. Nineteen African Americans were appointed to the Foreign Service in 1983, in 1987 only 10 African Americans were appointed. Hispanic appointments ranged from 12 in 1983 to 8 in 1985 to 15 in 1987. For Native Americans the Foreign Service statistics are ominous, 5 appointments in 1983, 1 in 1984, and no appointments in 1985, 1986, or 1987.

(5) The severe underrepresentation in the Foreign Service of individuals from certain cultural and ethnic groups is in large part due to the small pool of applicants from such groups. In each year from 1982 through 1987, minority applicants represented 14 to 17 percent of the total applicants and only 50 percent of such applicants took the written exam. In 1987, 1,769 minority applicants took the written exam, 191 passed, and 36 were actually appointed to the Foreign Service.

(6) The absolute and relative decline in the appointment to the Foreign Service of certain minorities who reflect the cultural and ethnic diversity of the United States dictates that more aggressive equal opportunity programs be established to facilitate the recruitment and appointment of such individuals.

(b) <sup>41</sup> ESTABLISHMENT.—\* \* \*

(c) <sup>41</sup> TECHNICAL AND CONFORMING AMENDMENTS.—\* \* \*

(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of the Foreign Service Internship Program.

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#### SEC. 151.<sup>42</sup> DANGER PAY ALLOWANCE.

The Secretary of State may not deny a request by the Drug Enforcement Administration or Federal Bureau of Investigation<sup>43</sup> to

<sup>41</sup> Subsec. (b) amended title I of the Foreign Service Act of 1980 (Public Law 96-465; 22 U.S.C. 4141) by adding at the end a new chapter 112, "Foreign Service Internship Program," secs. 1201 through 1204. Sec. 1102 of this Act waived sec. 149(b) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990). Subsec. (c) made technical and conforming amendments to the Foreign Service Act of 1980.

<sup>42</sup> 5 U.S.C. 5928 note.

<sup>43</sup> Sec. 11005 of the 21st Century Department of Justice Appropriations Authorization Act (Public Law 107-273; 116 Stat. 1817) inserted "or Federal Bureau of Investigation" after "Drug Enforcement Administration".

authorize a danger pay allowance (under section 5928 of title 5, United States Code) for any employee of such agency.

**SEC. 152.<sup>44</sup> JUDICIAL REVIEW OF CERTAIN FOREIGN SERVICE GRIEVANCES.**

For the purposes of judicial review under section 1110 of the Foreign Service Act of 1980, any recommendation made by the Foreign Service Grievance Board with respect to the tenure of a grievant which was reviewed by the Secretary of State before the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, shall be considered to be a final action of the Department of State, and any such recommendation shall be considered to have been made within the authority of the Foreign Service Grievance Board.

**SEC. 153. BROADENING THE CULTURAL, GEOGRAPHIC, AND ETHNIC REPRESENTATION OF THE FOREIGN SERVICE AND THE DEPARTMENT OF STATE.**

(a)<sup>45</sup> FINDINGS.—The Congress finds that a primary role of the Department of State is to represent the interests of the American people in foreign affairs and, as such, should strive to represent and include, among its policy and professional employees, the great diversity of the American people.

(b)<sup>45</sup> RECRUITMENT.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall provide the Congress with a plan to assure that equal efforts are undertaken in each of the regions of the United States to recruit policy and professional Government Service employees and Foreign Service officers for the Department of State and each of its affiliated agencies.

(2) Not later than January 1, 1991,<sup>46</sup> the Secretary of State shall implement the plan provided for in paragraph (1).

(c) REPORT BY THE INSPECTOR GENERAL.—Not later than 120 days after the date of enactment of this Act, the Office of Inspector General of the Department of State shall submit to the Congress a report documenting, with respect to geographic distribution, race, ethnicity, gender and handicapping conditions, the composition of the workforce of the policy and professional Government Service employees and Foreign Service officers of the Department and each of its affiliated agencies. The report shall include—

(1) a breakdown of current policy and professional Government Service employees and Foreign Service officers of the Department and each of its affiliated agencies by age, race, gender, undergraduate institution, graduate institution, and place of birth;

(2) a breakdown by age, race, gender, ethnic background, undergraduate institution, graduate institution, and place of birth of those persons who during 1988 passed the written portion of the Foreign Service examination but failed the interview portion; and

(3) a breakdown by age, race, gender, ethnic background, undergraduate institution, graduate institution, and place of

<sup>44</sup> 22 U.S.C. 4140 note.

<sup>45</sup> 22 U.S.C. 2656 note.

<sup>46</sup> Sec. 320(b)(2) of Public Law 101-302 (104 Stat. 247) struck out "January 1, 1990" and inserted in lieu thereof "January 1, 1991".



birth of those persons who during 1989 passed the Foreign Service examination.

(d) PROHIBITION ON DISCRIMINATION BASED ON GEOGRAPHIC OR EDUCATIONAL AFFILIATION.—Section 105(b)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3905(b)(1)) is amended by inserting “geographic or educational affiliation within the United States,” after “marital status.”

(e) TASK FORCE AND REPORT ON HISPANIC RECRUITMENT.—The Secretary of State shall appoint a task force comprised of high-ranking officials to conduct a study and make recommendations concerning improvements in the recruitment and promotion of Hispanic Americans at the Department of State and within the Foreign Service. Not later than one year after the date of the enactment of this Act, the task force shall submit a report of the findings of such study to the Secretary of State and the appropriate committees of the Congress.

(f) REPORT TO CONGRESS ON STATUS OF UNDERREPRESENTED GROUPS AT THE DEPARTMENT OF STATE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning efforts of the Department of State to improve the percentage of individuals who are at the assistant secretary and head of bureau level at the Department of State from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service.

(g)<sup>47</sup> STUDY OF FOREIGN SERVICE EXAMINATION.—The Secretary of State shall enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination. Such review and evaluation shall—

- (1) identify any cultural, racial, ethnic, and sexual bias;
- (2) evaluate the ability of the examination to measure an individual's aptitude for and potential in the Foreign Service;
- (3) consider the relevance of the Foreign Service examination to the work of a Foreign Service officer;
- (4) make recommendations for the removal of any element of bias in the examination; and
- (5) make recommendations for improvements to achieve an examination free of any bias.

Not more than 18 months after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress which contains the findings of such review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review. Such report shall take into consideration the current efforts by the Department of State to review its Foreign Service examination.

(h)<sup>48</sup> FOREIGN SERVICE FELLOWSHIPS.—The Secretary of State is authorized to establish a Foreign Service fellowship program at the Department of State. The Foreign Service fellowship program shall provide a fellowship, for not less than 4 months, for academics in the area of international affairs who are members of the faculty of

<sup>47</sup> 22 U.S.C. 3941 note.

<sup>48</sup> 22 U.S.C. 2665a.

institutions of higher education. Such program shall give priority consideration in the award of fellowships to individuals teaching in programs in international affairs which serve significant numbers of students who are from cultural and ethnic groups which are underrepresented in the Foreign Service.

**SEC. 154. REPORT TO CONGRESS CONCERNING POLYGRAPH PROGRAM.**

(a) **REPORT TO CONGRESS.**—Not later than January 31, of each of the years 1990 and 1991, the Secretary of State shall prepare and submit an annual report on the polygraph program of the Department of State to the Committee on Foreign Affairs<sup>49</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

(b) **CONTENTS OF REPORT.**—The report shall provide an assessment of the implementation of the polygraph program during the preceding fiscal year. Together with such other information and comments as the Secretary considers appropriate, the report shall include the following:

- (1) Data on the number of lie-detector tests administered.
- (2) A description of the purposes and results of such tests.
- (3) A description of the criteria used in the selection of programs and individuals for administration of lie-detector tests.
- (4) The number of individuals who refused to submit to the administration of such tests.
- (5) The number of lie detector tests administered in which a specific incident was not under investigation.
- (6) A description of the actions taken when an individual fails or refuses the administration of such tests, including the denial of clearance or any other adverse action.
- (7) A detailed accounting of cases in which more than two administrations of such tests were necessary to resolve discrepancies.
- (8) Any proposed changes in regulations for the Department of State polygraph program.

(c) **DEFINITION.**—For purposes of this section, the term “lie detector” shall have the meaning given such term under section 2 of the Employee Polygraph Protection Act of 1988.

**SEC. 155.<sup>50</sup> STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.**

(a) **FINDINGS.**—The June 1988 report of the United States Merit Systems Protection Board entitled “Sexual Harassment in the Fed-

<sup>49</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>50</sup>Sec. 194 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 683), provided the following:

**“SEC. 194. STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.**

“(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the Department of State has been negligent in carrying out section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, ‘Study of Sexual Harassment at the Department of State’.

“(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of State shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the reasons for the Department’s negligence in adhering to deadlines required by law in implementing section 155 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and what steps, if any, the Department has taken to prevent such a failure from recurring.”.

eral Government: An Update” determined that the Department of State (including the United States Information Agency) had the highest rate of incidence of sexual harassment of women of any agency of the Federal Government.

(b) **STUDY.**—Subject to the availability of appropriations, not later than 90 days after the date of the enactment of this Act, the Secretary of State (in consultation with the Director of the United States Information Agency) shall enter into a contract with a private organization with established expertise and demonstrated capabilities in personnel systems and problems for the purpose of conducting a study and preparing a report concerning sexual harassment at the Department of State and the United States Information Agency.

(c) **REPORT.**—Together with such other information as is determined to be appropriate and informative, such report shall include—

(1) a determination of the reasons for the high rate of incidence of sexual harassment at such Federal agencies;

(2) an evaluation of the actions which have been proposed and implemented by such Federal agencies to respond to the findings of the Merit Systems Protection Board report;

(3) a proposal for further specific actions by each agency; and

(4) recommendations for such changes in administrative procedures, regulations, and legislation as may be considered necessary to address the problem of sexual harassment at the Department of State and the United States Information Agency.

(d) **SUBMISSION OF REPORT TO THE CONGRESS.**—Not later than one year after the date of the enactment of this Act, the Secretary of State shall submit the full and complete report of such study, together with such comments as the Secretary of State or the Director of the United States Information Agency consider appropriate, to the Committee on Foreign Affairs<sup>49</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

#### **SEC. 156. LIMITATION ON HOUSING BENEFITS.**

(a)<sup>51</sup> **IN GENERAL.**—The Secretary of State shall establish and implement an appropriate housing policy and space standards in consultation with all agencies with employees outside the United States who are under the authority of the chief of mission or with other agencies or employees who participate in the overseas housing program. Such policy may not provide housing or related benefits based solely on the representational status of the employee, except if such individual is the ambassador, deputy chief of mission, permanent charge, or the consul general when serving as the principal officer.

(b) **WAIVER.**—The Secretary of State may grant exceptions to the restriction on providing housing or related benefits on a representational basis under subsection (a) on a case-by-case basis where a documented need for such exception is established. The Secretary of State shall prepare a comprehensive list annually of all such exceptions granted under this subsection.

<sup>51</sup> 5 U.S.C. 5921 note.

**PART E—FOREIGN LANGUAGE COMPETENCE WITHIN  
THE FOREIGN SERVICE**

**SEC. 161.<sup>52</sup> EXPANSION OF MODEL FOREIGN LANGUAGE COMPETENCE POSTS.**

(a) **DESIGNATION OF POSTS.**—In order to carry out the purposes of section 702 of the Foreign Service Act of 1980, and in light of the positive report issued on March 28, 1986, by the Department of State, as required by section 2207 of the Foreign Service Act of 1980, the Secretary of State shall designate as model foreign language competence posts a minimum of six Foreign Service posts, representing the Department of State's five geographic bureaus, in countries where English is not the common language. Such designation shall be made not later than 120 days after the date of enactment of this Act,<sup>53</sup> and shall be implemented so that not later than October 1, 1991, in the case of non-hard language posts, and October 1, 1992, in the case of hard language posts, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.<sup>54</sup>

(b) **“HARD LANGUAGE COUNTRY” POST TO BE DESIGNATED.**—At least one of the posts designated under subsection (a) shall be in a “hard language” country, as identified in the report to the Under Secretary of State for Management of May 12, 1986, entitled “Hard Language Proficiency in the Foreign Service”. Such post shall be in one of the countries where the official or principal language is Arabic, Chinese, Japanese, or Russian.

(c) **TERMINATION DATE.**—The posts designated under subsection (a) shall continue as model foreign language posts at least until September 30, 1993, in the case of non-hard language posts, and September 30, 1994, in the case of hard language posts.<sup>55</sup>

(d) **EXEMPTION AUTHORITY.**—The Secretary of State may authorize exceptions to the requirements of this section if—

(1) he determines that unanticipated exigencies so require; and

(2) he immediately reports such exceptions to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>49</sup> of the House of Representatives.

(e) **EXCLUDED POSTS.**—The posts designated under subsection (a) may not include Dakar, Senegal, or Montevideo, Uruguay. The report required under subsection (c) shall include progress made in

<sup>52</sup> 22 U.S.C. 4171 note.

<sup>53</sup> Sec. 320(b)(3) of Public Law 101-302 (104 Stat. 247) struck out “February 1, 1990” and inserted in lieu thereof “120 days after the date of enactment of this Act”.

<sup>54</sup> Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center’.”.

<sup>55</sup> Sec. 2219(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-817), struck out “Not later than January 31, 1995, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the operation of such posts and the costs, advantages, and disadvantages associated with meeting the foreign language competence requirements of this section.”.

these posts in maintaining the high foreign language standards achieved under the initial pilot program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 162. REPORT ON FOREIGN LANGUAGE ENTRANCE REQUIREMENT FOR THE FOREIGN SERVICE.**

Not later than 120 days after the date of enactment of this Act,<sup>56</sup> the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs and the Committee on Post Office and Civil Service of the House of Representatives<sup>57</sup> a report evaluating an entrance requirement for the Foreign Service of at least one world language at the General Professional Speaking Proficiency level, as defined by the Foreign Service Institute,<sup>54</sup> or one nonworld language at the next lowest proficiency level. Such report shall also describe—

- (1) the amount of time necessary to implement such a requirement;
- (2) the use of bonus points on the Foreign Service candidate scoring system for candidates with foreign language ability; and
- (3) the adjustments necessary to raise otherwise qualified candidates, especially including affirmative action applicants, to the levels required for entrance as evaluated in the report required by this section.

**SEC. 163.<sup>58</sup> FOREIGN SERVICE PROMOTION PANELS.**

It is the sense of the Congress that, to the greatest extent possible, Foreign Service promotion panels should—

- (1) only promote candidates to the Senior Foreign Service who have demonstrated foreign language proficiency in at least one language at the General Professional Speaking Proficiency level, as defined by the Foreign Service Institute;<sup>54</sup>
- (2) strive for the objective stipulated in the Foreign Service Manual “to be able to use two foreign languages at a minimum professional level of proficiency of S-3/R-3, which is the general professional speaking proficiency level”; and
- (3) have at least one person on each Foreign Service promotion panel who has attained at least the General Professional Speaking Proficiency level in one language level.

<sup>56</sup>Sec. 320(n)(4) of Public Law 101-302 (104 Stat. 247) struck out “December 31, 1989” and inserted in lieu thereof “120 days after the date of enactment of this Act”.

<sup>57</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

<sup>58</sup>22 U.S.C. 4001 note.

SEC. 164.<sup>59</sup> \* \* \* [Repealed—1994]

**TITLE II—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**PART A—UNITED STATES INFORMATION AGENCY**<sup>60</sup>

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**PART B—BUREAU OF EDUCATIONAL AND CULTURAL  
AFFAIRS**<sup>61</sup>

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**PART C—VOICE OF AMERICA**<sup>62</sup>

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**PART D—TELEVISION BROADCASTING TO CUBA**<sup>63</sup>

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**TITLE III—BOARD FOR INTERNATIONAL  
BROADCASTING**<sup>64</sup>

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**TITLE IV—INTERNATIONAL ORGANIZATIONS AND  
COMMISSIONS**

**SEC. 401. UNITED STATES MEMBERSHIP IN INTERNATIONAL SUGAR  
ORGANIZATION AND INTERNATIONAL TROPICAL TIMBER  
ORGANIZATION.**

(a) UNITED STATES MEMBERSHIP.—The President is authorized to maintain membership of the United States in the International Sugar Organization and the International Tropical Timber Organization.

(b) PAYMENT OF ASSESSED CONTRIBUTIONS.—For the fiscal year 1991 and for each fiscal year thereafter, the United States assessed contributions to such organizations may be paid from funds appropriated for “Contributions to International Organizations”.

**SEC. 402. AUTHORIZATION FOR MEMBERSHIP IN THE INTERNATIONAL  
UNION FOR THE CONSERVATION OF NATURE AND NATURAL  
RESOURCES.**

The President is authorized to maintain membership of the United States in the International Union for the Conservation of Nature and Natural Resources (IUCN).

<sup>59</sup> Formerly at 22 U.S.C. 4001 note. Repealed by sec. 191(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 418). Sec. 164 had required a revision of the Employee Evaluation Report and the Officer Evaluation Report for Foreign Service officers to reflect foreign language proficiency.

<sup>60</sup> For text of freestanding provisions in this part relating to the United State Information Agency, see page 1501.

<sup>61</sup> For text of freestanding provisions in this part relating to the Bureau of Educational and Cultural Affairs, see page 1504.

<sup>62</sup> For text of freestanding provisions in this part relating to the Voice of America, see page 1506.

<sup>63</sup> For text of freestanding provisions in this part, the Television Broadcasting to Cuba Act, see page 1737.

<sup>64</sup> For text of freestanding provisions in this title relating to the Board for International Broadcasting, see page 1720.

**SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR MEMBERSHIP IN WILDLIFE CONVENTIONS.**

There are authorized to be appropriated to the President \$1,511,000 for the fiscal year 1990 and \$1,571,440 for the fiscal year 1991 in support of United States participation in the following international environmental organizations and conventions of which not more than—

(1)<sup>64</sup> \$650,000 for the fiscal year 1990 shall be available for dues and arrearages for United States contributions to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);

(2)<sup>65</sup> \$231,000 for the fiscal year 1990 shall be available for dues and arrearages for United States contributions to the International Tropical Timber Organization (ITTO);

(3)<sup>66</sup> \$450,000 for the fiscal year 1990 shall be available to support United States participation in the World Heritage Convention; and

(4)<sup>67</sup> \$180,000 for the fiscal year 1990 shall be available to support United States participation in the International Union for the Conservation of Nature and Natural Resources.

**SEC. 404.<sup>68</sup> AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION ON THE UKRAINE FAMINE.**

There are authorized to be appropriated for the Commission on the Ukraine Famine \$100,000 for the fiscal year 1990, which amount is authorized to remain available until expended.

**SEC. 405.<sup>69</sup> \* \* \*** [Repealed—1991]

**SEC. 406.<sup>70</sup> ANNUAL REPORT TO CONGRESS ON VOTING PRACTICES AT THE UNITED NATIONS.**

(a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a full and complete annual report which as—

<sup>64</sup>The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1199), provided \$750,000 for the “Convention on International Trade in Endangered Species”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$750,000.

<sup>65</sup>The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$1,000,000 for the “International Tropical Timber Organization. See also sec. 533 of that Act in *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>66</sup>The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1199), provided \$220,000 for “United States participation in the World Heritage Convention”.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$450,000.

<sup>67</sup>The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1982), provided \$680,000 for the “International Union for the Conservation of Nature and Natural Resources”.

<sup>68</sup>Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1019), provided \$100,000 for the “Commission on the Ukraine Famine”.

<sup>69</sup>Formerly at 22 U.S.C. 287e note. Sec. 405, relating to reform in budget decision-making procedures of the United Nations and its specialized agencies, was repealed by sec. 162(e) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 675).

<sup>70</sup>22 U.S.C. 2414a. See also sec. 560 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113; 113 Stat. 1501A-104); and sec. 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (H.R. 5526, as introduced on October 24, 2000, enacted by reference in sec. 101(a) of Public Law 106-429; 114 Stat. 1900).

sesses for the preceding calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such countries at the United Nations, and which evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) INFORMATION ON VOTING PRACTICES IN THE UNITED NATIONS.—Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding calendar year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the votes cast by each member country with the vote cast by the United States, including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States;<sup>71</sup>

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members supported United States policy objectives in the Security Council and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) FORMAT.—Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chap-

<sup>71</sup>Sec. 534(k) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108-447; 118 Stat. 3007) inserted “, including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States” after “United States”.



ter II of the Report to Congress on Voting Practices in the United Nations, dated March 14, 1988.

(d) STATEMENT BY THE SECRETARY OF STATE.—Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(e)<sup>72</sup> TECHNICAL AND CONFORMING AMENDMENTS.—The following provisions of law are repealed:

(1) The second undesignated paragraph of section 101(b)(1) of the Foreign Assistance and Related Programs Appropriations Act, 1984 (Public Law 98-151; 97 Stat. 967).

(2) Section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986, as enacted by Public Law 99-190 (99 Stat. 1307).

(3) Section 528 of the Foreign Assistance and Related Programs Appropriations Act, 1987, as enacted by Public Law 99-500 (100 Stat. 1783) and Public Law 99-591 (100 Stat. 3341).

(4) Section 528 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as enacted by Public Law 100-202 (101 Stat. 1329).

(5) Section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as enacted by Public Law 100-461.

**SEC. 407.<sup>73</sup> DENIAL OF VISAS TO CERTAIN REPRESENTATIVES TO THE UNITED NATIONS.**

(a) IN GENERAL.—The President shall use his authority, including the authorities contained in section 6 of the United Nations Headquarters Agreement Act (Public Law 80-357), to deny any individual's admission to the United States as a representative to the United Nations if the President determines that such individual has been found to have been engaged in espionage activities directed against the United States or its allies and may pose a threat to United States national security interests.

(b) WAIVER.—The President may waive the provisions of subsection (a) if the President determines, and so notifies the Congress, that such a waiver is in the national security interests of the United States.

**SEC. 408. POLICY ON UNESCO.**

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the United States withdrew from the United Nations Educational, Scientific, and Cultural Organization (UNESCO) on December 31, 1984, in response to grave and persistent problems in UNESCO under the then-Director General;

(2) chief among these problems was the assault on the free flow of information supported by that Director General and the pervasive ideological conflict fomented by the alliance between totalitarian and developing nations;

<sup>72</sup>The provisions of law repealed by this subsection all pertained to United Nations voting record and reports required on same. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1224), repealed the same provisions.

<sup>73</sup>8 U.S.C. 1102 note.

(3) UNESCO has since acquired a new Director General, Federico Mayor, who has pledged his support for the free flow of information, the return of UNESCO to the principles enunciated in its Charter, and other needed changes in UNESCO policy;

(4) Soviet Foreign Minister Eduard Shevardnadze stated on October 11, 1988, that the Soviet Union was responsible for “the exaggerated ideological approach [that] undermined tolerance intrinsic to UNESCO,” and stated that Soviet policy would improve in this regard;

(5) substantial progress remains to be made in implementing the reforms proposed by the new Director General and in determining the degree to which ideological conflict has actually declined; and

(6) when the United States withdrew from UNESCO, the policy of the United States was that at such time as satisfactory changes were achieved in UNESCO, the United States would act on reentry.

(b) **POLICY.**—It is the sense of the Congress that the Secretary of State should monitor closely the changes achieved in UNESCO and should work with United States allies and the UNESCO leadership to continue to promote the progress necessary to justify United States consideration of reentry into UNESCO.

(c) **REPORT REQUIRED.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report on the activities after December 31, 1984, of the United Nations Educational, Scientific, and Cultural Organization.

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**SEC. 410. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.**

Notwithstanding section 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204),<sup>74</sup> for each of the fiscal years 1990 and 1991, the Secretary of State shall not be required to make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is greater than 10 percent of the 1989 regular budget of the International Committee of the Red Cross.

**SEC. 411. SENSE OF CONGRESS CONCERNING AN ENHANCED ROLE FOR THE INTERNATIONAL COURT OF JUSTICE IN RESOLUTION OF INTERNATIONAL DISPUTES.**

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

(1) In 1945, the United States supported the establishment of the International Court of Justice (ICJ) to provide for the orderly resolution of disputes among nations under the rule of law.

(2) The United States, pursuant to Article 93 of the Charter of the United Nations, is also a party to the Statute of the International Court of Justice which provides in Article 36(1)

<sup>74</sup>Sec. 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, provided that “the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget.”

that the International Court of Justice will have jurisdiction over “all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force”.

(3) In August 1946, the United States, pursuant to Senate advice and consent (61 Stat. 1218), voluntarily accepted the compulsory jurisdiction of the International Court of Justice in other international disputes under Article 36(2) of the Statute of the International Court of Justice, on certain conditions, and maintained such recognition for four decades from 1946 to 1986 when United States acceptance was terminated.

(4) The United States has utilized the International Court of Justice on numerous occasions to resolve disputes with other nations.

(5) In April 1984, the United States notified the Secretary General of the United Nations that the United States was suspending for two years its acceptance of the compulsory jurisdiction of the International Court of Justice in cases relating to Central America.

(6) In 1985, the United States announced it was terminating, in whole, United States acceptance (effective April 1, 1986) of the compulsory jurisdiction of the International Court of Justice.

(7) The Soviet Union, as a member of the United Nations, is also a party to the Statute of the International Court of Justice and is thus bound by Article 36(1).

(8) The Soviet Union, unlike the United States, has not since the inception of the International Court of Justice voluntarily accepted the compulsory jurisdiction of the ICJ under Article 36(2) or taken any other case voluntarily to the court.

(9) Soviet leader Mikhail Gorbachev, in his address to the United Nations in December of 1988 said: “We believe that the jurisdiction of the International Court of Justice at the Hague as regards the interpretation and implementation of agreements on human rights should be binding on all states.”

(10) The Legal Adviser of the State Department is holding discussions with Soviet officials and representatives of other permanent members of the United Nations Security Council and other states to determine whether and how the International Court of Justice might be used for the peaceful settlement of international disputes through procedures that assure fairness and the protection of legitimate national interests.

(b) SENSE OF CONGRESS.—The Congress commends and strongly supports efforts by the United States to broaden, where appropriate, the compulsory jurisdiction and enhance the effectiveness of the International Court of Justice.

**SEC. 412.<sup>75</sup> INTERNATIONAL BOUNDARY AND WATER COMMISSION.**  
\* \* \*

**SEC. 413. REVIEW OF MULTILATERAL AND BILATERAL COMMISSIONS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the

<sup>75</sup>Sec. 412 amended various Public Laws relating to the International Boundary and Water Commission, United States and Mexico.

Committee on Foreign Affairs<sup>76</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate which provides a review of United States participation in all multilateral and bilateral commissions for which appropriations are authorized to be made under the "International Commissions" account of the Department of State. Together with such comments and recommendations as the Secretary considers appropriate, such report shall include—

- (1) a justification for United States participation in each multilateral or bilateral commission;
- (2) an assessment of the effectiveness of each multilateral or bilateral commission in which the United States participates; and
- (3) information concerning the cost of United States participation in each such commission.

**SEC. 414.<sup>77</sup> MEMBERSHIP OF THE PALESTINE LIBERATION ORGANIZATION IN UNITED NATIONS AGENCIES.**

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states.

(b) TRANSFER OR REPROGRAMMING.—Funds subject to the prohibition contained in subsection (a) which would be available for the United Nations or any specialized agency thereof (but for that prohibition) are authorized to remain available until expended and may be reprogrammed or transferred to any other account of the Department of State or the Agency for International Development to carry out the general purposes for which such funds were authorized.

**SEC. 415. SENSE OF CONGRESS CONCERNING THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINIAN REFUGEES IN THE NEAR EAST (UNRWA).**

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

- (1) international burdensharing of the costs of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) is crucial to the survival of such organization;
- (2) the Secretary of State should redouble the efforts of the Department of State to promote international burdensharing of the costs of UNRWA's operations; and
- (3) regular and substantial contributions by the Arab states to the budget of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East would reflect the commitment of Arab states to a peaceful political settlement in the Middle East.

(b) REPORT TO CONGRESS.—The Secretary of State shall prepare and submit a report on progress being made to promote international burdensharing of the costs of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) to the Committee on Foreign Affairs<sup>76</sup> of the House of

<sup>76</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>77</sup>22 U.S.C. 287e note.

Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 416. UNITED NATIONS SPONSORSHIP OF A MIDDLE EAST PEACE CONFERENCE.**

(a) FINDINGS.—The Congress finds that—

(1) the General Assembly of the United Nations adopted Resolution No. 3379 on November 10, 1975, maintaining that Zionism constituted a form of racism;

(2) most of the proposals for an international peace conference regarding the Middle East have identified the United Nations as the sponsoring organization for such a conference;

(3) all international diplomatic participants in any potential Middle East peace conference must acknowledge the sovereignty of the State of Israel and the right of its citizens to live within secure and permanent boundaries;

(4) United Nations General Assembly Resolution No. 3379 of November 10, 1975, damages the credibility of the General Assembly as a forum for furthering the search for peace in the Middle East; and

(5) the United States does not favor an international conference on the Middle East at this time, and believes that the Israeli proposal for elections that was advanced in May 1989 is the best available vehicle for furthering the Middle East peace process.

(b) POLICY.—The Congress declares, therefore, that—

(1) the United States should use all appropriate means to obtain rescission by the United Nations General Assembly of Resolution No. 3379 and calls upon the General Assembly to do so; and

(2) so long as that resolution remains in effect, the General Assembly and all affiliated agencies of the United Nations constitute an inappropriate forum for the sponsorship of any international conference on the Arab-Israeli conflict.

**SEC. 417.<sup>78</sup> CONTRIBUTIONS FOR PEACEKEEPING ACTIVITIES IN SOUTHERN AFRICA.**

(a) ASSURANCES THAT ALL CUBAN TROOPS WILL BE WITHDRAWN.—The United States may not, after the date of enactment of this Act, expend any funds authorized to be appropriated by this Act for a contribution or any other assistance with respect to implementation of the Tripartite Agreement until the President certifies to the Congress that—

(1) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date; and

(2) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

<sup>78</sup> See also title II, sec. 4 of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45; 103 Stat. 120).

(b) CONTRIBUTIONS CONDITIONAL ON COMPLIANCE.—The United States may not expend any funds authorized to be appropriated by this Act for a contribution or any other assistance with respect to implementation of the Tripartite Agreement—

(1) if the Government of Cuba fails at any time to comply with any of its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops); or

(2) if any Cuban troops remain in Angola after July 1, 1991.

(c) REPORTS TO CONGRESS, COMPLIANCE WITH OBLIGATIONS.—Not more than 15 days after each scheduled phase of the redeployment northward and withdrawal of Cuban troops pursuant to the Bilateral Agreement, the President shall submit to the appropriate congressional committees a report on whether each of the signatories of the Tripartite Agreement is complying with its obligations under the agreement. Whenever he has determined that a material breach of the Tripartite Agreement may have been committed by any of the signatories to that agreement, the President shall so report to the appropriate congressional committees.<sup>79</sup>

(d) DISBURSEMENTS.—Of the amount authorized to be appropriated to be made available for contribution with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa signed at the United Nations on December 22, 1988 (hereinafter known as the Tripartite Agreement) 50 percent of the annual amount shall be available on October 1, 1989, and the remaining 50 percent on April 1, 1990, only if the President determines and certifies to the appropriate congressional committees as of each date that (1) each of the signatories to the Tripartite Agreement is in compliance with its obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(e) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(f) For purposes of this section—

<sup>79</sup>In Presidential Determination No. 91-13 of January 7, 1991 (56 F.R. 3001), the President certified that the United States had received assurances from the U.N. Secretary General and all parties to the bilateral agreement between the Governments of Angola and Cuba that all Cuban troops would be withdrawn from Angola by July 1, 1991, and that no Cuban troops would remain in Angola after that date. The President also determined that all signatories to the tripartite agreement among Angola, Cuba, and South Africa were in compliance with their obligations under that agreement, Cuba was complying with a agreed-to calendar for redeploying and withdrawing its troops, and that Cuba had not engaged in offensive military actions, nor had it used chemical warfare. The President further determined that the United Nations and its affiliates had terminated funding and other support to SWAPO, and that the U.N. Angola Verification Mission was demonstrating diligence, impartiality and professionalism in verifying the departure of Cuban troops.

(1) the term “Bilateral Agreement” means the Agreement Between the Governments of the People’s Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988;

(2) the term “Tripartite Agreement” means the Agreement Among the People’s Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988; and

(3) the term “appropriate congressional committees” means the Committees on Appropriations, Foreign Affairs,<sup>76</sup> and Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations, Foreign Relations, and the Select Committee on Intelligence of the Senate.

#### TITLE V—ASIA FOUNDATION<sup>80</sup>

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#### TITLE VI—INTER-AMERICAN FOUNDATION<sup>81</sup>

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#### TITLE VII—REFUGEE AND OTHER PROVISIONS

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#### SEC. 702. TIBETAN AND BURMESE REFUGEES.

(a)<sup>82</sup> TIBETAN REFUGEES.—Of the amounts authorized to be appropriated by section 104(a)(1) for the Department of State for “Migration and Refugee Assistance” \$500,000 for the fiscal year 1990 and \$500,000 for the fiscal year 1991 shall be available only for assistance for displaced Tibetans in India and Nepal. The Secretary of State shall determine the best means for providing such assistance.

(b)<sup>82, 83</sup> BURMESE REFUGEES.—Of the amounts authorized to be appropriated by section 104(a)(1) for the Department of State for “Migration and Refugee Assistance” \$250,000 for the fiscal year 1990 and \$250,000 for the fiscal year 1991 shall be available only for humanitarian assistance for displaced Burmese on both sides of the border between Thailand and Burma.

<sup>80</sup>Title V amended sec. 404 of the Asia Foundation Act (Public Law 98-164).

<sup>81</sup>Title VI amended the Inter-American Foundation Act (title IV of Public Law 91-175). For text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>82</sup>Sec. 1102 of this Act waived sec. 702(a) and (b) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

<sup>83</sup>Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1211), under Migration and Refugee Assistance, provided: “That of the funds appropriated under this heading, \$250,000 shall be made available notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for displaced Burmese students at camps on the border with Thailand.”

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1996), under Migration and Refugee Assistance, provided: “That of the funds appropriated under this heading, \$250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict”.

**SEC. 703. REPORT REGARDING BURMESE STUDENTS.**

(a) **REPORTING REQUIREMENT.**—Not later than 30 days after the date of enactment of this Act, the Secretary of State, in consultation with the Attorney General, shall submit to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs<sup>76</sup> and the Committee on the Judiciary of the House of Representatives a report on the immigration and refugee policy of the United States regarding Burmese pro-democracy protesters who have fled from the military government of Burma and are now located in border camps or inside Thailand. Specifically, the report shall include—

(1) a description of the number and location of such persons in border camps in Burma, inside Thailand, and in third countries;

(2) the number of visas, parole applications, applications for refugee status, and approvals for such persons by the United States and the feasibility of using parole or the need for creating statutory alternatives to parole to facilitate the entry of such persons;

(3) the immigration policy of Thailand and other countries from which such persons have sought immigration assistance;

(4) the involvement of international organizations, such as the United Nations High Commission for Refugees, in meeting the residency needs of such persons; and

(5) the involvement of the United States, other countries, and international organizations in meeting the humanitarian needs of such persons.

(b) **RECOMMENDATIONS FOR LEGISLATIVE CHANGES.**—The Secretary of State shall recommend in the report required by subsection (a) any policy or legislative changes he deems appropriate to meet the asylum, refugee, parole, or visa status needs of such persons.

(c) **DEFINITION.**—As used in this section, the term “pro-democracy protester” means any person who has fled from the current military regime of Burma since the outbreak of pro-democracy demonstrations in Burma in 1988.

**SEC. 704. THE TREATMENT OF THE TURKISH MINORITY BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA AND BULGARIAN REFUGEES IN TURKEY.**

(a) **FINDINGS.**—The Congress finds that—

(1) the Government of the People's Republic of Bulgaria is a signatory to the 1947 Paris Peace Treaty, the Universal Declaration on Human Rights by the United Nations, and the Final Act of the Conference on Security and Cooperation in Europe (also known as the Helsinki Accords);

(2) the Helsinki Accords express the commitment of the participating states to respect the fundamental freedoms of conscience, religion, expression, and emigration, and to guarantee the rights of minorities;

(3) the 1971 Constitution of the People's Republic of Bulgaria declares that fundamental rights will not be restricted because of distinction of national origin, race, or religion, and guarantees minorities the rights to study in their mother tongue and freely practice their religion;



(4) despite its international obligations and constitutional guarantees, the Government of the People's Republic of Bulgaria has taken numerous steps to repress Turkish language and culture, including prohibiting the study of the Turkish language in schools, banning the use of the Turkish language in public, making the receipt and reading of Turkish publications a punishable act, and jamming the reception of Turkish radio and television programs in Bulgaria;

(5) the right of the ethnic Turkish community to freedom of religion has been severely circumscribed by the Government of the People's Republic of Bulgaria, which has closed a number of mosques and barred the importation of copies of the Koran;

(6) emigration by ethnic Turks and others has been banned with only a few exceptions;

(7) beginning in December 1984, the Bulgarian authorities forced the Turkish minority to change their Turkish names to Bulgarian ones, and hundreds of ethnic Turks were killed, injured, or arrested by Bulgarian forces in 1984 and 1985 when they protested this new policy;

(8) the Bulgarian authorities have used both force and coercion to resettle ethnic Turks from their local villages to areas in Bulgaria with small Turkish populations;

(9) in May 1989, Bulgarian troops and police attacked ethnic Turks and others who were peacefully demonstrating against their discriminatory treatment in Bulgaria;

(10) hundreds of demonstrators were killed or wounded in these attacks, and hundreds more were arrested; and

(11) since these demonstrations, the Government of the People's Republic of Bulgaria has forcibly expelled or coerced into emigrating to Turkey thousands of ethnic Turks without either their money or their possessions, often resulting in the separation of families.

(b) POLICY.—It is the sense of the Congress that the Congress—

(1) strongly condemns the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria;

(2) calls upon the Bulgarian authorities to immediately cease all discriminatory practices against this community and to release all ethnic Turks and others currently imprisoned because of their participation in nonviolent political acts;

(3) calls upon the Government of Bulgaria to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely; and

(4) urges the President and Secretary of State to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all appropriate international forums, including the Conference on Security and Cooperation in Europe meeting on the environment in Sofia, Bulgaria, this year.

(c)<sup>84</sup> ALLOCATION OF FUNDS FOR ASSISTANCE TO CERTAIN TURKISH REFUGEES.—Of the funds authorized to be appropriated by section 104(a)(1) for the fiscal year 1990, \$10,000,000 shall be available only to the Republic of Turkey for assistance for shelter, food, and other basic needs to ethnic Turkish refugees fleeing the People's Republic of Bulgaria and resettling in the sovereign territory of Turkey.

TITLE VIII—PLO COMMITMENTS COMPLIANCE ACT OF  
1989<sup>85</sup>

**SEC. 801. SHORT TITLE.**

This title may be cited as the “PLO Commitments Compliance Act of 1989”.

**SEC. 802. FINDINGS.**

The Congress finds that—

(1) United States policy regarding contacts with the Palestine Liberation Organization (including its Executive Committee, the Palestine National Council, and any constituent groups related thereto (hereafter in this title referred to as the “PLO”)) set forth in the Memorandum of Agreement between the United States and Israel, dated September 1, 1975, stated that the United States “will not recognize or negotiate with the Palestine Liberation Organization so long as the PLO does not recognize Israel's right to exist and does not accept United Nations Security Council Resolutions 242 and 338”;

(2) section 1302 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151 note; Public Law 99-83), effective October 1, 1985, stated that “no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the PLO or any representatives thereof (except in emergency or humanitarian situations) unless and until the PLO recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338, and renounces the use of terrorism”;

(3) the Department of State statement of November 26, 1988, found that “the United States Government has convincing evidence that PLO elements have engaged in terrorism against Americans and others” and that “Mr. [Yasser] Arafat, Chairman of the PLO, knows of, condones, and lends support to such acts; he therefore is an accessory to such terrorism”;

(4) Secretary of State Shultz declared on December 14, 1988, that “the [PLO] today issued a statement in which it accepted United Nations Security Council Resolutions 242 and 338, recognized Israel's right to exist in peace and security, and renounced terrorism. As a result, the United States is prepared for a substantive dialogue with PLO representatives”;

<sup>84</sup>Sec. 1102 of this Act waived sec. 704(c) for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

<sup>85</sup>On March 14, 1990, the President designated and empowered “the Secretary of State to perform, without the approval, ratification, or other approval of the President, the functions of the President set forth in Title VIII of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; Public Law 101-246.” (55 F.R. 11131).

See other legislation on “Diplomatic Security and Anti-Terrorism” at page 1020.

(5) President Ronald Reagan, subsequent to the decision to open a United States-PLO dialogue, stated that the PLO “must demonstrate that its renunciation of terrorism is pervasive and permanent” and if the PLO reneges on its commitments, the United States “will certainly break off communications”;

(6) since the United States agreed to enter into a dialogue with the PLO, there have been several attempted incursions into Israel by the following PLO-affiliated groups: the Popular Struggle Front, the Palestine Liberation Front, the Democratic Front for the Liberation of Palestine, and the Islamic Jihad group;

(7) Yasser Arafat has not renounced any of these incidents, that he has threatened “ten bullets in the chest” to those Palestinians who advocate a cessation of the unrest, and that his principal deputy, Abu Iyad, as well as other senior Al-Fatah figures, have been quoted as saying that the PLO recognition of Israel and renunciation of terrorism is merely tactical and that a Palestinian state is but the first step in the “liberation of Palestine”;<sup>86</sup>

(8)<sup>87</sup> the President, following an attempted terrorist attack upon a Tel Aviv beach on May 30, 1990, suspended the United States dialogue with the PLO;

(9)<sup>87</sup> the President resumed the United States dialogue with the PLO in response to the commitments made by the PLO in letters to the Prime Minister of Israel and the Foreign Minister of Norway of September 9, 1993; and

(10)<sup>88</sup> that the United States should regularly evaluate the PLO’s compliance with the commitments made by Yasser Arafat on behalf of the PLO in Geneva on December 14, 1988 and on September 9, 1993.<sup>89</sup>

#### SEC. 803. POLICY.

(a) IN GENERAL.—The Congress reiterates long-standing United States policy that any dialogue with the PLO be contingent upon the PLO’s recognition of Israel’s right to exist, its acceptance of United Nations Security Council Resolutions 242 and 338, and its abstention from and renunciation of all acts of terrorism.

(b) POLICY TOWARD IMPLEMENTATION OF PLO COMMITMENTS.—It is the sense of the Congress that the United States, in any discussions with the PLO, should seek—

(1) the prevention of terrorism and other violent activity by the PLO or any of its factions; and

(2) the implementation of concrete steps by the PLO consistent with its commitments to recognize Israel and renounce terrorism, including concrete actions that will further the peace process such as—

(A) disbanding units which have been involved in terrorism;

<sup>86</sup>Sec. 524(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), struck out “and” at the end of para. (7).

<sup>87</sup>Sec. 524(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), added paras. (8) and (9).

<sup>88</sup>Sec. 524(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), redesignated former para. (8) as para. (10).

<sup>89</sup>Sec. 524(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), inserted “and on September 9, 1993”.

- (B) publicly condemning all acts of terrorism;
- (C) ceasing the intimidation of Palestinians who advocate a cessation of or who do not support the unrest;
- (D) calling on the Arab states to recognize Israel and to end their economic boycott of Israel; and
- (E) amending the PLO's Covenant to remove provisions which undermine Israel's legitimacy and which call for Israel's destruction.

(c) **POLICY TOWARD RECENT ARMED INCURSIONS INTO ISRAEL BY PLO-AFFILIATED GROUPS.**—During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representative of the United States should obtain from the representative of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 14, 1988:

(1) On December 26, 1988, an attempted armed infiltration into Israel by boat by four members of the PLO-affiliated Popular Struggle Front.

(2) On December 28, 1988, an attempted armed infiltration into Israel by three members of the PLO-affiliated Palestine Liberation Front.

(3) On January 24, 1989, an unprovoked attack on an Israeli patrol in Southern Lebanon by the PLO-affiliated Palestine Liberation Front.

(4) On February 5, 1989, an attempted armed infiltration into Israel by nine members of the PLO-affiliated Palestine Liberation Front and Popular Front for the Liberation of Palestine.

(5) On February 23, 1989, an attempted attack on targets in Israel by members of the PLO-affiliated Democratic Front for the Liberation of Palestine.

(6) On February 27, 1989, a PLO-affiliated Popular Front for the Liberation of Palestine ambush of a pro-Israeli Southern Lebanese army vehicle.

(7) On March 2, 1989, an attempted armed infiltration into Israel by four members of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for the civilian town of Zarit.

(8) On March 13, 1989, an attempted armed infiltration into Israel by three members of the PLO-aligned Palestine Liberation Front.

(9) On March 15, 1989, an attempted attack on Israel through Gaza by two members of the Islamic Jihad group.

**SEC. 804. REPORTING REQUIREMENT.**

(a) **REPORT ON ARMED INCURSIONS.**—In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall, within 30 days after the next round of such talks, report to the Chairman of the Committee on Foreign Affairs<sup>90</sup> of the Senate and the Speaker of the House of Representatives any accounting provided by the representative of the PLO of the incidents described in section 803(c).

<sup>90</sup>As enrolled. Should read "Committee on Foreign Relations".

(b) REPORT ON COMPLIANCE WITH COMMITMENTS.—In conjunction with each written policy justification required under section 604(b)(1) of the Middle East Peace Facilitation Act of 1994<sup>91</sup> or every 180 days,<sup>92</sup> the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report, in unclassified form to the maximum extent practicable, regarding progress toward the achievement of the measures described in section 803(b). Such report shall include—

(1) a description of actions or statements by the PLO as an organization, its Chairman, members of its Executive Committee, members of the Palestine National Council, or any constituent groups related thereto, as they relate to the Geneva commitments of December 1988 and each of the commitments described in section 604(b)(4) of the Middle East Peace Facilitation Act of 1995<sup>93</sup> including actions or statements that contend that the declared “Palestinian state” encompasses all of Israel;

(2) a description of the steps, if any, taken by the PLO to evict or otherwise discipline individuals or groups taking actions inconsistent with the Geneva and Oslo<sup>94</sup> commitments;

(3) a statement of whether the PLO, in accordance with procedures in Article 33 of the Palestinian National Covenant, has repealed provisions in that Covenant which call for Israel’s destruction;

(4) a statement of whether the PLO has repudiated its “strategy of stages” whereby it seeks to use a Palestinian state in the West Bank and Gaza as the first step in the total elimination of the state of Israel;

(5) a statement of whether the PLO has called on any Arab state to recognize and enter direct negotiations with Israel or to end its economic boycott of Israel;

<sup>91</sup> Sec. 1(kk)(1) of Public Law 103-415 (108 Stat. 4303) struck out “section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994” and inserted in lieu thereof “section 583(b)(1) of the Middle East Peace Facilitation Act of 1994”. Sec. 606(1) of the Middle East Peace Facilitation Act of 1995 (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104-107; 110 Stat. 760) also sought to strike out “section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994” and insert in lieu thereof “section 604(b)(1) of the Middle East Peace Facilitation Act of 1995”. This amendment is not executable as stated, but the reference to the 1995 Act is incorporated here in keeping with congressional intent.

<sup>92</sup> Sec. 524(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), struck out “Beginning 30 days after the date of enactment of this Act, and every 120 days thereafter in which the dialogue between the United States and the PLO has not been discontinued” and inserted in lieu thereof “In conjunction with each written policy justification required under section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994 or every 180 days,” [resulting in a double comma].

<sup>93</sup> Sec. 524(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), struck out “regarding [the] cessation of terrorism and recognition of Israel’s right to exist” and inserted in lieu thereof “and each of the commitments described in section (4)(A) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)”.

Subsequently, sec. 1(kk)(2) of Public Law 103-415 (108 Stat. 4303) struck out “section (4)(a) of the Middle East Peace Facilitation Act of 1994” and inserted in lieu thereof “section 584(a) of the Middle East Peace Facilitation Act of 1994”.

Subsequently, sec. 606(2) of the Middle East Peace Facilitation Act of 1995 (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104-107; 110 Stat. 760) also sought to strike out “section (4)(a) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)” and insert in lieu thereof “section 604(b)(1) of the Middle East Peace Facilitation Act of 1995”. This amendment is not executable as stated, but the reference to the 1995 Act is incorporated here in keeping with congressional intent.

<sup>94</sup> Sec. 524(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 473), inserted “and Oslo” after “Geneva”.

(6) a statement of whether “Force 17” and the “Hawari Group”, units directed by Yasser Arafat that have carried out terrorist attacks, have been disbanded and not reconstituted under different names;

(7) a statement of whether the following PLO constituent groups conduct or participate in terrorist or other violent activities: the Fatah; the Popular Front for the Liberation of Palestine; the Democratic Front for the Liberation of Palestine; the Arab Liberation Front; the Palestine Liberation Front;

(8) a statement of the PLO’s position on the unrest in the West Bank and Gaza, and whether the PLO threatens, through violence or other intimidation measures, Palestinians in the West Bank and Gaza who advocate a cessation of or who do not support the unrest, and who might be receptive to taking part in elections there;

(9) a statement of the position of the PLO regarding the prosecution and extradition, if so requested, of known terrorists such as Abu Abbas, who directed the Achille Lauro hijacking during which Leon Klinghoffer was murdered, and Muhammed Rashid, implicated in the 1982 bombing of a PanAm jet and the 1986 bombing of a TWA jet in which four Americans were killed;<sup>95</sup>

(10) a statement of the position of the PLO on providing compensation to the American victims or the families of American victims of PLO terrorism; and<sup>95</sup>

(11)<sup>95</sup> measures taken by the PLO to prevent acts of terrorism, crime and hostilities and to legally punish offenders, as called for in the Gaza-Jericho agreement of May 4, 1994.

(c) REPORT ON POLICIES OF ARAB STATES.—Not more than 30 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the policies of Arab states toward the Middle East peace process, including progress toward—

(1) public recognition of Israel’s right to exist in peace and security;

(2) ending the Arab economic boycott of Israel; and

(3) ending efforts to expel Israel from international organizations or denying participation in the activities of such organizations.

## TITLE IX—PEOPLE’S REPUBLIC OF CHINA

### SEC. 901. FINDINGS AND STATEMENTS OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) on June 4, 1989, the Government of the People’s Republic of China ordered an unprovoked, brutal, and indiscriminate assault on thousands of peaceful and unarmed demonstrators and onlookers in and around Tiananmen Square by units of the People’s Liberation Army, which resulted in at least 1,000 deaths and several thousand injuries;

<sup>95</sup> Sec. 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103-306; 108 Stat. 1653), replaced “; and” in para. (9) with a semicolon; struck out the period at the end of para. (10) and inserted in lieu thereof “; and”; and added a new para. (11).

(2) the Chinese Government has executed dozens of individuals who participated in prodemocracy demonstrations or who protested the brutal military assault against peaceful demonstrators;

(3) the Government of the People's Republic of China is engaging in widespread mass arrests in the aftermath of the June 4, 1989, military assault in Tiananmen Square, which have resulted in the arrests of thousands of students, workers, and other civilians so far;

(4) independent international human rights organizations, such as Amnesty International and Asia Watch, have documented daily incidences of arbitrary arrests, torture, and beatings by police and military forces in the People's Republic of China;

(5) the Chinese Government has established telephone hotlines and other local communications networks for the express purpose of identifying and imprisoning prodemocracy supporters and political dissidents throughout the country;

(6) officials of the Chinese Government have grossly distorted the Government's actions to suppress the prodemocracy movement, including the clandestine disposal of the bodies of demonstrators without informing their families, and have consistently denied that the massacre in and around Tiananmen Square took place or that abuses of human rights have occurred;

(7) in an effort to conceal the truth about the Chinese Government's brutal suppression of the prodemocracy movement, foreign journalists have been expelled and Voice of America broadcasts are being jammed;

(8) in view of the widespread and continuing repression, noted Chinese intellectuals and advocates of peaceful democratic reform, Fang Lizhi and Li Shuxian, sought refuge at the United States Embassy in Beijing on June 3, 1989, and the United States exercised its prerogatives under longstanding practices of diplomatic missions by granting them refuge; and

(9) the President has condemned the actions of the leaders of the People's Republic of China against participants in the prodemocracy movement in China and has taken several concrete steps to respond to the repression of the movement, including—

(A) suspending all exports of items on the United States Munitions List, including arms and defense related equipment, to the People's Republic of China;

(B) suspending high level government-to-government contact between the United States and the People's Republic of China;

(C) extending the visas of nationals of the People's Republic of China currently in the United States;

(D) offering humanitarian and medical assistance to the injured through the Red Cross;

(E) instructing United States representatives to international financial institutions to seek delay in the consideration of loan requests that are made to those financial

institutions and would benefit the People's Republic of China;

(F) suspending action on applications for the issuance by the Overseas Private Investment Corporation of new insurance and financing of investments in the People's Republic of China by United States investors;

(G) opposing the further liberalization of the guidelines of the group known as the Coordinating Committee (COCOM) regarding trade with the People's Republic of China;

(H) taking no further action to implement the agreement for cooperation between the United States and the People's Republic of China relating to the uses of nuclear energy, thereby foreclosing the issuance of new licenses; and

(I) suspending the license for the export of any United States manufactured satellites for launch on launch vehicles owned by the People's Republic of China, including the two Aussat satellites and the Asiasat satellite.

(b) STATEMENTS OF POLICY.—It is the sense of the Congress that—

(1) the President is to be commended for his clear articulation of United States condemnation of the actions of the Government of the People's Republic of China in the killing and persecution of the participants of the prodemocracy movement in the People's Republic of China, and for the responses and measures by the President against the People's Republic of China, which the Congress supports;

(2) the consultative approach that the President has used in coordinating with other countries the United States response to the atrocities committed by the leaders of the People's Republic of China should be supported;

(3) it is essential that the United States speak in a bipartisan and unified voice in response to the events in the People's Republic of China, and that the President be given the necessary flexibility to respond to rapidly changing situations so that the long-term interests of the United States are not damaged;

(4) in this vein, the President should continue to emphasize to the leaders of the Government of the People's Republic of China that resumption of normal diplomatic and military relations between the United States and the People's Republic of China will depend directly on the Chinese Government's halting of executions of prodemocracy movement supporters, releasing those imprisoned for their political beliefs, and increasing respect for internationally recognized human rights;

(5) because human rights violations in a country as populous as the People's Republic of China may have serious implications for the stability of the Asia-Pacific region, the United Nations should, in order to further regional security and peace, condemn the violent repression, mass arrests, abuse of African students, and executions of peaceful demonstrators by the Government of the People's Republic of China and urge the Chinese Government to enter into negotiations with representatives of the prodemocracy movement;



(6) United States policy toward the People's Republic of China should be explicitly linked with the situation in Tibet, specifically as to whether—

(A) martial law is lifted in Lhasa and other parts of Tibet;

(B) Tibet is open to foreigners, including representatives of the international press and of international human rights organizations;

(C) Tibetan political prisoners are released; and

(D) the Government of the People's Republic of China is entering into negotiations with representatives of the Dalai Lama on a settlement of the Tibetan question;

(7) with respect to Hong Kong—

(A) the President should convey to the leaders of the People's Republic of China the importance of living up to its international undertaking with respect to the 1984 Joint Declaration for the future prosperity and stability of Hong Kong; and

(B) the Secretary of State should convey to the Government of the United Kingdom the strong concern of the United States for continued respect for human rights in Hong Kong, and the need to accelerate progress toward representative government through free and fair direct elections;

(8) the United States should offer admission to the United States to any national of the People's Republic of China who is under threat of severe penalty as a result of participating in prodemocracy activities; and

(9) the President should be commended for his courageous and appropriate action, in accordance with the Vienna Convention on Diplomatic Relations and customary international law, in swiftly providing temporary refuge to Fang Lizhi and Li Shuxian at the United States Embassy in Beijing, and the President should continue to provide refuge to those individuals to ensure their personal safety.

(c) ADDITIONAL MEASURES.—It is further the sense of the Congress that, in addition to the measures already taken or required to be taken by this title—

(1) because systematic repression in China continues, the President should urge the Export-Import Bank of the United States to continue to postpone approval of any application for financing United States exports to the People's Republic of China;

(2) under the direction of the Secretary of the Treasury, the United States executive directors of the appropriate international financial institutions should continue to oppose the extension of loans or any other financial assistance by such institutions to the People's Republic of China;

(3) if systematic repression in China deepens, the President should review—

(A) the advisability of continuing to extend most-favored-nation (MFN) trade treatment to Chinese products;

(B) all bilateral trade agreements between the United States and the People's Republic of China;

(C) the bilateral commercial agreements governing Chinese-American cooperation on satellite launches; and

(D) the Chinese-American Agreement for Cooperation on the Peaceful Uses of Atomic Energy, signed at Washington on July 23, 1985;

(4) if systematic repression in China deepens, the President should consult—

(A) with the members of the group known as the Coordinating Committee (COCOM) for the purpose of reviewing the current favorable treatment accorded to high technology exports to the People's Republic of China; and

(B) with the other signatories of the General Agreement on Tariffs and Trade (GATT) for the purpose of reviewing the People's Republic of China's observer status at meetings on GATT and reassessing the People's Republic of China's right to accede to GATT.

**SEC. 902.<sup>96</sup> SUSPENSION OF CERTAIN PROGRAMS AND ACTIVITIES.**

(a) **SUSPENSIONS.**—

(1) **OVERSEAS PRIVATE INVESTMENT CORPORATION.**—The Overseas Private Investment Corporation shall continue to suspend the issuance of any new insurance, reinsurance, guarantees, financing, or other financial support with respect to the People's Republic of China, unless the President makes a report under subsection (b) (1) or (2) of this section.

(2) **TRADE AND DEVELOPMENT AGENCY.**—The President shall suspend the obligation of funds under the Foreign Assistance Act of 1961 for any new activities of the Trade and Development Agency<sup>97</sup> with respect to the People's Republic of China, unless the President makes a report under subsection (b) (1) or (2) of this section.

(3) **MUNITIONS EXPORT LICENSES.**—(A) The issuance of licenses under section 38 of the Arms Export Control Act for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, shall continue to be suspended, subject to subparagraph (B), unless the President makes a report under subsection (b) (1) or (2) of this section.

(B) The suspension set forth in subparagraph (A) shall not apply to systems and components designed specifically for inclusion in civil products and controlled as defense articles only for purposes of export to a controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

(4) **CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT.**—The issuance of any license under section 6(k)<sup>98</sup> of the

<sup>96</sup> 22 U.S.C. 2151 note. See also sec. 1306 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2706); secs. 1511 through 1516 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2173 *et seq.*); and title XIV of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 797 *et seq.*).

<sup>97</sup> Sec. 202(e) of Public Law 102-549 (106 Stat. 3658) provided that "Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency."

<sup>98</sup> Sec. 6(k) of the Export Administration Act has been redesignated as sec. 6(n).

Export Administration Act of 1979 for the export to the People's Republic of China of any crime control or detection instruments or equipment shall be suspended, unless the President makes a report under subsection (b) (1) or (2) of this section.

(5)<sup>99</sup> EXPORT OF SATELLITES FOR LAUNCH BY THE PEOPLE'S REPUBLIC OF CHINA.—Exports of any satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China shall remain suspended, unless the President makes a report under subsection (b) (1) or (2) of this section.

(6) NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.—(A) Any—

(i) application for a license under the Export Administration Act of 1979 for the export to the People's Republic of China for use in a nuclear production or utilization facility of any goods or technology which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device, shall be suspended,

(ii) application for a license for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be suspended,

(iii) approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall not be given, and

(iv) specific authorization for assistance in any activities with respect to the People's Republic of China relating to

<sup>99</sup>Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1038) provided the following:

“SEC. 610. (a) No monies appropriated by this Act may be used to reinstate, or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

“(b) The restriction on the approval of export licenses for United States-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

“(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

“(A) lifting of martial law;

“(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

“(C) release of political prisoners;

“(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

“(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

“(c) It is in the national interest of the United States.”.

On December 19, 1989, the President reported in letters to the Speaker of the House of Representatives and President of the Senate the following:

“Pursuant to the authority vested in me by section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (P.L. 101-162) (“the Act”), and as President of the United States, I hereby report that it is in the national interest of the United States to lift the prohibition on reinstatement and approval of export licenses for the three United States-built AUSSAT and AsiaSat satellites for launch on Chinese-built launch vehicles.”, in *Weekly Compilation of Presidential Documents*, v. 25, no. 51, December 25, 1989, p. 1972.

the use of nuclear energy under section 57b.(2) of the Atomic Energy Act of 1954 shall not be given, until the conditions specified in subparagraph (B) are met.

(B)<sup>100</sup> Subparagraph (A) applies until—

(i) the President certifies to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices;

(ii) the President makes the certifications and submits the report required by Public Law 99-183; and

(iii) the President makes a report under subsection (b) (1) or (2) of this section.

(C) For purposes of this paragraph, the term "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy (done on July 23, 1985).

(7) LIBERALIZATION OF EXPORT CONTROLS.—(A) The President shall negotiate with the governments participating in the group known as the Coordinating Committee (COCOM) to suspend, on a multilateral basis, any liberalization by the Coordinating Committee of controls on exports of goods and technology to the People's Republic of China under section 5 of the Export Administration Act of 1979, including—

(i) the implementation of bulk licenses for exports to the People's Republic of China; and

(ii) the raising of the performance levels of goods or technology below which no authority or permission to export to the People's Republic of China would be required.

(B) The President shall oppose any liberalization by the Coordinating Committee of controls which is described in subparagraph (A)(ii), until the end of the 6-month period beginning on the date of enactment of this Act or until the President makes a report under subsection (b) (1) or (2) of this section, whichever occurs first.

(b) TERMINATION OF SUSPENSIONS.—A report referred to in subsection (a) is a report by the President to the Congress either—

<sup>100</sup>On January 12, 1998, the President determined and certified that: "Pursuant to section (b)(1) of Public Law 99-183 of December 16, 1985, relating to the approval and implementation of the Agreement for Cooperation Between the United States and the People's Republic of China, I hereby certified that: (A) the reciprocal arrangements made pursuant to article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement; (B) the Government of the People's Republic of China has provided additional information concerning its nuclear nonproliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954; and (C) the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request. Pursuant to section 902(a)(6)(B)(i) of Public Law 101-246, I hereby certify that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the material and components for such devices." (Presidential Determination No. 98-10; 63 F.R. 3447).

(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, including Tibet, which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(2)<sup>99, 101</sup> that it is in the national interest of the United States to terminate a suspension under subsection (a) (1), (2), (3), (4), or (5), to terminate a suspension or disapproval under subsection (a)(6), or to terminate the opposition required by subsection (a)(7), as the case may be.

(c) REPORTING REQUIREMENT.—Sixty days after the date of enactment of this Act, the President shall submit to the Congress a report on—

(1) any steps taken by the Government of China to achieve the objectives described in subsection (b)(1);

(2) the effect of multilateral sanctions on political and economic developments in China and on China's international economic relations;

(3) the impact of the President's actions described in section 901(a)(9) and of the suspensions under subsection (a) of this section on—

(A) political and economic developments in China;

(B) the standard of living of the Chinese people;

(C) relations between the United States and China; and

(D) the actions taken by China to promote a settlement in Cambodia which will ensure Cambodian independence, facilitate an act of self-determination by the Cambodian people, and prevent the Khmer Rouge from returning to exclusive power;

(4) the status of programs and activities suspended under subsection (a); and

(5) the additional measures taken by the President under section 901(c) if repression in China deepens.

<sup>101</sup>On at least two occasions, the President has invoked the authority in sec. 902(b)(2) to terminate the suspensions in sec. 902(a) to issue export licenses for defense articles and U.S. satellites. See: "Statement by Press Secretary Fitzwater on Restrictions on U.S. Satellite Component Exports to China, April 30, 1991" in *Weekly Compilation of Presidential Documents*, v. 27, May 3, 1991, p. 531; and "Termination of Suspensions Under Foreign Relations Authorization Act with Respect to Issuance of Licenses to People's Republic of China—Message From the President of the United States (H. Doc. No. 104-236)," *Congressional Record*, June 24, 1996, p. H6709.

## TITLE X—MISCELLANEOUS PROVISIONS

**SEC.<sup>102</sup> 1001. INCREASING AMOUNT OF REWARDS FOR COMBATting TERRORISM \* \* \*****SEC. 1002. ASSIGNMENT OF COMMERCIAL OFFICERS TO THE UNITED STATES MISSION TO THE EUROPEAN COMMUNITY.**

Within 90 days of the date of enactment of this Act, the United States Foreign and Commercial Service shall assign to the United States Mission to the European Community in Brussels no less than three commercial officers and such other staff as may be necessary to support such officers.

**SEC. 1003. BUY-AMERICAN REQUIREMENT.**

(a) DETERMINATION BY SECRETARY OF STATE.—If the Secretary of State, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary of State is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary of State shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

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

(1) the term “domestic firm” means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term “foreign firm” means a business entity not described in paragraph (1).

(d) APPLICABILITY OF PROVISION.—This section shall apply only to contracts for which—

(1) amounts are authorized to be made available by this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

**SEC. 1004. SUPPORT FOR THE BENJAMIN FRANKLIN HOUSE MUSEUM AND LIBRARY.**

(a) FINDINGS.—The Congress finds that—

<sup>102</sup>Sec. 1001 amended sec. 36(c) of the State Department Basic Authorities Act of 1956.

(1) the former London residence of Benjamin Franklin is the only surviving home of Benjamin Franklin existing today and should be preserved to commemorate his great contributions to human liberty, science, and education; and

(2) the Friends of Benjamin Franklin House and the American Franklin Friends Committee are twin charities dedicated to the restoration, preservation, and maintenance of the Benjamin Franklin House as a museum and library open to the public.

(b) POLICY OF SUPPORT.—The Congress hereby—

(1) urges the people of the United States to recognize June 17, 1990, as the bicentennial of Benjamin Franklin's death and to celebrate Franklin's long and distinguished public service, his scientific and literary achievements, and his role as a Founding Father of our country; and

(2) calls on the relevant agencies and departments of the Federal Government of the United States to recognize the important goals of the Friends of Benjamin Franklin House and the American Franklin Friends Committee.

**SEC. 1005. ASSOCIATION OF DEMOCRATIC NATIONS.**

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

(1) It is the policy of the United States to support and promote democratic values and institutions around the world.

(2) Over the last decade, the United States, in concert with other nations, has provided support to those working for democracy in many nations throughout the world.

(3) Such support has advanced the cause of freedom and democracy in those nations by providing international technical expertise on holding free and fair elections, providing international observers to document the conduct of the elections, and in offering economic and humanitarian support to newly established democracies.

(4) On June 8, 1989, at the commencement ceremonies at Harvard University, the newest leader of a democratic nation, Prime Minister Benazir Bhutto of Pakistan, called for the establishment of an Association of Democratic Nations to support the right of peoples everywhere to choose freely their own government.

(5) The goals of the Association would be to promote—

(A) the holding of elections at regular intervals which are open to the participation of all significant political parties, which are fairly administered, and in which the franchise is broad or universal;

(B) respect for fundamental human rights, including freedom of expression, freedom of conscience, and freedom of association;

(C) international recognition of legitimate elections through international election observer missions at all stages of the election, including the campaign, the voting, and the ballot counting;

(D) the mobilization of international opinion and economic measures against the military overthrow of democratic governments; and

(E) the provision of economic assistance to strengthen and support democratic nations.

(b) POLICY.—It is the sense of the Congress that—

(1) the proposal offered by Prime Minister Benazir Bhutto of Pakistan would further the cause of democracy, freedom, and justice and is in the interest of the United States; and

(2) the President of the United States should give serious consideration to the implementation of the proposal, and should provide not later than 120 days after the date of enactment of this Act,<sup>103</sup> a report to the Congress assessing the merits of, and estimated annual costs of, establishing such an Association of Democratic Nations.

**SEC. 1006. POLICY REGARDING HUMAN RIGHTS ABUSES IN CUBA.**

(a) FINDINGS.—The Congress finds that—

(1) the United Nations Commission on Human Rights in 1989 issued its first report on human rights in Cuba, the result of a year-long investigation that concluded on the 30th year of Fidel Castro's rise to power;

(2) that report extensively documented across-the-board human rights abuses, including cases of torture, missing persons, religious persecution, violations of civil and political rights, and violations of economic and social rights;

(3) the United Nations received 137 complaints of "torture, cruel, inhuman or degrading treatment or punishment";

(4) among the abuses reported to the United Nations were sensory deprivation, immersion in a pit latrine, mock executions, overcrowding in special cells, deafening loudspeakers, keeping prisoners naked in front of relatives, and forcing a prisoner about to be executed to carry his own coffin or dig his own grave;

(5) despite the Cuban Government's statements not to harass those who cooperated with the United Nations' investigation, many Cuban citizens who met, or attempted to meet with the United Nations team suffered reprisals;

(6) at least 26 Cuban human rights monitors and independent activists who were arrested in the aftermath of the United Nations investigation are currently serving prison sentences or being held without trial; and

(7) the United Nations Commission on Human Rights approved a resolution on March 9, 1989, calling on the Government of Cuba to cooperate with the Secretary General of the United Nations in settling unresolved questions of human rights.

(b) STATEMENT OF POLICY.—In the interest of promoting respect for internationally recognized human rights in Cuba, the Congress—

(1) calls on the Secretary General of the United Nations to act upon the resolution approved by the Commission on Human Rights March 9, 1989, calling on the Secretary General to take appropriate action to follow up on the Commission's report on human rights in Cuba; and

<sup>103</sup>Sec. 320(b)(5) of Public Law 101-302 (104 Stat. 247) struck out "by December 31, 1989" and inserted in lieu thereof "not later than 120 days after the enactment of this Act".



(2) calls on the Secretary General to specifically urge the Government of Cuba to release at least 26 persons still being held in detention because of their human rights activities.

**SEC. 1007. CONCERNING THE SUBMISSION TO THE CONGRESS OF AGREEMENTS PERTAINING TO THE BOUNDARIES OF THE UNITED STATES.**

It is the sense of the Congress that all international agreements pertaining to the international boundaries of the United States should be submitted to the Congress for such consideration as is appropriate pursuant to the respective constitutional responsibilities of the Senate and the House of Representatives.

**SEC. 1008. REPORT TO CONGRESS CONCERNING OCEANIA.**

Not later than 180 days after the date of the enactment of this Act, and one year thereafter, the Secretary of State shall prepare and submit an unclassified report to the Committee on Foreign Affairs<sup>104</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate which—

(1) sets forth in detail the policy of the United States with respect to Oceania, which is comprised of Polynesia, Micronesia, and Melanesia;

(2) examines the nature, extent, and source of political, social, and economic instability affecting states in such region;

(3) assesses the impact and level of communist influence in Oceania;

(4) analyzes projections for the total economic growth of such region, with particular emphasis on the exclusive economic zones (EEZ); and

(5) makes recommendations for specific measures necessary to ensure a strong United States presence in Oceania that contributes to and strengthens democratic institutions and economic growth for the states of the region.

**SEC. 1009. REPORT CONCERNING MEXICO.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the relationship between the United States and Mexico. Such report shall—

(1) analyze potential changes in political, cultural, diplomatic, economic, and other factors as the United States and Mexico move toward greater economic integration and cooperation;

(2) consider the feasibility and effect of a three-way meeting among Canada, Mexico, and the United States to discuss greater economic integration and cooperation;

(3) analyze political, cultural, diplomatic, economic, and other factors related to the development of an economically integrated and cooperative border region between Mexico and the United States; and

(4) evaluate the adequacy of the resources of the Department of State which currently address relations between the United States and Mexico, including a projection of future needs to

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

handle the increasing work load requirements resulting from the growing flow of goods, services, and people across the United States-Mexican border.

**SEC. 1010. ESTABLISHMENT OF A LATIN AMERICAN AND CARIBBEAN DATA BASE.**

(a) **AUTHORIZATION.**—Of the funds authorized to be appropriated for fiscal year 1990 by section 101(a)(1), \$1,300,000 are authorized to be appropriated to provide continued support for the establishment of a Latin American and Caribbean Data base.

(b) **CONDITIONS.**—In developing the data base described in subsection (a), the Secretary of State shall be required to satisfy the following conditions:

(1) Any agreement for an on-line bibliographic data base entered into for purposes of this section shall continue to be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.

(2) The Secretary of State shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

**TITLE XI—BUDGET ACT COMPLIANCE**

**SEC. 1101. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.**

(a) **LIMITATION ON SPENDING AUTHORITY.**—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(b) **LIMITATION ON CONTRACT AUTHORITY.**—Any authority provided by this Act to enter into contracts shall be effective only—

(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

(2) to the extent or in such amounts as are provided in advance in appropriation Acts.

**SEC. 1102. WAIVER OF EARMARKS.**

Section 101(a)(1) that follows “1991”; 101(c); 102(a)(2); 221(b); 702(a); 702(b) and 704(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (including amendments made thereunder), and section 1204 of the Foreign Service Act of 1980 as amended by section 149(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; section 505(e)(3) of title V of the United States Information and Educational Exchange Act of 1948, as amended by section 205 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; and section 404(b) of the Asia Foundation Act as amended by section 501 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; are hereby waived during fiscal years 1990 and 1991. So much of the preceding sentence as pertains to the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, shall take effect only on the date of enactment of this Act.

**q. Foreign Relations Authorization Act, Fiscal Years 1988 and 1989**

Partial text of Public Law 100-204 [H.R. 1777], 101 Stat. 1331, approved December 22, 1987; as amended by Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 101-649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102-138 [Foreign Relations Authorization Act for 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-583 [International Narcotics Control Act of 1992, H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103-149 [South African Democratic Transition Support Act of 1993; H.R. 3225], 107 Stat. 1503, approved November 23, 1993; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104-208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004; and Public Law 108-487 [Intelligence Authorization Act for Fiscal Year 2005; H.R. 4548], 118 Stat. 3939, approved December 23, 2004

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1988 and 1989”.

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

<sup>1</sup> 22 U.S.C. 2651 note.

**TITLE I—THE DEPARTMENT OF STATE****PART A—AUTHORIZATION OF APPROPRIATIONS;  
ALLOCATIONS OF FUNDS; RESTRICTIONS****SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.**

(a) **DIPLOMATIC AND ONGOING OPERATIONS.**—The following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States:

(1)<sup>2</sup> For “Salaries and Expenses” of the Department of State (other than the Diplomatic Security Program), \$1,431,908,000 for the fiscal year 1988 and \$1,460,546,000 for the fiscal year 1989, of which not less than \$250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2)<sup>3</sup> For “Acquisition and Maintenance of Buildings Abroad” (other than the Diplomatic Security Program), \$313,124,000 for the fiscal year 1988 and \$319,386,000 for the fiscal year 1989.

(3)<sup>4</sup> For “Representation Allowances”, \$4,460,000 for the fiscal year 1988 and \$4,549,000 for the fiscal year 1989.

(4)<sup>5</sup> For “Emergencies in the Diplomatic and Consular Service”, \$4,000,000 for the fiscal year 1988 and \$4,080,000 for the fiscal year 1989.

(5)<sup>6</sup> For “Payment to the American Institute in Taiwan”, \$9,379,000 for the fiscal year 1988 and \$9,567,000 for the fiscal year 1989.

(b) **DIPLOMATIC SECURITY PROGRAM.**—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under “Administration of Foreign Affairs” for the Department of State to carry out the diplomatic security program:

<sup>2</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Salaries and Expenses”: \$1,694,000,000. It further stated that none of these funds should be available for the Office of Public Diplomacy for Latin America and the Caribbean.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$1,784,000,000.

<sup>3</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Acquisition and Maintenance of Buildings Abroad”: \$313,100,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$240,021,000.

<sup>4</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Representation Allowances”: \$4,500,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,590,000.

<sup>5</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Emergencies in the Diplomatic and Consular Service”: \$4,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,500,000.

<sup>6</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Payment to the American Institute in Taiwan”: \$11,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$10,890,000.

(1) For “Salaries and Expenses”, \$350,000,000 for the fiscal year 1988 and \$357,000,000 for the fiscal year 1989.

(2)<sup>7</sup> For “Protection of Foreign Missions and Officials”, \$9,100,000 for the fiscal year 1988 and \$9,282,000 for the fiscal year 1989.

\* \* \* \* \*

**SEC. 102. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND CONFERENCES; INTERNATIONAL PEACEKEEPING ACTIVITIES.**

(a)<sup>8</sup> INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated to the Department of State under “Contributions to International Organizations”, \$571,000,000 for the fiscal year 1988 and \$582,420,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations, of which amount—

(1)<sup>9</sup> \$193,188,000 for the fiscal year 1988 and \$193,188,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the United Nations;

(2)<sup>9</sup> \$63,857,000 for the fiscal year 1988 and \$63,857,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the World Health Organization;

(3)<sup>9</sup> \$31,443,000 for the fiscal year 1988 and \$31,443,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Atomic Energy Agency;

(4)<sup>9</sup> \$44,915,000 for the fiscal year 1988 and \$44,915,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization of American States;

(5)<sup>9</sup> \$38,659,000 for the fiscal year 1988 and \$38,659,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Pan-American Health Organization;

(6)<sup>9</sup> \$7,849,000 for the fiscal year 1988 and \$7,849,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Civil Aviation Organization;

(7)<sup>9</sup> \$645,000 for the fiscal year 1988 and \$645,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Maritime Organization;

<sup>7</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Protection of Foreign Missions and Officials”: \$9,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$9,100,000.

<sup>8</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Contributions to International Organizations”: \$480,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$485,940,000.

<sup>9</sup>In making appropriations for fiscal year 1988, the Department of State Appropriation Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329), waived sec. 102(a)(1) through (11). These paras. were waived for fiscal year 1989 by title III of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204).

(8)<sup>9</sup> \$4,471,000 for the fiscal year 1988 and \$4,471,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Telecommunication Union;

(9)<sup>9</sup> \$25,110,000 for the fiscal year 1988 and \$25,110,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the North Atlantic Treaty Organization;

(10)<sup>9</sup> \$29,385,000 for the fiscal year 1988 and \$29,385,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization for Economic Cooperation and Development; and

(11)<sup>9</sup> \$388,000 for the fiscal year 1988 and \$388,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Wheat Council.

(b)<sup>10</sup> INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated to the Department of State under “Contributions to International Peacekeeping Activities”, \$29,400,000 for fiscal year 1988 and \$29,988,000 for the fiscal year 1989<sup>11</sup> in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities.

(c)<sup>12</sup> INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated to the Department of State under “International Conferences and Contingencies”, \$6,000,000 for fiscal year 1988 and \$6,120,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies, of which amount such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States.

#### SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the

<sup>10</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Peacekeeping Activities”: \$29,400,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$29,000,000.

<sup>11</sup>Title II, sec. 1, of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45; 103 Stat. 119), provided the following:

“In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities, and to reimburse funds originally appropriated for prior international peacekeeping activities, which have been reprogrammed for new international peacekeeping activities, the President may transfer during fiscal year 1989 such of the funds described in section 2(a) as the President deems necessary, but not to exceed \$125,000,000 to the ‘Contributions for International Peacekeeping Activities’ account or the ‘Peacekeeping Operations’ account administered by the Department of State, notwithstanding section 15(a) of the Department of State Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law.”

For full text of conditions for any transfers, see 103 Stat. 97.

<sup>12</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Conferences and Contingencies”: \$6,000,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$6,000,000.

conduct of the foreign affairs of the United States with respect to international commissions:

(1)<sup>13</sup> For “International Boundary and Water Commission, United States and Mexico”, \$14,700,000 for the fiscal year 1988 and \$14,994,000 for the fiscal year 1989.

(2)<sup>14</sup> For “International Boundary Commission, United States and Canada”, \$721,000 for the fiscal year 1988 and \$735,000 for the fiscal year 1989.

(3)<sup>14</sup> For “International Joint Commission”, \$2,979,000 for the fiscal year 1988 and \$3,039,000 for the fiscal year 1989.

(4)<sup>15</sup> For “International Fisheries Commissions”, \$10,800,000 for the fiscal year 1988 and \$11,016,000 for the fiscal year 1989.

#### SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a)<sup>16</sup> AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State under “Migration and Refugee Assistance”, \$336,750,000 for the fiscal year 1988 and \$343,485,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to migration and refugee assistance.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)—

(1) \$25,000,000 for the fiscal year 1988 and \$25,000,000 for the fiscal year 1989 shall be available only for assistance for refugees resettling in Israel; and

(2) \$5,000,000 for the fiscal year 1988 and \$5,000,000 for the fiscal year 1989 shall be available only for the United Nations High Commissioner for Refugees and other international relief organizations for the protection of, and improvements in educational, nutritional, and medical assistance for, the Indo-chinese refugees in Thailand, of which \$1,000,000 for the fiscal

<sup>13</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Boundary and Water Commission, United States and Mexico”: salaries and expenses—\$10,261,000; construction—\$3,166,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided for salaries and expenses—\$10,261,000; construction—\$3,166,000.

<sup>14</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for the “International Joint Commission” and the “International Boundary Commission”: \$4,316,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,316,000.

<sup>15</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “International Fisheries Commissions”: \$10,548,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$10,548,000.

<sup>16</sup>The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 (sec. 101(e), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Migration and Refugee Assistance”: \$346,450,000, earmarked for several specific programs. The Dire Emergency Supplemental Appropriations Act, 1988 (Public Law 100-393; 102 Stat. 973), provided \$24,000,000 for the “United States Emergency Migration and Refugee Assistance Fund”, not less than \$6,000,000 of which was earmarked for Soviet and other Eastern European refugees.

The Foreign Operations, Export Financing and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268-14), provided \$361,950,000 for “Migration and Refugee Assistance”, earmarked for several specific programs, and provided \$50,000,000 for the “United States Emergency Refugee and Migration Assistance Fund”, not less than \$23,000,000 of which was earmarked for Afghan refugees.

year 1988 and \$1,000,000 for the fiscal year 1989 shall be used only for such educational purposes.

**SEC. 105.<sup>17</sup> OTHER PROGRAMS.**

There are authorized to be appropriated to the Department of State for the following programs:

(1)<sup>18</sup> “Bilateral Science and Technology Agreements”, \$1,900,000 for the fiscal year 1988 and \$1,938,000 for the fiscal year 1989.

(2)<sup>19</sup> “Soviet-East European Research and Training”, \$4,600,000 for the fiscal year 1988 and \$5,000,000 for the fiscal year 1989.

**SEC. 106. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.**

If the amount appropriated for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount and a provision of this Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the authorization amount.

**SEC. 107. TRANSFER OF FUNDS.**

(a) TRANSFERS FOR SALARIES AND EXPENSES.—The Secretary of State may transfer, without regard to section 1502 of title 31, United States Code, to the “Salaries and Expenses” account of the Department of State amounts appropriated for any fiscal year prior to fiscal year 1989 under “Acquisition and Maintenance of Buildings Abroad” which are allocated for capital programs. Any transfer under this subsection shall be treated as a reprogramming for purposes of section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(b) LIMITATIONS.—

(1) Subsection (a) shall not apply to amounts appropriated for purposes of the diplomatic security program under section 401(a) of the Diplomatic Security Act (22 U.S.C. 4851).

(2) The aggregate of—

(A) the amounts transferred under this section for a fiscal year, and

(B) the amounts appropriated for “Salaries and Expenses” for that fiscal year,

may not exceed the amount authorized to be appropriated for “Salaries and Expenses” for that fiscal year.

<sup>17</sup>The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided for the programs listed here, and for “Payment to the Asia Foundation”: \$13,700,000; and for the “Fishermen’s Guaranty Fund”: \$1,725,000.

<sup>18</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Bilateral Science and Technology Agreements”: \$1,900,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$2,000,000.

<sup>19</sup>The Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202), provided the following for “Soviet-East European Research and Training”: \$4,600,000.

The Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), provided \$4,600,000.



(3) The authority contained in subsection (a) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

**SEC. 108. COMPLIANCE WITH PRESIDENTIAL-CONGRESSIONAL SUMMIT AGREEMENT ON DEFICIT REDUCTION.**

Notwithstanding the specific authorizations of appropriations contained in this Act, budget authority may not be provided pursuant to those authorizations in an amount which would cause the aggregate amount of discretionary budget authority provided for international affairs (budget function 150) for a fiscal year to exceed the amount of discretionary budget authority for international affairs for that fiscal year as specified in laws implementing the agreement between the President and the joint Congressional leadership on November 20, 1987.

**SEC. 109. PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES.**

No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

- (1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress;
- (2) to influence in any way the outcome of a political election in the United States; or
- (3) for any publicity or propaganda purposes not authorized by Congress.

**SEC. 110.<sup>20</sup> LATIN AMERICAN AND CARIBBEAN DATA BASES.**

(a) **AUTHORIZATION.**—The Secretary of State, in consultation with the heads of appropriate departments and agencies of the United States, shall use not less than \$1,300,000 of the funds authorized to be appropriated for each of the fiscal years 1988 and 1989 by section 101(a)(1) of this Act to provide for the establishment of a Latin American and Caribbean Data Base.

(b) **CONDITIONS.**—In developing these data bases the Secretary of State shall be required to satisfy the following conditions:

- (1) Any new agreement for an on-line bibliographic data base entered into for purposes of this section shall be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.
- (2) The Secretary shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

**PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS**

\* \* \* \* \*

<sup>20</sup> In appropriating funds for "Salaries and Expenses", the Department of State Appropriation Act, 1988 (sec. 101(a) of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329), and the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2204), waived sec. 110 for fiscal years 1988 and 1989.

SEC. 122.<sup>21</sup> \* \* \* [Repealed—1991]

SEC. 123.<sup>22</sup> \* \* \* [Repealed—1990]

**SEC. 124.<sup>23</sup> REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**

The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs<sup>24</sup> and the Committee on Appropriations of the House of Representatives within 30 days after the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for “Emergencies in the Diplomatic and Consular Service” for that quarter. Items included in each such report concerning representation, official travel, and gifts shall be submitted in unclassified form.<sup>25</sup>

\* \* \* \* \*

SEC. 127.<sup>26</sup> \* \* \*

**SEC. 128. LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.**

(a)<sup>27</sup> \* \* \*

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

**SEC. 129. ALLOCATION OF SHARED COSTS AT MISSIONS ABROAD.**

In order to provide for full reimbursement of shared administrative costs at United States missions abroad, the Secretary of State shall review, and revise if necessary, the allocation procedures under which agencies reimburse the Department of State for

<sup>21</sup> Formerly at 22 U.S.C. 2656 note. Sec. 122, relating to consular and diplomatic posts abroad, was repealed by sec. 112(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655).

<sup>22</sup> Sec. 123, relating to the closing of diplomatic and consular posts in Antigua and Barbuda, was repealed by sec. 121 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 27).

<sup>23</sup> 22 U.S.C. 2680 note. Sec. 209(e)(6) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-423), provided that reports required under this section are excluded from the application of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66; 31 U.S.C. 1113 note).

<sup>24</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>25</sup> Sec. 114 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), added the last sentence.

<sup>26</sup> Sec. 127 amended secs. 116(d) and 502B(b) of the Foreign Assistance Act of 1961 to require the inclusion of coercive population control information in the annual human rights report.

<sup>27</sup> Sec. 128(a) added a new sec. 215 to the State Basic Authorities Act of 1956.

shared administrative costs at United States missions abroad. Within 3 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Affairs<sup>24</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate on such review and any revision.

**SEC. 130.<sup>28</sup> PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.**

None of the funds authorized to be appropriated by this title may be obligated or expended for site acquisition, development, or construction of any new facility in Israel, Jerusalem, or the West Bank.

**SEC. 131. PURCHASING AND LEASING OF RESIDENCES.**

It is the sense of the Congress that in its fiscal year 1989 budget presentations to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>24</sup> of the House of Representatives, the Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing residential properties to enable the Congress to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

**SEC. 132.<sup>29</sup> PROHIBITION ON ACQUISITION OF HOUSE FOR SECRETARY OF STATE**

The Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

**SEC. 133.<sup>30</sup> UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION.**

(a) FINDING.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(b) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

**SEC. 134.<sup>31</sup> \* \* \***

\* \* \* \* \*

<sup>28</sup>Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2208), waived sec. 414 of the Diplomatic Security Act, and provided the following:

“such funds \* \* \* may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United states policy; (B) shall not be denominated as the United States Embassy or Consulate until after construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.”.

<sup>29</sup>22 U.S.C. 2697 note.

<sup>30</sup>22 U.S.C. 4301 note.

<sup>31</sup>Sec. 134 repealed subsec. 413(b) of the Diplomatic Security Act (Public Law 99-399; 100 Stat. 853) which had established an Office of Policy and Program Review in the Department of State.

**SEC. 137. STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES.**

(a) **STUDY.**—The Secretary shall undertake a study of the minimum liability insurance coverage required for members of foreign missions and their families and the feasibility of requiring an increase in such minimum coverage. In conducting such study, the Secretary shall consult with members of the insurance industry, officials of State insurance regulatory bodies, and other experts, as appropriate. The study shall consider the following:

(1) The adequacy of the currently required insurance minimums, including the experiences of injured parties.

(2) The feasibility and projected cost of increasing the current minimum coverages to \$1,000,000 or some lesser amount in the commercial insurance market, including consideration of individual umbrella policies to provide additional coverage above the current minimum.

(3) The feasibility and cost of requiring additional coverage up to \$1,000,000 through a single group insurance arrangement, administered by the Department, providing umbrella coverage for the entire class of foreign officials who are immune from the jurisdiction of the United States.

(4) The consequences to United States missions abroad, including their costs of operation, that might reasonably be anticipated as a result of requiring an increase in the insurance costs of foreign missions in the United States.

(5) Any other issues and recommendations the Secretary may consider appropriate.

(b) **REPORT.**—The Secretary shall compile a report to the Congress concerning the problem arising from diplomatic immunity from criminal prosecution and from civil suit. The report shall set forth the background of the various issues arising from the problem, the extent of the problem, an analysis of proposed and other potential measures to address the problem (including an analysis of the costs associated with and difficulties of implementing the various proposals), consider the potential and likely impact upon United States diplomatic personnel of actions in other nations that are comparable to such proposals, and make recommendations for addressing the problem with respect to the following:

(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning—

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.

(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.

(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

(c) CONGRESS.—Not more than 90 days after the date of enactment of this Act, the findings and recommendations of the study under subsection (a) and the report under subsection (b) shall be submitted to the Committee on the Judiciary and the Committee

on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs<sup>24</sup> of the House of Representatives.

**SEC. 138.<sup>32</sup> FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS.**

(a) PERIOD OF LIABILITY.—Section 1364 of title 28, United States Code, is amended by inserting after “who is” the following: “, or was at the time of the tortious act or omission.”.

(b)<sup>33</sup> APPLICATION.—The amendment made by subsection (a) shall apply to the first tortious act or omission occurring after the date of enactment of this Act.

**SEC. 139.<sup>34</sup> ENFORCEMENT OF CASE-ZABLOCKI ACT REQUIREMENTS.**

(a) RESTRICTION ON USE OF FUNDS.—If any international agreement, whose text is required to be transmitted to the Congress pursuant to the first sentence of subsection (a) of section 112b of title 1, United States Code (commonly referred to as the “Case-Zablocki Act”), is not so transmitted within the 60-day period specified in that sentence, then no funds authorized to be appropriated by this or any other Act shall be available after the end of that 60-day period to implement that agreement until the text of that agreement has been so transmitted.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of enactment of this Act and shall apply during fiscal years 1988 and 1989.

**SEC. 140.<sup>35</sup> ANNUAL COUNTRY REPORTS ON TERRORISM.**

(a) REQUIREMENT OF ANNUAL COUNTRY REPORTS ON TERRORISM.—The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by April 30<sup>36</sup> of each year, a full and complete report providing—

(1)(A)<sup>37</sup> detailed assessments with respect to each foreign country—

<sup>32</sup>The amended part of sec. 1364 of title 28, U.S.C., read as follows (with new language in brackets):

“(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is [or was at the time of the tortious act or omission] a member of a mission (within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.”.

<sup>33</sup>28 U.S.C. 1364 note.

<sup>34</sup>1 U.S.C. 1126.

<sup>35</sup>22 U.S.C. 2656f. See also sec. 805 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-470), requiring reports on terrorist activity in which U.S. citizens were killed.

<sup>36</sup>Sec. 122 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 27), struck out “March 31” and inserted in lieu thereof “April 30”.

<sup>37</sup>Sec. 7102(d)(1) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3777) struck out “(1)” and inserted in lieu thereof “(1)(A)”, and redesignated subparagraphs (A) through (C) as clauses (i) through (iii). Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”.

- (i)<sup>37</sup> in which acts of international terrorism occurred which were, in the opinion of the Secretary, of major significance;
- (ii)<sup>37</sup> about which the Congress was notified during the preceding five years pursuant to section 6(j) of the Export Administration Act of 1979; and
- (iii)<sup>37</sup> which the Secretary determines should be the subject of such report; and<sup>38</sup>
- (B)<sup>39</sup> detailed assessments with respect to each foreign country whose territory is being used as a sanctuary for terrorists or terrorist organizations;
- (2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the preceding five years, any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction,<sup>40</sup> any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 6(j) of the Export Administration Act of 1979, any group designated by the Secretary as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189),<sup>41</sup> and any other known international terrorist group which the Secretary determines should be the subject of such report;<sup>38</sup>
- (3)<sup>38</sup> with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

<sup>38</sup>Sec. 7102(d)(1)(C) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3777) inserted “and” at the end of subclause (iii) (as redesignated). Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

Previously, sec. 578(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009), struck out “and” at the end of para. (1), struck out a period at the end of para. (2) and inserted instead a semicolon, and added new paras. (3) and (4).

<sup>39</sup>Sec. 7102(d)(1)(D) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3777) added para. (B). Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

<sup>40</sup>Sec. 701(a)(1)(A) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487; 118 Stat. 3961) inserted “any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction,” after “during the preceding five years.” Sec. 701(b) of that Act (118 Stat. 3962) provided the following:

“(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 that is submitted more than one year after the date of the enactment of this Act.”

<sup>41</sup>Sec. 701(a)(1)(B) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487; 118 Stat. 3961) inserted “any group designated by the Secretary as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189),” after “Export Administration Act of 1979.” Sec. 701(b) of that Act (118 Stat. 3962) provided the following:

“(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 that is submitted more than one year after the date of the enactment of this Act.”

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

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

(4)<sup>38</sup> with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B).

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

(1) with respect to subsection (a)(1)(A)—<sup>42</sup>

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

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

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

(i) political and financial support;

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

(iii) providing sanctuary to terrorists or terrorist groups;<sup>43</sup>

(iv)<sup>43</sup> providing weapons of mass destruction, or assistance in obtaining or developing such weapons, to terrorists or terrorist groups;

(v)<sup>43</sup> the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report;<sup>44</sup>

<sup>42</sup>Sec. 7102(d)(2)(A)(i) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3777) struck out “subsection (a)(1)” and inserted in lieu thereof “subsection (a)(1)(A)”. Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

<sup>43</sup>Sec. 701(a)(2)(A) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487; 118 Stat. 3961) struck out “and” at the end of clause (iii); redesignated clause (iv) as clause (v); and added a new clause (iv). Sec. 701(b) of that Act (118 Stat. 3962) provided the following:

“(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 that is submitted more than one year after the date of the enactment of this Act.”

<sup>44</sup>Sec. 7102(d)(2)(A)(ii) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3777) struck out “and” at the end of clause (v). Sec. 7102(d)(4) of that Act provided the following:



- (2)<sup>45</sup> with respect to subsection (a)(1)(B)—
- (A) the extent of knowledge by the government of the country with respect to terrorist activities in the territory of the country; and
  - (B) the actions by the country—
    - (i) to eliminate each terrorist sanctuary in the territory of the country;
    - (ii) to cooperate with United States antiterrorism efforts; and
    - (iii) to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country;
- (3)<sup>45, 46</sup> with respect to subsection (a)(2), any—
- (A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;
  - (B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;
  - (C)<sup>47</sup> provision of diplomatic recognition or privileges by foreign governments to those groups;
  - (D) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism; and<sup>47</sup>

<sup>44</sup>(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

<sup>45</sup>Sec. 7102(d)(2) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3777) redesignated para. (2) as para. (3), and added a new para. (2). Sec. 7102(d)(4) of that Act provided the following:

<sup>44</sup>(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

<sup>46</sup>Sec. 701(a)(2)(B) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487; 118 Stat. 3961) sought to redesignate subparas. (C), (D), and (E) as subparas. (D), (E), and (F), and add a new subpara. (C). But the amendment was stated to be executed in para. (2), overlooking its redesignation as para. (3), thus making the amendment unexecutable. Para. (3) should probably read as follows, noting the new subpara. (C):

<sup>45</sup>(3) with respect to subsection (a)(2), any—

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

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

“(C) efforts by those groups to obtain or develop weapons of mass destruction;

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

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

“(F) efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities;”

<sup>47</sup>Sec. 133(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 395), struck out “and” at the end of subpara. (C); struck out a period at the end of subpara. (D), and inserted in lieu thereof “; and”; and added a new subpara. (E).

- (E)<sup>47</sup> efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities;<sup>48</sup>
- (4)<sup>49</sup> a strategy for addressing, and where possible eliminating, terrorist sanctuaries that shall include—
- (A) a description of terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;
- (B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;
- (C) a description of efforts by the United States to work with other countries in bilateral and multilateral fora to address or eliminate terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and
- (D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries; and
- (5)<sup>49</sup> an update of the information contained in the report required to be transmitted to Congress under 7120(b) of the 9/11 Commission Implementation Act of 2004.
- (3)<sup>50</sup> to the extent practicable, complete statistical information on the number of individuals, including United States citizens and dual nationals, killed, injured, or kidnapped by each terrorist group during the preceding calendar year; and
- (4)<sup>50</sup> an analysis, as appropriate, of trends in international terrorism, including changes in technology used, methods and targets of attack, demographic information on terrorists, and other appropriate information.
- (c) CLASSIFICATION OF REPORT.—

- (1) Except as provided in paragraph (2),<sup>51</sup> the report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.

<sup>48</sup>Sec. 7102(d)(2)(D) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3778) struck out a period at the end of para. (3), as redesignated, and inserted in lieu thereof a semicolon. Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

<sup>49</sup>Sec. 7102(d)(2)(E) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3778) added paras. (4) and (5). Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”

<sup>50</sup>As enacted; paras. (3) and (4) should probably read “(6)” and “(7)”, respectively. Sec. 701(a)(2)(C) of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108-487; 118 Stat. 3961) added paras. (3) and (4) at the end of subsec. (b). Sec. 701(b) of that Act (118 Stat. 3962) provided the following:

“(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 that is submitted more than one year after the date of the enactment of this Act.”

<sup>51</sup>Sec. 578(2)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009), struck out “The report” in subsec. (c) and inserted in lieu thereof “(1) Except as provided in paragraph (2), the report”. Sec. 578(2)(B) of that Act also inserted para. (1).

(2)<sup>52</sup> If the Secretary of State determines that the transmittal of the information with respect to a foreign country under paragraph (3) or (4) of subsection (a) in classified form would make more likely the cooperation of the government of the foreign country as specified in such paragraph, the Secretary may transmit the information under such paragraph in classified form.

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

(1) the term “international terrorism” means terrorism involving citizens or the territory of more than 1 country;

(2) the term “terrorism” means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents;<sup>53</sup>

(3) the term “terrorist group” means any group practicing, or which has significant subgroups which practice, international terrorism;<sup>54</sup>

(4)<sup>54</sup> the terms “territory” and “territory of the country” mean the land, waters, and airspace of the country; and

(5)<sup>54</sup> the terms “terrorist sanctuary” and “sanctuary” mean an area in the territory of the country—

(A) that is used by a terrorist or terrorist organization—

(i) to carry out terrorist activities, including training, fundraising, financing, and recruitment; or

(ii) as a transit point; and

(B) the government of which expressly consents to, or with knowledge, allows, tolerates, or disregards such use of its territory and is not subject to a determination under—

(i) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A));

(ii) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); or

(iii) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

(e) REPORTING PERIOD.—

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

#### SEC. 141. RESTRICTION ON USE OF FUNDS FOR PUBLIC DIPLOMACY EFFORTS.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for the Depart-

<sup>52</sup> Sec. 578(2)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009), added para. (2).

<sup>53</sup> Sec. 7102(d)(3) of Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3778) struck out “and” at the end of para. (2); struck out a period at the end of para. (3) and inserted in lieu thereof a semicolon; and added paras. (4) and (5). Sec. 7102(d)(4) of that Act provided the following:

“(4) EFFECTIVE DATE.—The amendments made by this subsection apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year.”.

ment of State may be used by the Department of State to make any contract or purchase order agreement, on or after the date of enactment of this Act, with any individual, group, organization, partnership, corporation, or other entity for the purpose of—

(1) providing advice or assistance for any program for foreign representatives of any civic, labor, business, or humanitarian group during any visit to Washington, District of Columbia, or any other location within the United States;

(2) providing contact with any refugee group or exile in Washington, District of Columbia, or elsewhere in the United States, including the arranging of any media event, interview, or public appearance;

(3) translating articles on regions of the world and making them available for distribution to United States news organizations or public interest groups;

(4) providing points of contact for public interest groups seeking to interview exiles, refugees, or other visitors;

(5) coordinating or accompanying media visits to any region of the world;

(6) providing source material relating to regional conflicts for public diplomacy efforts;

(7) providing or presenting, in writing or orally, factual material on security considerations, refugee problems, or political dynamics of any region of the world for use on public diplomacy efforts;

(8) editing briefs or other materials for use on public diplomacy efforts;

(9) conducting special studies or projects for use on public diplomacy efforts;

(10) designing or organizing a distribution system for materials for use on public diplomacy efforts; or

(11) directing the operation of this distribution system, including—

(A) development of specialized, segmented addressee lists of persons or organizations which have solicited materials or information on any region of the world;

(B) computerization, coding, maintenance, or updating of lists;

(C) retrieval, storage, mailing, or shipping of individual or bulk packets of publications;

(D) maintenance or control of inventory or reserve stocks of materials;

(E) distribution of materials;

(F) coordinating publication production; or

(G) conducting systematic evaluations of the system.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to any contract or purchase order agreement made, after competitive bidding, by or for the Bureau of Public Affairs of the Department of State.

(2) During fiscal years 1988 and 1989, a contract related to advocacy and policy positions may be entered into by or on behalf of the Department of State if the Committee on Foreign

Affairs<sup>55</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate are notified not less than 15 days in advance of the proposed contract.

(c) LIMITATION ON USE OF FUNDS.—Of the funds authorized to be appropriated by this or any other Act, not more than \$389,000 may be used in any fiscal year to finance the activities set forth in subsection (a).

**SEC. 142. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS.**

(a)<sup>56</sup> \* \* \*

(b)<sup>57</sup> AUTHORITY TO ACCEPT REIMBURSEMENTS.—The Department of State Appropriation Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) is amended under the heading entitled “INTERNATIONAL FISHERIES COMMISSION” by inserting after the fourth undesignated paragraph the following new paragraph: \* \* \*

**PART C—DIPLOMATIC RECIPROCITY AND SECURITY**

**SECS. 151-153.**<sup>58</sup> \* \* \* [Repealed—1993]

**SEC. 154.**<sup>59</sup> \* \* \* [Repealed—1993]

**SEC. 155.**<sup>60</sup> **PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES.**

(a) SPECIAL SECURITY PROGRAM.—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act, a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

<sup>55</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>56</sup>Sec. 142(a) amended sec. 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1621).

<sup>57</sup>22 U.S.C. 2661. The Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661), as amended, provides as follows:

“On and after May 15, 1936, whenever the Secretary of State, in his discretion, procures information on behalf of corporations, firms, and individuals, the expense of cablegrams and telephone service involved may be charged against the respective appropriations for the service utilized; and reimbursement therefor shall be required from those for whom the information was procured and, when made, be credited to the appropriation under which the expenditure was charged.

“The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses (including such expenses as salaries and other personnel expenses) incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.”

<sup>58</sup>Sec. 502(e)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) repealed secs. 151 through 153, relating to the U.S.-Soviet Embassy agreement on use of the Mt. Alto site for the Soviet Embassy in the United States and use of the U.S. Embassy in Moscow.

Sec. 139(15) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), subsequently repealed sec. 153(d), which already had been repealed by Public Law 103-199.

Sec. 151 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriation Act, 1988 (sec. 101(a), title III, of the Continuing Appropriations for 1988; Public Law 100-202).

<sup>59</sup>Sec. 501(b) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2325) repealed sec. 154, which had required a report on personnel levels of Soviet state trading enterprises in the United States.

<sup>60</sup>22 U.S.C. 4802 note.

- (1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;
- (2) counterintelligence awareness and related training;
- (3) security reporting and command arrangements designed to counter intelligence threats; and
- (4) length of duty criteria and policies regarding rest and recuperative absences.

(b) **REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this subsection, the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

(c) **DEFINITION.**—As used in subsection (a), the term “high intelligence threat country” means—

- (1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961; and
- (2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation.

\* \* \* \* \*

**SEC. 157.<sup>61</sup> PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES.**

(a) **PROHIBITION.**—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

(b) **DEFINITION.**—As used in this section, the term “Communist country” means a country listed in section 620(f) of the Foreign Assistance Act of 1961.

(c) **ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.**—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

(d) **REPORT AND REQUEST FOR FUNDS.**—As a part of the Department of State’s authorization request for fiscal years 1990 and 1991, the Secretary of State, in consultation with the heads of all relevant agencies, shall submit—

- (1) a report, which shall include—
  - (A) a feasibility study of the implementation of this section; and
  - (B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and
- (2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

(e) **WAIVER.**—The President may waive this section—

- (1) if funds are not specifically authorized and appropriated to carry out this section; or

<sup>61</sup> 22 U.S.C. 3943 note.

(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred on him by this section.

**SEC. 158.<sup>62</sup> TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.**

(a) **TERMINATION.**—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

(b) **WAIVER.**—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress.

**SEC. 159. REPORT ON EMPLOYMENT OF FOREIGN NATIONALS AT FOREIGN SERVICE POSTS ABROAD.**

Not later than 6 months after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Agriculture, the Director of Central Intelligence, the Director of the United States Information Agency, and the Director of the Peace Corps, shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad (including their access to automatic data processing systems and networks).

**SEC. 160.<sup>63</sup> CONSTRUCTION SECURITY CERTIFICATION.**

(a) **CERTIFICATION.**—Before undertaking any new construction or major renovation project in any foreign facility intended for the storage of classified materials or the conduct of classified activities, or approving occupancy of a similar facility for which construction or major renovation began before the effective date of this section,<sup>64</sup> the Secretary of State, after consultation with the Director of Central Intelligence, shall certify to the Committee on Foreign Affairs<sup>55</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed);<sup>65</sup>

(2) the facility resulting from such project incorporates—

<sup>62</sup> 22 U.S.C. 4041 note.

<sup>63</sup> 22 U.S.C. 4851 note.

<sup>64</sup> Sec. 135(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 33), added text beginning with “or approving occupancy”.

<sup>65</sup> Sec. 128(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 30), struck out “and” at the end of para. (1); added “and” at the end of para. (2); and added a new para. (3).

(A) adequate measures for protecting classified information and national security-related activities; and

(B) adequate protection for the personnel working in the diplomatic facility; and<sup>65</sup>

(3)<sup>65</sup> a plan has been put into place for the continued evaluation and maintenance of adequate security at such facility, which plan shall specify the physical security methods and technical countermeasures necessary to ensure secure operations, including any personnel requirements for such purposes.

(b) AVAILABILITY OF DOCUMENTATION.—All documentation with respect to a certification referred to in subsection (a) and any dissenting views thereto shall be available, in an appropriately classified form, to the Chairman of the Committee on Foreign Affairs<sup>55</sup> of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

(c) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence shall provide to the Secretary of State such assistance with respect to the implementation of this section as the Secretary of State may request.

(d) DISSENTING VIEWS.—If the Director of Central Intelligence disagrees with the Secretary of State with respect to any project certification made pursuant to subsection (a), the Director shall submit in writing disagreeing views to the Secretary of State.

**SEC. 161.**<sup>66</sup> \* \* \*

**SEC. 162. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.**

(a)<sup>67</sup> \* \* \*

(b) EFFECTIVE DATE.—Subsection (a) of the section enacted by this section shall take effect 90 days after the date of enactment of this Act.

**SEC. 163. COUNTERINTELLIGENCE POLYGRAPH SCREENING OF DIPLOMATIC SECURITY SERVICE PERSONNEL.**

(a) IMPLEMENTATION OF PROGRAM.—Under the regulations issued pursuant to subsection (b), the Secretary of State shall implement a program of counterintelligence polygraph examinations for members of the Diplomatic Security Service (established pursuant to title II of the Diplomatic Security Act) during fiscal years 1988 and 1989.

(b) REGULATIONS.—The Secretary of State shall issue regulations to govern the program required by subsection (a). Such regulations shall provide that the scope of the examinations under such program, the conduct of such examinations, and the rights of individuals subject to such examinations shall be the same as those under the counterintelligence polygraph program conducted pursuant to

<sup>66</sup>Sec. 161 added a new subsec. (d) at sec. 205 of the State Department Basic Authorities Act of 1956 (Public Law 84-885; 70 Stat. 890). It prohibited the acquisition of real property in the United States by certain foreign countries if it is determined that such acquisition would improve capabilities for hostile intelligence activities against the United States.

<sup>67</sup>Subsec. (a) added a new sec. 216 to the State Department Basic Authorities Act of 1956 (Public Law 84-885; 70 Stat. 890). It applied to individuals of certain countries and organizations the same generally applicable restrictions to travel while in the United States that apply to members of the missions of the Soviet Union in the United States.



section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

**SEC. 164. UNITED STATES EMBASSY IN HUNGARY.**

(a) **FINDINGS.**—The Congress finds that—

(1) the full implementation of the security program of a United States diplomatic mission to a Communist country cannot be accomplished if employees of that mission who are citizens of the host country are present in the same facilities where diplomatic and consular activities of a sensitive nature are performed;

(2) the facilities currently housing the offices of the United States diplomatic mission to Hungary are totally inadequate for the proper conduct of United States diplomatic activities, and unnecessarily expose United States personnel and their activities to the scrutiny of the intelligence services of the Government of Hungary;

(3) the presence of local citizens in a facility where sensitive activities are performed, as well as their access to certain unclassified administrative information, greatly enhances the ability of the host government's intelligence services to restrict our diplomatic activities in that country;

(4) since the United States Government owns a substantial amount of property in Budapest, it is in a unique position to build new facilities which will substantially enhance the security of the United States diplomatic mission to Hungary; and

(5) units such as the Navy Construction Battalion are uniquely qualified to construct such facilities in an eastern bloc country.

(b) **STATEMENT OF POLICY.**—It is the sense of the Congress that—

(1) the Department of State should proceed in a timely fashion to negotiate an agreement with the Government of Hungary to allow for the construction of new chancery facilities in Budapest which would totally segregate sensitive activities from those of an unclassified and public-oriented character; and

(2) any such agreement should ensure that the United States Government will have the right to employ only American construction personnel and materials and will have complete control over access to the chancery site from the inception of construction.

**PART D—PERSONNEL MATTERS**

**SEC. 171.<sup>68</sup> COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM.**

In consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs<sup>55</sup> and the Committee on Post Office and Civil Service of the House of Representatives, and the exclusive representatives (as defined in section 1002(9) of the Foreign Service Act of 1980), the Secretary shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management.

<sup>68</sup>See also sec. 150 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 671).

The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service. Not more than 1 year after the date of enactment of this Act, the Commission shall transmit its report and recommendations to the Secretary of State, the Chairman of the Committee on Foreign Relations of the Senate, the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Post Office and Civil Service of the House of Representatives.<sup>69</sup>

**SEC. 172.<sup>70</sup> PROTECTION OF CIVIL SERVICE EMPLOYEES.**

(a) FINDINGS.—The Congress finds that—

(1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;

(2) the contribution of these Civil Service employees has been overlooked in the management of the Department and greater equality of promotion, training, and career enhancement opportunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) EQUITABLE REDUCTION OF BUDGET.—The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR CIVIL SERVICE EMPLOYEES.—There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The position of Ombudsman for Civil Service Employees shall be a career reserved position within the Senior Executive Service. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented. The position of Ombudsman for Civil Service Employees shall be designated from one of the Senior Executive Service positions (as defined in section 3132(a)(2) of title 5, United States Code) in existence on the date of enactment of this Act.

<sup>69</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

<sup>70</sup>22 U.S.C. 2664a.

(d) DEFINITION.—For purposes of this section, the term “Civil Service employees” means employees of the Federal Government except for members of the Foreign Service (as defined in section 103 of the Foreign Service Act of 1980).

**SEC. 173. COMPENSATION FOR CERTAIN STATE DEPARTMENT OFFICIALS.**

(a)<sup>71</sup> \* \* \*

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

(c) BUDGET ACT.—Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

**SEC. 174. AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE.**

The Comptroller General of the United States shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than one year after the date of enactment of this Act, as to any improvements in the merit personnel system that the Comptroller General considers necessary. The report of the Comptroller General shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment, and promotion of Foreign Service employees.

**SEC. 175.<sup>72</sup> PERFORMANCE PAY.**

(a) REVIEW OF PERFORMANCE PAY PROGRAMS.—

(1) SUSPENSION OF AWARDS DURING REVIEW.—During the period beginning on the date of enactment of this Act, and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

(2) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of State shall conduct a complete and thorough review of—

(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards.

The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

(3) REPORT BY SECRETARY OF STATE.—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall

<sup>71</sup>Sec. 173(a) amended secs. 35(b) and 203(a) of the State Department Basic Authorities Act of 1956 (Public Law 84-885).

<sup>72</sup>22 U.S.C. 3965 note.

submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report.

\* \* \* \* \*

**SEC. 177. CHIEF OF MISSIONS SALARY.**

(a)<sup>73</sup> \* \* \*

(b)<sup>74</sup> \* \* \*

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of the enactment of this Act during the period such individual continues to serve in such position.

**SEC. 178. PAY LEVEL OF AMBASSADORS AT LARGE.**

(a)<sup>75</sup> **COMPENSATION.**—Chapter 53 of title 5 of the United States Code is amended—

(1) in section 5313, by striking out “Ambassadors at Large.”; and

(2) in section 5315, by adding at the end thereof the following: “Ambassadors at Large.”.

(b) **EFFECTIVE DATE AND LIMITATION.**—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.

**SEC. 179. FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT.**

(a)<sup>76</sup> \* \* \*

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to tax years beginning after December 31, 1987.

**SEC. 180. PROHIBITION ON MEMBER OF A FOREIGN SERVICE UNION NEGOTIATING ON BEHALF OF THE DEPARTMENT OF STATE.**

It is the sense of Congress that the Secretary of State should take steps to assure that in labor-management negotiations between the Department of State and the exclusive representative of the Foreign Service employees of the Department, those who direct and conduct negotiations on behalf of management are not also beneficiaries of the agreements made with the exclusive representative.

<sup>73</sup> Sec. 177(a) amended sec. 401(a) of the Foreign Service Act of 1980 (Public Law 96-465; 22 U.S.C. 3961(a)).

<sup>74</sup> Sec. 177(b) amended sec. 302(b) of the Foreign Service Act of 1980 (Public Law 96-465; 22 U.S.C. 3942(b)).

<sup>75</sup> Subsec. (a) moved the post of “Ambassador at Large” from a Level II to a Level IV on the Executive Schedule.

<sup>76</sup> Subsec. (a) amended sec. 301(d)(3) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2071). It prohibited career foreign service employees from representing themselves to income tax authorities of the District of Columbia or any other State as exempt from income taxation.

**SEC. 181. CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD.**

\* \* \* \* \*

(e) APPLICATION.—The amendments made by this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act.

\* \* \* \* \*

**SEC. 183.<sup>77</sup> WOMEN AND MINORITIES IN THE FOREIGN SERVICE.**

(a) FINDINGS.—The Congress finds that the Department of State and other Foreign Service agencies have not been successful in their efforts—

(1) to recruit and retain members of minority groups in order to increase significantly the number of members of minority groups in the Foreign Service; and

(2) to provide adequate career advancement for women and members of minority groups in order to increase significantly the numbers of women and members of minority groups in the senior levels of the Foreign Service.

(b) A MORE REPRESENTATIVE FOREIGN SERVICE.—The Secretary of State and the head of each of the other agencies utilizing the Foreign Service personnel system—

(1) shall substantially increase their efforts to implement effectively the plans required by section 152(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, so that the Foreign Service becomes truly representative of the American people throughout all levels of the Foreign Service; and

(2) shall ensure that those plans effectively address the need to promote increased numbers of qualified women and members of minority groups into the senior levels of the Foreign Service.

(c) DEPARTMENT OF STATE HIRING PRACTICES OF MINORITIES AND WOMEN.—The Secretary of State shall include annually as part of the report required to be submitted pursuant to section 105(d)(2) of the Foreign Service Act of 1980—

(1) a report on the progress made at the Assistant Secretary and Bureau level of the Department of State in increasing the presence of minorities and women at all levels in the Foreign Service and Civil Service workforces of the Department of State, and

(2) the specific actions taken to address the lack of Hispanic Americans, Asian Americans, and Native Americans in the Senior Executive Service and Senior Foreign Service of the Department of State.

**SEC. 184. COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS.**

(a) COMPLIANCE WITH PRIOR REQUEST.—Within 90 days after the date of enactment of this Act, the Secretary of State shall submit

<sup>77</sup> 22 U.S.C. 3922a note. See also sec. 2318 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-829), requiring reports on minorities and the Foreign Service officer corps.

to the chairmen and ranking members of the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate, and the Committee on Foreign Affairs, the Committee on Post Office and Civil Service, and the Committee on Government Operations of the House of Representatives,<sup>78</sup> a report complying with the 1984 request of the Senate Committee on Governmental Affairs for a listing and description of all policy and supporting positions in the Department of State and related agencies. The report shall include an unclassified tabulation, as of the 1984 request, of the following:

- (1) All Foreign Service officer positions then occupied by non-career appointees.
- (2) All positions in the Senior Foreign Service subject to non-career appointment.
- (3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) COMPLIANCE WITH FUTURE REQUESTS.—Whenever the Committee on Governmental Affairs of the Senate or the Committee on Post Office and Civil Service<sup>79</sup> of the House of Representatives requests information from the Secretary of State for inclusion in the publication “U.S. Government Policy and Supporting Positions”, the Secretary shall provide such information in a timely manner.

\* \* \* \* \*

**SEC. 186. DISPOSITION OF PERSONAL PROPERTY ABROAD.**

(a)<sup>80</sup> \* \* \*

(b) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this Act.

\* \* \* \* \*

**SEC. 188.<sup>81</sup> \* \* \***

**TITLE II—THE UNITED STATES INFORMATION AGENCY<sup>82</sup>**

\* \* \* \* \*

**TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS<sup>83</sup>**

\* \* \* \* \*

<sup>78</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(6) of that Act provided that references to the Committee on Government Operations shall be treated as referring to the Committee on Government Reform and Oversight. Sec. 1(b)(2) of that Act provided that most references to the House Committee on Post Office and Civil Service, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight.

<sup>79</sup>Sec. 1(b)(2) of Public Law 104-14 (109 Stat. 186) provided that most references to the Committee on Post Office and Civil Service of the House of Representatives, which was abolished in the 104th Congress, shall be treated as referring to the Committee on Government Reform and Oversight of the House of Representatives.

<sup>80</sup>Subsec. (a) added a new title III to the State Department Basic Authorities Act of 1956 (Public Law 84-885; 70 Stat. 890).

<sup>81</sup>Sec. 188 added new secs. 830, 831 and 832 to the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat., 2071) concerning benefits for certain former spouses of members of the foreign service.

<sup>82</sup>See page 1505 for text of freestanding provisions in this title.

<sup>83</sup>See page 1513 for text of freestanding provisions in this title.

**TITLE IV—VOICE OF AMERICA**<sup>84</sup>

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**TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING**<sup>85</sup>

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**TITLE VI—ASIA FOUNDATION**<sup>86</sup>

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**TITLE VII—INTERNATIONAL ORGANIZATIONS****PART A—UNITED NATIONS****SEC. 701.**<sup>87</sup> **PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.**

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

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the “Group of 18 Experts”).

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on “Soviet Presence in the United Nations Secretariat” (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

<sup>84</sup> See page 1515 for text of freestanding provisions in this title.<sup>85</sup> Most of title V contained amendments to the Board for International Broadcasting Act of 1973. For text of freestanding provisions, see page 1722.<sup>86</sup> Title VI amended sec. 404 of the Asia Foundation Act (Public Law 98-164).<sup>87</sup> 22 U.S.C. 287e note.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded", that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b)<sup>88</sup> SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to

<sup>88</sup>Sec. 163 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676), struck out subsec. (b), and redesignated subsecs. (c) and (d) as (b) and (c), respectively. Subsec. (b) had required the Secretary of State to report annually to the Congress on the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.



the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

(c)<sup>88</sup> DEFINITION.—For the purposes of this section, the term “Soviet-bloc” means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

**SEC. 702. REFORM IN THE BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.**

(a) FINDINGS.—The Congress finds that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note, 99 Stat. 405), as in effect before the date of enactment of this Act.<sup>89</sup>

(b) \* \* \*

(c) \* \* \*

(d) TERMINATION DATE.—This section shall terminate on September 30, 1989.

**SEC. 703. HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS.**

(a) UNITED STATES POLICY.—It is the policy of the United States to seek the implementation by the United Nations of the recommendation by the International Civil Service Commission to de-

<sup>89</sup>Sec. 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, was repealed in 1991 by sec. 162(e) of Public Law 102-138 (105 Stat. 676).

duct from the pay (commonly referred to as a “rental deduction”) of an international civil servant the amount of any housing allowance or payment which is provided by any member state to that international civil servant, in accordance with Article 100 of the Charter of the United Nations and regulations thereunder.

(b) UNITED STATES AMBASSADOR TO THE UNITED NATIONS.—The United States Ambassador to the United Nations shall seek to promote the adoption of the recommendation described in subsection (a).

SEC. 704.<sup>90</sup> \* \* \*

SEC. 705.<sup>91</sup> \* \* \*

**SEC. 706. PUBLIC ACCESS TO UNITED NATIONS WAR CRIMES COMMISSION FILES.**

(a) FINDINGS.—The Congress finds that—

(1) with the passing of time, it is important to document fully Nazi war crimes and crimes against humanity, lest the enormity of those crimes be forgotten; and

(2) the files of the United Nations War Crimes Commission deposited in the archives of the United Nations contain information valuable to our knowledge of the genocidal actions of the Nazis.

(b) POLICY.—It is the sense of the Congress that United States policy should be to support access by interested individuals and organizations to the files of the United Nations War Crimes Commission deposited in the archives of the United Nations.

\* \* \* \* \*

**SEC. 708.<sup>92</sup> PROTECTION OF TYRE BY THE UNITED NATIONS INTERIM FORCE IN LEBANON.**

(a) FINDINGS.—The Congress finds that—

(1) the archaeological site of the ancient city of Tyre is an important part of the heritage of the people of Lebanon and of people everywhere;

(2) war and civil strife threaten the survival of the archaeological site at Tyre;

(3) the purchase of artifacts from Tyre, including purchases allegedly made by troops of the United Nations Interim Force in Lebanon (UNIFIL), is encouraging illegal excavation and looting of the Tyre site; and

(4) the United Nations Interim Force in Lebanon (UNIFIL) could best protect the archaeological site of Tyre so as to preserve this treasure for future generations.

<sup>90</sup>Sec. 704 amended sec. 115(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1017). It suspended U.S. participation in any organ of the United Nations, with the exception of the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency, that illegally expels, suspends or denies credentials to Israel.

<sup>91</sup>Sec. 705 amended sec. 114(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1017). It limited the United States assessed contribution to the United Nations to the amount assessed less 25 percent of the amount budgeted for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.

<sup>92</sup>Sec. 139(19) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (c) of this section, which had required that the Secretary of State report to the chairpersons of the Committees on Foreign Affairs and Foreign Relations on progress in implementing this section.

(b) **EXTENSION OF MANDATE OF UNIFIL.**—The Secretary of State should request the Secretary General of the United Nations and the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL) to include protection of the archaeological site of the ancient city of Tyre. The Secretary of State is directed to seek an order prohibiting the purchase of any artifact from Tyre by any person associated with the United Nations.

### **PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS**

#### **SEC. 721.<sup>93</sup> ESTABLISHMENT OF COMMISSION.**

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this part referred to as the “Commission”) is hereby established.

#### **SEC. 722.<sup>93</sup> PURPOSES OF THE COMMISSION.**

(a) **PURPOSES.**—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) **CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.**—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

#### **SEC. 723.<sup>93</sup> MEMBERSHIP OF THE COMMISSION.**

(a) **MEMBERS.**—

(1) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 16 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the Minority Leader of the Senate, two appointed by the Speaker of the House, and two appointed by the Minority Leader of the House.

(D) Four individuals appointed by the President, not more than two of whom may be from the same political party.

(2) **CRITERION FOR APPOINTMENTS.**—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

<sup>93</sup>22 U.S.C. 287 note.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than 60 days after the effective date of this part.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

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

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Nine members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

**SEC. 724.<sup>93</sup> POWERS OF THE COMMISSION.**

(a) IN GENERAL.—For the purpose of carrying out this part, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 722.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(c) DELEGATION OF AUTHORITY.—When so authorized by the majority of the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this part. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law; except that the head of any Federal agency to which a request for information is provided pursuant to this subsection may deny access to such information, or make access subject to such terms and conditions as the head of that agency may prescribe, on the basis that the information in question is classified and the Commission does not have adequate procedures to safeguard the information in question, or that the Commission does not have a need to know the classified information. In addition, a Federal agency may not provide the Commission with information that could disclose intelligence sources or methods without first securing the approval of the Director of Central Intelligence. The head of any such Federal agency may provide information on a reimbursable basis.

**SEC. 725.<sup>93</sup> STAFF.**

(a) STAFF MEMBERS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;<sup>94</sup>

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) DETAILING OF GOVERNMENT PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this part.

**SEC. 726.<sup>93</sup> REPORT.**

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than 18 months after the date on which all members of the Commission have been appointed.

**SEC. 727.<sup>93</sup> FUNDING FOR THE COMMISSION.**

(a) COMMISSION TO BE PRIVATELY FUNDED.—The Commission may accept and use contributions from private United States sources to carry out this part. No Federal funds may be made available to the Commission for use in carrying out this part.

<sup>94</sup>The current rate of compensation at level IV of the Executive Schedule is \$143,000 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

(b) **LIMITATION ON SIZE OF CONTRIBUTIONS.**—The Commission may not accept contributions from any single source which have a value of more than<sup>95</sup> the greater of—

(1) \$100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) **COMMISSION APPROVAL OF CERTAIN CONTRIBUTIONS.**—The Commission may accept contributions having a value of \$1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) **DISCLOSURE OF CONTRIBUTIONS.**—

(1) **PERIODIC REPORTS TO CONGRESS.**—Every 30 days, the Commission shall submit to the chairman of the Committee on Foreign Affairs<sup>96</sup> of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding 30 days.

(2) **FINAL REPORT.**—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 726.

(e) **LIMITATION ON OBLIGATIONS AND EXPENDITURES.**—Notwithstanding subsection (a), the limitations on expenditures and obligations in section 1341 of title 31, United States Code, shall apply to the Commission.

**SEC. 728.<sup>93</sup> GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.**

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office)<sup>97</sup> shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

**SEC. 729.<sup>93</sup> TERMINATION OF THE COMMISSION.**

The Commission shall cease to exist 60 days after submitting its report pursuant to section 726.

**SEC. 730.<sup>93</sup> EFFECTIVE DATE.**

This part shall take effect on March 1, 1989.

**PART C—OTHER INTERNATIONAL ORGANIZATIONS**

\* \* \* \* \*

<sup>95</sup>Sec. 409 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 68), inserted “the greater of” after “than”.

<sup>96</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>97</sup>Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the “General Accounting Office” as the “Government Accountability Office” and provided that “Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.”

**SEC. 742. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL RED CROSS AND SENSE OF CONGRESS CONCERNING RECOGNITION OF RED SHIELD OF DAVID.**

(a) UNITED STATES CONTRIBUTION.—Pursuant to the provisions of section 109 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget.<sup>98</sup> Such contribution may be made from the funds authorized to be appropriated by section 104 for “Migration and Refugee Assistance”.

(b) LIMITATION ON CONTRIBUTIONS.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(c) RECOGNITION OF THE RED SHIELD OF DAVID.—It is the sense of the Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel should be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

**SEC. 743.**<sup>99</sup> \* \* \*

\* \* \* \* \*

**SEC. 745.**<sup>100</sup> \* \* \* [Repealed—1994]

**SEC. 746. RECOGNITION OF CARICOM.**

It is the sense of the Congress that the Secretary of State should consider recognizing the Caribbean Community and Common Market (CARICOM) as a regional planning organization in the Caribbean.

**SEC. 747. ASIAN-PACIFIC REGIONAL HUMAN RIGHTS CONVENTION.**

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress which—

- (1) examines the nature and extent of human rights problems in the Asian-Pacific region; and
- (2) assesses the willingness of the countries in the region to negotiate a regional human rights convention similar to the American Convention on Human Rights, the Conference on Se-

<sup>98</sup>Sec. 410 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 68), provided the following:

“Notwithstanding section 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204), for each of the fiscal years 1990 and 1991, the Secretary of State shall not be required to make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is greater than 10 percent of the 1989 regular budget of the International Committee of the Red Cross.”

<sup>99</sup>Sec. 743 amended the International Organizations Immunities Act (Public Law 79-291; 59 Stat. 669) to recognize the International Committee of the Red Cross as an international organization.

<sup>100</sup>Sec. 745, authorizing continued membership in the Intergovernmental Committee for European Migration, was repealed by sec. 430(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459).

curity and Cooperation in Europe, and the African Charter on Peoples' and Human Rights.

**TITLE VIII—INTERNATIONAL NARCOTICS CONTROL** <sup>101</sup>

**SEC. 801. ASSIGNMENT OF DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.**

If the Secretary of State, in exercising his authority to establish overseas staffing levels for Federal agencies with activities abroad, authorizes the assignment of any Drug Enforcement Administration agent to a particular United States mission abroad, the Secretary shall authorize the assignment of at least two such agents to that mission.

\* \* \* \* \*

**SEC. 803. REQUIREMENT THAT EXTRADITION OF DRUG TRAFFICKERS BE A PRIORITY ISSUE OF UNITED STATES MISSIONS IN MAJOR ILLICIT DRUG PRODUCING OR TRANSIT COUNTRIES.**

The Secretary of State shall ensure that the Country Plan for the United States diplomatic mission in each major illicit drug producing country and in each major drug-transit country (as those terms are defined in section 481(e) <sup>102</sup> of the Foreign Assistance Act of 1961) includes, as an objective to be pursued by the mission—

- (1) negotiating an updated extradition treaty which ensures that drug traffickers can be extradited to the United States, or
- (2) if an existing treaty provides for such extradition, taking such steps as may be necessary to ensure that the treaty is effectively implemented.

**SEC. 804. INFORMATION-SHARING SYSTEM SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.**

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report on the status of the comprehensive information system on drug arrests of foreign nationals which was required to be established by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

\* \* \* \* \*

**SEC. 806. SANCTIONS ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.**

\* \* \* \* \*

(c) **ALIENS EXCLUDABLE FROM ADMISSION TO THE UNITED STATES.**—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended to read as follows:

“(23) Any alien who—

- “(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled sub-

<sup>101</sup> 22 U.S.C. 2656 note. For other legislation on international narcotics control, see *Legislation on Foreign Relations Through 2005*, vol. I-B.

<sup>102</sup> Formerly read “481(i)”. Sec. 6(a) of the International Narcotics Act of 1992 (Public Law 102-583; 106 Stat. 4932) provided that any reference in any provision of law enacted before November 2, 1992, to sec. 481(i) shall be deemed to be a reference to sec. 481(e). The text has been so amended.



stance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;”.

#### TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

**SEC. 901.**<sup>103</sup> **PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS.** \* \* \* [Repealed—1990]

**SEC. 902.**<sup>104</sup> **ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE.**

(a) **ADJUSTMENT OF STATUS.**—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) “extended voluntary departure” by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien’s period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) **STATUS AND ADJUSTMENT OF STATUS.**—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

<sup>103</sup> Sec. 603(a)(21) of the Immigration Act of 1990 (Public Law 101-649; 104 Stat. 5084) repealed sec. 901, which had prohibited exclusion or deportation of aliens on grounds of beliefs, statements or associations, if such beliefs, statements, or associations would be protected under the Constitution of the United States if engaged in by a U.S. citizen. Subsec. (d) of sec. 901 had been repealed by sec. 128(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 30).

<sup>104</sup> 8 U.S.C. 1255a note.

**SEC. 903.<sup>105</sup> PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.**

(a) **PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.**—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) **PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.**—Notwithstanding section 212(f) and section 243(d)<sup>106</sup> of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) **DEFINITIONS.**—For purposes of this section:

(1) The term “process” means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term “refugee” has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

**SEC. 904.<sup>107</sup> INDOCHINESE REFUGEE RESETTLEMENT.**

(a) **FINDINGS.**—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region’s camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

<sup>105</sup> 8 U.S.C. 1201 note.

<sup>106</sup> Sec. 308(g)(7)(C)(iii) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009) struck out “243(g)” and inserted in lieu thereof “243(d)”.

<sup>107</sup> Legislation nearly identical to sec. 904 was enacted as the Indochinese Refugee Resettlement and Protection Act of 1987 (sec. 101(a), title VIII, Continuing Appropriations Act for 1988; Public Law 100-202; 101 Stat. 1329-40).

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that inter-

national observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee admissions requirements and the consultative processes of the Refugee Act of 1980;

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam, the number of admissions allocated for Amerasians and their immediate family members should also be generous;

(3) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(4) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

(d) REPORTING.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

**SEC. 905.<sup>108</sup> AMERASIAN CHILDREN IN VIETNAM.**

(a) FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(1) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

<sup>108</sup>Subsec. (a), paras. (1) through (5), were also enacted as sec. 804 of the Indochinese Refugee Resettlement and Protection Act of 1987 (sec. 101(a), title VIII, of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329-42).

(2) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(3) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(4) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(5) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

(6) In September 1984, the United States informed the Socialist Republic of Vietnam that all Amerasian children in Vietnam, their mothers, and qualifying family members would be admitted as refugees to the United States during a three-year period.

(7) Amerasian emigration from Vietnam increased significantly in fiscal year 1985 under the Orderly Departure Program of the United Nations High Commissioner on Refugees.

(8) On January 1, 1986, the Socialist Republic of Vietnam unilaterally suspended interviews of all individuals seeking to leave Vietnam legally under the auspices of the Orderly Departure Program for resettlement in the United States.

(9) On the 19th and 20th of October 1987, the Socialist Republic of Vietnam permitted the United States to resume interviewing Amerasians and their families.

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

(1) the United States should maintain its strong commitment to receive the Amerasian children in the Socialist Republic of Vietnam and their families;

(2) the Socialist Republic of Vietnam should cooperate fully in facilitating the processing of all Amerasians who desire to be resettled in the United States; and

(3) the Socialist Republic of Vietnam should cooperate fully in the processing of Amerasians for emigration.

**SEC. 906. REFUGEES FROM SOUTHEAST ASIA.**

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as “displaced persons” or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975-1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos; and

(5) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

#### SEC. 907. RELEASE OF YANG WEI.

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

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986.

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a PhD program at the University of Arizona.

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau.

(4) Yang Wei has been held without charge or trial since January 11, 1987.

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities.

(6) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son.

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law.

(8) Yang Wei has not committed any crime under United States or Chinese law.

(9) Yang Wei and his wife only aspire to freedom and democracy.

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities.

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) POLICY.—It is the sense of Congress that—

(1) the People's Republic of China should immediately release Yang Wei; and

(2) the United States should consider sympathetically applications for asylum from Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

#### **TITLE X—ANTI-TERRORISM ACT OF 1987**<sup>109</sup>

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#### **TITLE XI—GLOBAL CLIMATE PROTECTION**<sup>110</sup>

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### **TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS**

#### **PART A—SOVIET UNION AND EASTERN EUROPE**

**SEC. 1201.**<sup>111</sup> \* \* \* [Repealed—1993]

**SEC. 1202.**<sup>112</sup> \* \* \* [Repealed—1993]

<sup>109</sup>The text of title X, cited as the "Anti-Terrorism Act of 1987", may be found at page 1188.

<sup>110</sup>The text of title XI, cited as the "Global Climate Protection Act of 1987", may be found in *Legislation on Foreign Relations Through 2005*, vol. IV, sec. L.

<sup>111</sup>Sec. 901 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out sec. 1201, relating to Soviet ballistic missile tests near Hawaii.

<sup>112</sup>Sec. 1202, expressing the sense of the Congress regarding emigration of Jews and others who wish to emigrate from the Soviet Union, was repealed by sec. 903(b) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330).

**SEC. 1203.**<sup>113</sup> \* \* \* [Repealed—1993]

**SEC. 1204.**<sup>114</sup> **STATE SPONSORED HARASSMENT OF RELIGIOUS GROUPS.**

It is the sense of the Congress that—

(1) the President should continue to express to the government of any country that engages in the harassment of religious groups<sup>115</sup> the deep concern and opposition of the United States with respect to such activities;<sup>116</sup>

(2) the governments of all<sup>117</sup> countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants on Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document; and<sup>118</sup>

**SEC. 1205. OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF THE HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA.**

The Congress deploras activities of the Government of the Socialist Republic of Romania restricting the internationally recognized human rights of Hungarians and other nationalities in Transylvania and elsewhere in Romania.

**SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.**

It is the sense of the Congress that—

(1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence<sup>119</sup> should be recognized; and

(2) the President should—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) call attention to violations of internationally recognized human rights in the Baltic States; and

<sup>113</sup>Sec. 1203, expressing the sense of the Congress regarding the systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, was repealed by sec. 902 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330).

<sup>114</sup>Sec. 903(a)(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) restated the section heading. It formerly read: "UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION."

<sup>115</sup>Sec. 903(a)(2)(A) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out "governments of the Union of Soviet Socialist Republics and Eastern European countries" and inserted in lieu thereof "government of any country that engages in the harassment of religious groups".

<sup>116</sup>Sec. 903(a)(2)(B) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out "to the harassment of Christians and other religious believers" and inserted in lieu thereof "to such activities".

<sup>117</sup>Sec. 903(a)(3) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out "the Union of Soviet Socialist Republics and Eastern European" and inserted in lieu thereof "all".

<sup>118</sup>Sec. 903(a)(4) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) struck out para. (3) following this point, which had provided:

"(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion."

<sup>119</sup>Sec. 704 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2328) struck out "from the Soviet Union" after "independence".



(C) promote compliance with the human rights and humanitarian provisions of the Helsinki Final Act of the Conference on Security and Cooperation in Europe in the Baltic States.

**SEC. 1207. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.**

(a) SUPPORT FOR SOLIDARITY.—It is the sense of the Congress that—

(1) Solidarity deserves special praise and recognition as the only free and independent trade union in Poland;

(2) Solidarity reflects the Polish people's desire for free and democratic institutions and activities; and

(3) Solidarity is one of the leading democratic representatives of the Polish working people.

(b) ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal year 1988, not less than \$1,000,000 shall be available only for the unconditional support of democratic institutions and activities in Poland.

**PART B—LATIN AMERICA AND CUBA**

**SEC. 1211. CUBAN HUMAN RIGHTS VIOLATIONS AND THE FAILURE OF THE UNITED NATIONS TO PLACE CUBA ON ITS HUMAN RIGHTS AGENDA.**

(a) FINDINGS.—The Congress finds that—

(1) the Universal Declaration of Human Rights, which was adopted and proclaimed by the General Assembly of the United Nations, states in paragraph 2 of Article 13 that “Everyone has the right to leave any country, including his own, and to return to his country”;

(2) the Universal Declaration of Human Rights states in Article 19 that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers”;

(3) the Government of Cuba has violated the Cuban people's internationally recognized human rights, including freedom of movement, emigration, opinion, and expression;

(4) Cuban human rights violations are a major obstacle to improved United States-Cuban relations; and

(5) the United Nations Human Rights Commission has acted selectively in addressing human rights violations in various countries and has failed to place Cuba on its agenda despite overwhelming evidence of the continuing disregard and systematic abuse of internationally recognized human rights by the Government of Cuba.

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

(1) the Government of Cuba should respect internationally recognized human rights, including freedom of movement, emigration, opinion, and expression; and

(2) the United States delegation to the United Nations should continue its commendable efforts to bring this issue be-

fore the attention of the United Nations and to place Cuban human rights abuses on the agenda of the United Nations Human Rights Commission.

(c) DISTRIBUTION OF TEXT TO U.N. MEMBERS.—The Secretary of State shall cause the text of this section to be circulated by the United States among the members of the United Nations in order to highlight Cuba's behavior in violation of the Universal Declaration of Human Rights.

**SEC. 1212. PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.**

It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

**SEC. 1213. TERRORIST BOMBING IN HONDURAS.**

(a) FINDINGS.—The Congress finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Comayagua, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the United States military personnel were in Honduras assigned to Joint Task Force Bravo;

(4) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(5) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero; and

(6) the United States Government has protested to the Government of Mexico.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the United States Congress deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

**SEC. 1214. HUMAN RIGHTS IN PARAGUAY.**

(a) FINDINGS.—The Congress finds that—

(1) the Government of Paraguay systematically has violated the internationally recognized human rights of its citizens;

(2) various provisions of Paraguayan law provide for the detention of individuals without trial for an indefinite period of time;

(3) the police authorities in Paraguay arbitrarily arrest and detain individuals; and

(4) the police authorities have tortured and abused prisoners, resulting in the death of a number of detainees.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Paraguay to respect the internationally recognized human rights of its citizens.

**PART C—AFRICA****SEC. 1221. HUMAN RIGHTS IN ETHIOPIA.**

(a) FINDINGS.—The Congress finds that—

(1) the Government of Ethiopia has systematically violated the internationally recognized human rights of its citizens;

(2) the Government of Ethiopia holds large numbers of political prisoners and regularly detains without trial many other political opponents of the government;

(3) the Government of Ethiopia engages in torture and ill-treatment of political prisoners;

(4) reliable reports indicate that many political opponents of the Government of Ethiopia “disappear” and that approximately sixty political prisoners were executed in October 1985 without benefit of trial; and

(5) over one million Ethiopians have fled the country.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Ethiopia to respect the internationally recognized human rights of its citizens.

**SEC. 1222.<sup>120</sup> UNITED STATES POLICY ON ANGOLA.**

(a) FINDINGS.—The Congress finds that—

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvements in Soviet-American relations;

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the “MPLA”) is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

<sup>120</sup> Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

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

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2005*, vol. I-B.

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South African forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the MPLA regime;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

SEC. 1223.<sup>121</sup> \* \* \* [Repealed—1993]

SEC. 1224.<sup>122</sup> \* \* \* [Repealed—1993]

## PART D—MIDDLE EAST

### SEC. 1231. MIDDLE EAST PEACE CONFERENCE.

(a) FINDINGS.—The Congress finds that—

<sup>121</sup> Sec. 1223 had required a report to Congress from the Secretary of State on forced detention by the African National Congress and the South African Government since the South African Government enacted a State of Emergency in June 1986. It was repealed by sec. 4(b)(3) of Public Law 103-149 (107 Stat. 1505).

<sup>122</sup> Sec. 1224, relating to detention of children in South Africa, was repealed by sec. 4(b)(3) of Public Law 103-149 (107 Stat. 1505).

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent United States initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements between the Arab States and Israel.

(b) POLICY.—It is the sense of the Congress that the United States should not actively encourage the participation of the Soviet Union in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless the Government of the Soviet Union has either—

(1)(A) reestablished diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly reaffirmed its acceptance of United Nations Resolutions 242 and 338; and

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel; or

(2) been jointly invited by the governments of the states in the region involved in the talks.

**SEC. 1232. UNITED STATES POLICY TOWARD LEBANON.**

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

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice, and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

- (1) Preservation of the unity of Lebanon.
- (2) Withdrawal of all foreign forces from Lebanon.
- (3) Recognition of and respect for the territorial integrity of Lebanon.
- (4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.
- (5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) FURTHER SENSE OF CONGRESS.—It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through Public Law 480, title I and section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

**SEC. 1233. ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.**

- (a) FINDINGS.—The Congress makes the following findings:
- (1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels.
  - (2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining.
  - (3) On September 23, 1987, President Reagan declared that this United States action was “authorized by law”, and a statement was issued by the State Department that the United States had the right under international law to use “reasonable and proportionate force” to terminate the mining.
- (b) POLICY.—It is the sense of the Congress that—
- (1) by mining the high seas of the Persian Gulf without notifying nonbelligerent nations engaged in maritime commerce, the Government of Iran violated international law;
  - (2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law; and
  - (3) fostering broader adherence to international law promotes the security interests of the United States.

**SEC. 1234. UNITED STATES POLICY TOWARD THE IRAN-IRAQ WAR.**

- (a) FINDINGS.—The Congress finds that—
- (1) the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf;

(2) stability in the Persian Gulf and the flow of oil is critical to world trade and the economic health of the West;

(3) the conflict between Iran and Iraq threatens United States strategic and political interests in the region;

(4) the conflict threatens international commercial shipping interests and activities; and

(5) the Iran-Iraq war has continued seven years with more than 1,500,000 casualties.

(b) POLICY.—The Congress declares it to be the policy of the United States consistent with United Nations Security Council Resolution 598—

(1) to support the withdrawal of both Iran and Iraq to internationally recognized boundaries;

(2) to support an immediate cease-fire;

(3) to endorse the peaceful resolution of this conflict under the auspices of the United Nations;

(4) to encourage all governments to refrain from providing military supplies to any party which refuses to abide by United Nations Security Council Resolution 598;

(5) to recognize that stability and security in the Persian Gulf will only be achieved if Iran and Iraq are at peace and agree not to interfere in the affairs of other nations through military action or the support of terrorism; and

(6) to urge strict observance of international humanitarian law by both sides and to support financially the International Committee of the Red Cross' special appeal for prisoners of war.

**SEC. 1235. IRAN HUMAN RIGHTS VIOLATIONS.**

(a) FINDINGS.—The Congress finds that—

(1) the United Nations has passed nine resolutions condemning the violation of human rights in Iran;

(2) the United Nations Subcommittee on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than two-hundred thousand Iranians have been imprisoned, tortured or executed because of their beliefs;

(3) the United Nations Commission on Human Rights confirms seven thousand executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

(4) despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

(5) executions, including executions of children and members of religious minorities, still take place in Iran;

(6) the Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

(7) Iran has rejected all proposals to end the seven year Iran-Iraq war;

(8) Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq war;

(9) the Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region; and

(10) it is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy.

(b) **POLICY.**—Now, therefore, the Congress—

(1) expresses concern for those citizens who must endure war and unprecedented repression;

(2) supports an official United States policy of completely halting the shipment of any kind of armament to the Government of Iran; and

(3) urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons, to pressure Iran to permit inspection of Iranian prisons by an international delegation, and to respect internationally recognized human rights.

**SEC. 1236. IRANIAN PERSECUTION OF THE BAHAI'S.**

(a) **POLICY.**—It is the sense of the Congress that—

(1) the Government of Iran has systematically discriminated against the Baha'i community, including the arbitrary detention, torture, and killing of Baha'is, the seizure of Baha'i property, and the outlawing of the Baha'i faith; and

(2) Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the United Nations and the United Nations Declaration of Human Rights.

(b) **IMPLEMENTATION OF POLICY.**—It is the sense of Congress that the President shall take all necessary steps to focus international attention on the plight of the Baha'i community and to bring pressure to bear on the Government of Iran to cease its insidious policy of persecution.

**PART E—ASIA**

**SEC. 1241.**<sup>123</sup> \* \* \* [Repealed—1993]

**SEC. 1242. REPORT ON ADMINISTRATION POLICY ON AFGHANISTAN.**

(a) **FINDINGS.**—The Congress finds that—

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces", political and diplomatic pressures on the Soviet Union have decreased rather than increased;

<sup>123</sup>Sec. 1241, relating to Soviet occupation of Afghanistan, was repealed by sec. 702(a) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2328).



(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

**SEC. 1243. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.**

(a) FINDINGS.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered

themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished from 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the non-violent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration";

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as an historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Xinjiang), and the Mongolians of Inner Mongolia;

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas in which the United States Government and people can be helpful; and

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) TRANSFER OF DEFENSE ARTICLES.—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) MIGRATION AND REFUGEE ASSISTANCE.—Within 60 days after the date of the enactment of this Act, the Secretary of State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

(e) SCHOLARSHIPS.—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

**SEC. 1244. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.****(a) FINDINGS.—**The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under international law including the United Nations Charter, invaded Cambodia in December 1978;

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with some 140,000 troops;

(4) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(5) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

(6) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

(7) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge and has caused hundreds of thousands of Cambodians to flee their own country;

(8) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Government in Exile led by Prince Norodom Sihanouk;

(9) the member states of the United Nations for the eighth time, and by a record vote, approved a resolution at the forty-second session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(10) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(11) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the Association of Southeast Asian Nations and supported by the United States to resolve the situation in Cambodia; and

(12) in the absence of a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

**(b) STATEMENT OF POLICY.—**The Congress—

(1) deplors the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon the Government of the Socialist Republic of Vietnam to immediately withdraw all of its occupation forces

from Cambodia and to negotiate a settlement which restores self-determination to the Cambodian people;

(3) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of an end to Vietnam's isolation in the world community and an improvement of its relations with the United States;

(4) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(5) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(6) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress the basic human rights, culture, and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

**SEC. 1245. HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.**

(a) FINDINGS.—The Congress finds that—

(1) the advancement of human rights is a stated objective of the foreign policy of the United States;

(2) the constitutional guarantees of freedom of speech, press, and peaceful assembly have not been adequately respected in the People's Republic of China;

(3) the exercise of religious activities has a detrimental effect on a participant's civil, social, and economic status within the People's Republic of China;

(4) the freedom of movement and the freedom to form independent trade unions and other voluntary associations are severely curtailed;

(5) there have been some encouraging developments including an effort by the current leadership of the People's Republic of China to develop economic policies without regard to a rigid application of Maoist ideology; and

(6) the American people desire to extend their moral support to the struggle for freedom and justice within the People's Republic of China.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the leadership of the People's Republic of China should take necessary steps toward establishing a more democratic society, with a free and open political system that will protect the essential human rights of all people living within that country.

**SEC. 1246. DEMOCRACY IN TAIWAN.**

(a) FINDINGS.—The Congress finds that—

(1) stability and peace prevail on the island of Taiwan and in the Western Pacific region;

(2) economic vitality, educational advancement, and social progress have created conditions favoring the furtherance of democracy in Taiwan;

(3) the people of Taiwan, in both national and local elections, have shown themselves fully capable of participating in a democratic political process;

(4) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions, although a minority of the seats in the central legislature and central electoral college are filled through periodic elections, with the majority of seats still being held by individuals who took office in the late 1940s;

(5) on September 28, 1986, Taiwan's democratic opposition announced the formation of the Democratic Progressive Party;

(6) on October 7, 1986, President Chiang Ching-kuo, announced that the Kuomintang intended to end the state of martial law and to lift the ban on the creation of new political parties;

(7) the lifting of martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan;

(8) the Kuomintang has indicated a desire over the next few years to make more representative Taiwan's central representative bodies, to broaden decisionmaking within the Nationalist Party, to enhance the rule of law, and to increase the powers of local-level government; and

(9) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan and an acceleration of progress toward a full democracy on Taiwan, including full respect for human rights, will strengthen United States ties with the people on Taiwan.

(b) SENSE OF CONGRESS.—The Congress—

(1) welcomes the democratic trends emerging in Taiwan and commends the progress that has been made recently in advancing democratic institutions and values;

(2) welcomes the lifting of martial law and looks forward to the lifting of the ban on new political parties;

(3) encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions, in particular by—

(A) guaranteeing freedom of speech, expression, and assembly; and

(B) gradually moving toward a fully representative government, including the free and fair election of all members of all central representative bodies; and

(4) requests the American Institute in Taiwan to convey this Nation's continuing support for a democratic and prosperous Taiwan, as stated in the Taiwan Relations Act, and our encour-

agement for democracy to the leaders and the people of Taiwan.

## PART F—MISCELLANEOUS

### SEC. 1251. REPORT ON ILLEGAL TECHNOLOGY TRANSFERS.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate committees of the Congress a report concerning:

(1) The status of the Japanese Government investigation of the transfer of milling machines to the Soviet Union by Toshiba Machine Company, including any prosecution, fine, or other government action.

(2) The status of the Norwegian Government investigation of the transfer of numerical controllers by Kongsberg Vappenfabrik (KV) to the Soviet Union, including any prosecution, fine, or other government action.

(3) Actions undertaken by the Japanese and Norwegian Governments to ensure that such transfers or other breaches of security related to international espionage do not recur.

(4) Actions and plans of the United States Government to respond to such cases of international espionage.

(b) DISCUSSIONS.—The Secretary of State shall enter into discussions with Japan and Norway regarding compensation for damage to United States national security resulting from such cases of international espionage. The Secretary shall submit a preliminary report to the appropriate committees of the Congress concerning the status of such discussions 180 days after the date of enactment of this Act and shall submit a final report 360 days after the date of enactment of this Act. The Secretary may submit such other subsequent reports as may be appropriate.

### SEC. 1252. REPORT ON PROGRESS TOWARD A WORLD SUMMIT ON TERRORISM.

It is the sense of the Congress that the President should convene a summit meeting of Western world leaders to adopt a unified effective program against international terrorism.

### SEC. 1253. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passports.

(b) DISCUSSIONS.—The Congress urges the President to enter into discussions with other countries regarding the feasibility of a general agreement permitting the deletion of the place of birth as a required item of information on passports.

### SEC. 1254. SUPPORT OF MUTUAL DEFENSE ALLIANCES.

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

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends tens of billions of dollars annually to assist in the defense of allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and particularly Japan is not commensurate with their economic resources, and, as a result, the United States bears a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its gross national product on defense.

(5) United States allies, particularly West Germany and Japan, have derived tremendous economic benefit from the free trade system among the Western countries, accumulating in certain cases large payments surpluses, while protected through military alliances to which the United States has made an overwhelming commitment of resources.

(6) The greatest weakness in the ability of the United States to sustain the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(7) The Federal budget deficit must be reduced in order to revitalize the economy.

(8) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels could weaken the long-term vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) the President should enter into discussions with countries which participate in mutual defense alliances with the United States, especially the member nations of NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such discussions with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources;

(3) the President should report to the Congress, within one year after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

\* \* \* \* \*



**TITLE XIII—EFFECTIVE DATE**

**SEC. 1301. EFFECTIVE DATE.**

Except as otherwise provided in this Act, this Act shall take effect on the date of its enactment.

**r. Foreign Relations Authorization Act, Fiscal Years 1986 and 1987**

Partial text of Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; as amended by Public Law 99-151 [Legislative Branch Appropriations Act, 1986; H.R. 2942], 99 Stat. 792, approved November 13, 1985; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 4151], 100 Stat. 868, approved August 27, 1986; Public Law 100-202 [Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-392 [Legislative Branch Appropriations Act, 1993; H.R. 5427], 106 Stat. 1703, approved October 6, 1992; Public Law 102-549 [International Narcotics Control Act of 1992, H.R. 6187], 106 Stat. 4914, approved November 2, 1992; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-119 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998; H.R. 2267], 111 Stat. 2440, approved November 26, 1997; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998; Public Law 106-57 [Legislative Branch Appropriations Act, 2000; H.R. 1905], 113 Stat. 408, approved September 29, 1999; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1986 and 1987”.

(b) TABLE OF CONTENTS.—\* \* \*

## TITLE I—DEPARTMENT OF STATE

### SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) ADMINISTRATION OF FOREIGN AFFAIRS.—For “Administration of Foreign Affairs”, \$1,828,088,000 for the fiscal year 1986<sup>1</sup> and \$1,873,790,000 for the fiscal year 1987.<sup>2</sup>

(2) INTERNATIONAL ORGANIZATIONS AND CONFERENCES.—For “International Organizations and Conferences”, \$534,074,000 for the fiscal year 1986<sup>3</sup> and \$534,074,000 for the fiscal year 1987.<sup>4</sup>

<sup>1</sup>The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated funds for fiscal year 1986 for the “Administration of Foreign Affairs” itemized in the following manner: salaries and expenses—\$1,455,000,000; reopening consulates—\$1,700,000; representation allowances—\$4,700,000; protection of foreign missions and officials—\$9,500,000; acquisition and maintenance of buildings abroad—\$337,000,000; emergencies in the diplomatic and consular service—\$4,400,000; and payment to the American Institute in Taiwan—\$9,800,000; payment to the Foreign Service Retirement and Disability Fund—\$118,174,000.

The Urgent Supplemental Appropriations Act, 1987 (Public Law 99-349; 100 Stat. 716), also provided:

“ADMINISTRATION OF FOREIGN AFFAIRS

“SALARIES AND EXPENSES

“Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for ‘Salaries and expenses’, \$283,104,000, to remain available until expended: *Provided*, That \$222,104,000 of this amount shall become available for obligation on September 30, 1986.

“ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

“Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for ‘Acquisition and Maintenance of Buildings Abroad’, to be available subject to the approval of the House and Senate Committees on Appropriations under said Committees’ policies concerning the reprogramming of funds contained in Public Law 99-180, \$409,000,000, to remain available until expended: *Provided*, That such funds shall become available for obligation on September 30, 1986.

“COUNTERTERRORISM RESEARCH AND DEVELOPMENT

“Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses for ‘Counterterrorism Research and Development’, \$10,000,000 to remain available until September 30, 1987.”

<sup>2</sup>Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341), appropriated funds for fiscal year 1987 for the “Administration of Foreign Affairs” itemized in the following manner: salaries and expenses—\$1,527,000,000; representation allowances—\$4,460,000; protection of foreign missions and officials—\$9,100,000; acquisition and maintenance of buildings abroad—\$440,000,000; emergencies in the diplomatic and consular service—\$4,000,000; payment to the American Institute in Taiwan—\$9,379,000; and payment to the Foreign Service Retirement and Disability Fund—\$127,398,000.

<sup>3</sup>The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated funds for “International Organizations and Conferences” for fiscal year 1986 itemized in the following manner: contributions to international organizations—\$463,000,000; contributions for international peacekeeping activities—\$29,400,000; and international conferences and contingencies—\$6,000,000.

<sup>4</sup>Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341), appropriated funds for fiscal year 1987 for the “International Organizations and Conferences” itemized in the following manner: contributions to international organizations—\$385,000,000; contributions for international peacekeeping activities—\$29,400,000; and international conferences and contingencies—\$5,460,000. An additional \$31,689,000 for peacekeeping operations was provided by title II of the Foreign Assistance and Related Programs Appropriations Act of 1987 (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99-591; 100 Stat. 3341).

(3) INTERNATIONAL COMMISSIONS.—For “International Commissions”, \$28,704,000 for the fiscal year 1986<sup>5</sup> and \$25,824,000 for the fiscal year 1987.<sup>6</sup>

(4) MIGRATION AND REFUGEE ASSISTANCE.—For “Migration and Refugee Assistance”, \$344,730,000 for the fiscal year 1986<sup>7</sup> and \$344,730,000 for the fiscal year 1987.<sup>8</sup>

(5) BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For “United States Bilateral Science and Technology Agreements”, \$2,000,000 for the fiscal year 1986<sup>9</sup> and \$2,000,000 for the fiscal year 1987.<sup>10</sup>

(6) SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For “Soviet-East European Research and Training”, \$4,800,000 for the fiscal year 1986<sup>11</sup> and \$5,000,000 for the fiscal year 1987.<sup>12</sup>

#### SEC. 102. PERMANENT AUTHORIZATIONS OF APPROPRIATIONS.

##### (a) OTHER AUTHORIZATION OF APPROPRIATIONS.—

(1) Except for authorizations cited in paragraph (2), the only amounts authorized to be appropriated for any fiscal year for the accounts described in section 101 are those amounts specifically authorized to be appropriated for those accounts.

(2) The other authorizations of appropriations referred to in paragraph (1) are those contained in section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696), relating to increases in employee benefits authorized by law and to adverse fluctuations in foreign currency exchange rates and overseas wage and price changes, and in section 821 of the Foreign Service Act of 1980 (22 U.S.C. 4061), relating to the Foreign Service Retirement and Disability Fund.

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF CERTAIN REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations pursuant to the authorizations described in subsection (a)(2), the Secretary shall notify the Committee on Foreign Affairs<sup>13</sup> of

<sup>5</sup>The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated funds for “International Commissions” for fiscal year 1986 itemized in the following manner: International Boundary and Water Commission, United States and Mexico (salaries and expenses) \$11,300,000; (construction) \$2,257,000; American Sections, International Commissions \$3,755,000; and International Fisheries Commissions—\$11,300,000.

<sup>6</sup>Sec. 101(b), title III of the Continuing Appropriations Act, 1987 (Public Law, 99-591; 100 Stat. 3341), appropriated funds for fiscal year 1987 for “International Commissions” as follows: International Boundary and Water Commission, United States and Mexico (salaries and expenses) \$1,800,000; (construction) \$3,900,000; (American Sections, International Commissions) \$3,700,000; (International Fisheries Commissions) \$10,800,000.

<sup>7</sup>The Foreign Assistance Appropriations Act, 1986 (sec. 101(j) of the Continuing Appropriations Act, 1986; Public Law 99-190), appropriated \$338,930,000 for “Migration and Refugee Assistance” during fiscal year 1986.

<sup>8</sup>Title II of the Foreign Assistance and Related Programs Appropriations Act (sec. 101(f) of the Continuing Appropriations Act, 1987; Public Law 99-591; 100 Stat. 3341), appropriated \$346,856,000 for migration and refugee assistance for fiscal year 1987.

<sup>9</sup>The Department of State Appropriation Act, 1986 (Public Law 99-180) appropriated \$2,000,000 for United States Bilateral Science and Technology Agreements.

<sup>10</sup>Title III of sec. 101(b) of the Continuing Appropriations Act (Department of State Appropriations) provided \$1,700,000 for scientific and technological cooperation with Yugoslavia.

<sup>11</sup>The Department of State Appropriation Act, 1986 (Public Law 99-180), appropriated for fiscal year 1986, \$4,800,000 for Soviet-East European Research and Training.

<sup>12</sup>Title III of sec. 101(b) of the Continuing Appropriations Act (Department of the State Appropriations) provided \$4,600,000 for Soviet-East European research and training.

<sup>13</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

the House of Representatives and the Committee on Foreign Relations of the Senate of such request.

\* \* \* \* \*

**SEC. 104. SECURITY EARMARK.**

Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), not less than \$311,000,000 for the fiscal year 1986 shall be available only for security-related capital projects and improvements and the salaries and expenses associated with security-related personnel.

**SEC. 105. LIAISON BY THE NATIONAL COMMISSION ON EDUCATIONAL, SCIENTIFIC, AND CULTURAL COOPERATION.**

Of the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), \$250,000 for fiscal year 1986 and \$250,000 for the fiscal year 1987 shall be made available to the National Commission on Educational, Scientific, and Cultural Cooperation in order to enable the Commission to maintain a liaison between the United States Government, the United States educational, scientific, cultural, and communications communities, and the United Nations Educational, Scientific, and Cultural Organization (UNESCO).

**SEC. 106. AUSTRALIAN BICENTENNIAL.**

(a) FINDING.—The Congress finds that the American-Australian Bicentennial Foundation, a private, nonprofit corporation established in 1983 for the purpose of coordinating all United States official and private participation in the 1988 Australian Bicentennial celebration, deserves and needs financial support to effectively carry out that purpose.

(b) GRANT TO AMERICAN-AUSTRALIAN BICENTENNIAL FOUNDATION.—From the amounts authorized to be appropriated for "Administration of Foreign Affairs" by section 101(1), the Secretary of State may make a grant in each of the fiscal years 1986 and 1987 to the American-Australian Bicentennial Foundation in support of its programs and operations to prepare for United States participation in the Australian Bicentennial celebration.

(c) AUTHORITY OF USIA NOT AFFECTED.—Subsection (b) shall not be construed to affect the authority delegated to the Director of the United States Information Agency under section 102(a)(3) of the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(3)).

**SEC. 107. WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT.**

Of the amounts authorized to be appropriated for "International Organizations and Conferences" by section 101(2), \$750,000 for each of the fiscal years 1986 and 1987 shall be available only for a voluntary contribution to the World Commission on Environment and Development.

**SEC. 108. EARMARKING OF REFUGEE ASSISTANCE FUNDS.**

Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 101(4)—

(1) \$12,500,000 for the fiscal year 1986 and \$25,000,000 for the fiscal year 1987 shall be available only for assistance for refugees resettling in Israel;

(2) \$56,000,000 for the fiscal year 1986 and \$56,000,000 for the fiscal year 1987 shall be available only for assistance for African refugees; and

(3) \$2,500,000 for the fiscal year 1986 and \$1,750,000 for the fiscal year 1987 shall be available to combat piracy in the Gulf of Thailand, for assistance to pirate victims, to promote the rescue of refugees in distress at sea in Southeast Asia, and to strengthen protection measures for Indochinese boat refugees.

**SEC. 109. INTERNATIONAL COMMITTEE OF THE RED CROSS.**

(a) FINDINGS.—The Congress finds that—

(1) the International Committee of the Red Cross carries out humanitarian missions vital to the United States, including—

(A) the promulgation and implementation of international humanitarian law;

(B) the protection of prisoners of war and of noncombatants in time of conflict;

(C) the protection of political prisoners;

(D) assistance in tracing persons who have disappeared in conflicts or for political reasons;

(E) the provision of medicine, food, and essential assistance to refugees and other victims of man-made disasters; and

(F) assistance in family reunification;

(2) the scope and number of activities carried out by the International Committee of the Red Cross have, as a result of recent global developments, necessarily increased; and

(3) there is an urgent need for increased support from the international community for the regular budget and special appeals of the International Committee of the Red Cross.

(b) UNITED STATES POLICY.—It is the policy of the United States—

(1) to contribute to the International Committee of the Red Cross, in any financial year, an amount not less than 20 percent of the regular budget of the International Committee of the Red Cross; and

(2) to support generously the special appeals made by the International Committee of the Red Cross.

(c) EARMARKING.—Of the amounts authorized to be appropriated for “Migration and Refugee Assistance” by section 101(4), not less than \$4,500,000 for each of the fiscal years 1986 and 1987 shall be available only for contribution to the regular budget of the International Committee of the Red Cross.

(d) <sup>14</sup> \* \* \*

**SEC. 110. LIMITATIONS ON USE OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.**

Of the amounts authorized to be appropriated for “Migration and Refugee Assistance” by section 101(4), not more than \$2,000,000 for the fiscal year 1986 and not more than \$2,000,000 for the fiscal

<sup>14</sup> Subsec. (d) repealed sec. 105 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 99-105; 91 Stat. 844).

year 1987 may be used for enhanced reception and placement services.

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**SEC. 115.<sup>15</sup> ASSISTANT SECRETARIES OF STATE. \* \* \***

\* \* \* \* \*

**SEC. 120.<sup>16</sup> PILOT PROJECT FOR FOREIGN SERVICE ASSOCIATES.**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the national interest of the United States would be well served by making more productive use in United States missions abroad of the resources that spouses of American personnel assigned to missions abroad are qualified to provide.

(b) PILOT PROJECT.—(1) The Secretary of State is authorized to design, conduct, and evaluate a pilot project to test appropriate means of increasing employment of qualified spouses of American personnel assigned to United States missions. The intent of the pilot project shall be to construct a feasible program within which spouses' education, training, and relevant work experience can be used effectively within the mission and in the furthering of United States interests in the host country.

(2) The Secretary shall conduct the pilot project described in paragraph (1) in accordance with section 311(b) of the Foreign Service Act of 1980 (22 U.S.C. 3951(b)).

(c) COMMENCEMENT OF DESIGN PHASE.—The Secretary shall undertake the design phase of the pilot project upon the enactment of this Act.

**SEC. 121. FEASIBILITY STUDY OF A LATERAL ENTRY PROGRAM INTO THE FOREIGN SERVICE FOR BUSINESSMEN AND FARMERS.**

(a) STUDY.—The Secretary of State shall conduct a comprehensive study on the feasibility and desirability of creating a program of lateral entry into the Foreign Service for American businessmen, farmers, and other occupations. This study shall analyze the need for such a program by determining whether or not the personnel of the Foreign Service is composed of many people with a diversity of backgrounds such as business, farming, or other endeavors. The study shall also analyze the costs of putting such a program into effect.

(b) REPORT.—The Secretary of State shall report the results of such a study to the Congress no later than 180 days after the date of the enactment of this Act.

\* \* \* \* \*

<sup>15</sup> Amendments made by sec. 115, including raising the number of Assistant Secretaries of State from 13 to 14, are superseded by amendments made to sec. 1 of the State Department Basic Authorities Act of 1956.

<sup>16</sup> Sec. 139(12) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (d) of this section, which had required the Secretary to report to Congress on the design, implementation, and evaluation of the project.

**SEC. 123.<sup>17</sup> FOREIGN SERVICE INSTITUTE FACILITIES.**

(a)<sup>18</sup> PURPOSE.—The purpose of this section is to promote comprehensive training to meet the foreign relations and national security objectives of the United States and to provide facilities designed for the purpose to assure cost efficient training.

(b) CONSTRUCTION OF TRAINING FACILITIES.—The Administrator of General Services may construct a consolidated training facility for the Foreign Service Institute<sup>17</sup> on a site made available by the Secretary of State or acquired by the Administrator of General Services. Such site shall be located outside the District of Columbia but within reasonable proximity to the Department of State. The Administrator of General Services may carry out this subsection only to the extent that funds are provided in advance in appropriation Acts to the Department of State and are transferred to the Administrator of General Services for carrying out this section.

(c)<sup>19</sup> USE OF FUNDS.—(1)(A) Of amounts authorized to be appropriated to the Department of State for fiscal years 1986 and 1987 for “Administration of Foreign Affairs” by section 101(1), a total of not to exceed \$11,000,000 may be transferred by the Secretary of State to the Administrator of General Services for carrying out feasibility studies, site acquisition, and design, architectural, and engineering planning under subsection (b) of this section.

(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer a total not to exceed \$11,000,000 for ‘Administration of Foreign Affairs’ to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning under subsection (b).

(2) Of amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, for “Administration of Foreign Affairs”, a total not to exceed \$70,000,000<sup>20</sup> may be transferred by the Secretary of State to the Administrator of General Services for carrying out construction under subsection (b) of this section.

(3) Funds may not be obligated for construction of a facility under this section before the end of the period of 30 days of continuous session of Congress beginning on the date on which plans and estimates developed to carry out this section are submitted to the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives<sup>21</sup> and the Committees on Foreign Relations and Environment and Public Works of the Sen-

<sup>17</sup>The Foreign Service Institute is now part of the George P. Shultz National Foreign Affairs Training Center, as designated by sec. 1(b) of Public Law 107-132 (115 Stat. 2412). Previously, the Foreign Service Institute was designated as the the Institution for Training, pursuant to sec. 126 of Public Law 103-236, amending chapter 7 of the Foreign Service Act of 1980.

<sup>18</sup>22 U.S.C. 4021 note.

<sup>19</sup>Para. (1) of subsec. (c) was redesignated subpara. (A) and new subpara. (B) was added by sec. 135 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331).

<sup>20</sup>Sec. 124 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 659), struck out “\$50,000,000” and inserted in lieu thereof “\$70,000,000”.

<sup>21</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(9) of that Act provided that references to the Committee on Public Works and Transportation shall be treated as referring to the Committee on Transportation and Infrastructure.



ate. In determining days of continuous session of Congress for purposes of this paragraph—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the determination.

If both Houses of Congress are not in session on the day any plans and estimates are submitted to such committees, such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If all such committees do not receive a submittal on the same day, such period shall not begin until the date on which all such committees have received it.

(d) JURISDICTION AND CUSTODY.—The facility constructed under this section and the site of such facility shall be under jurisdiction and in the custody of the Administrator of General Services.

(e)<sup>22</sup> OPERATION, MAINTENANCE, SECURITY, ALTERATION, AND REPAIR.—(1) The Administrator of General Services shall delegate, in accordance with section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486) and section 15 of the Public Buildings Act of 1959 (40 U.S.C. 614), to the Secretary of State responsibility for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section, provided the facility is used by the Secretary for the purposes authorized by this section.

(f) EXEMPTION FROM PAYMENT OF CHARGES.—(1) Except as provided in paragraph (2), the Department of State shall be exempt from the charges required by section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)) for the use of the facility constructed under this section for the Foreign Service Institute.<sup>17</sup>

(2) The Administrator of General Services shall charge the Department of State under such section 210(j) for the costs of any operation, maintenance, repairs, or alterations of such facility carried out by the Administrator of General Services.

\* \* \* \* \*

#### SEC. 130.<sup>23</sup> OFFICIAL RESIDENCE OF SECRETARY OF STATE.

(a) CONGRESSIONAL REVIEW.—It is the sense of the Congress that the United States should not accept a gift of any house or other place of residence for the purpose of providing an official residence for the Secretary of State unless the Congress has had an opportunity to review the proposed gift.

(b) STUDY AND REPORT.—The Secretary of State shall conduct a study of any offer of a gift for the purpose of providing a place of official residence for the Secretary of State. Such study shall include an examination of the costs to the United States associated with accepting such gift, including the costs of acquisition, maintenance, security, and daily operation of a residence. The Secretary

<sup>22</sup> Sec. 2219(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-817), struck out para. (2) of subsec. (e). That paragraph had required the Secretary of State and the Administrator of General Services to report on the delegation of responsibility for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section.

<sup>23</sup> 22 U.S.C. 2697 note.

shall report the results of any study conducted under this section to the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives<sup>21</sup> and to the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate.

**SEC. 131. STRENGTHENING THE PERSONNEL SYSTEM OF THE BUREAU OF INTERNATIONAL NARCOTICS MATTERS.**

No later than 90 days after the date of the enactment of this Act, the Secretary of State shall report to the Congress on the status of proposals implemented or under consideration to improve the staffing and personnel management in the Bureau of International Narcotics Matters. This report shall explicitly discuss whether a narcotics specialist personnel category in the Foreign Service is an appropriate mechanism to serve these purposes and, if not, what alternatives are contemplated.

**SEC. 132.<sup>24</sup> SHARING OF INFORMATION CONCERNING DRUG TRAFFICKERS.**

(a) **REPORTING SYSTEMS.**—In order to ensure that foreign narcotics traffickers are denied visas to enter the United States, as required by section 212(a)(23) of the Immigration and Naturalization Act (22 U.S.C. 1182(a)(23))—

(1) the Department of State shall cooperate with United States law enforcement agencies, including the Drug Enforcement Administration and the United States Customs Service, in establishing a comprehensive information system on all drug arrests of foreign nationals in the United States, so that that information may be communicated to the appropriate United States embassies; and

(2) the National Drug Enforcement Policy Board shall agree on uniform guidelines which would permit the sharing of information on foreign drug traffickers.

(b) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Chairman of the National Drug Enforcement Policy Board shall submit a report to the Committee on Foreign Affairs<sup>25</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to implement this section.

**SEC. 133.<sup>26</sup> EXTRADITION TREATIES.**

The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country, particularly those in Latin America.

<sup>24</sup> 8 U.S.C. 1182 note.

<sup>25</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>26</sup> 18 U.S.C. 3181 note.

**SEC. 134.**<sup>27</sup> \* \* \* [Repealed—1991]

**SEC. 135. COMMENDATION OF AMBASSADOR TO MEXICO.**

The Congress commends our fine Ambassador to Mexico, John Gavin, for insuring a full and complete investigation and prosecution of the murders of Enrique Camerena and for his continuing advocacy of a strong drug enforcement program.

**SEC. 136.**<sup>28</sup> **SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.**

(a) **LIMITATION.**—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b) **REPORT.**—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

**SEC. 137. RESPONSIBILITY OF UNITED STATES MISSIONS ABROAD TO PROVIDE SUPPORT FOR UNITED STATES BUSINESSES.**

(a) **FINDINGS.**— The Congress finds that—

(1) the United States is faced with increasingly larger trade deficits every year;

(2) section 104 of the Foreign Service Act of 1980 provides that the members of the Foreign Service shall represent the interests of the United States in relation to foreign countries;

(3) section 207(c) of the Foreign Service Act of 1980 provides that each chief of mission to a foreign country shall have as a

<sup>27</sup> Repealed by sec. 191 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 683), sec. 134 recommended that the Secretary of State issue a travel advisory warning U.S. citizens of the current dangers of traveling in the State of Jalisco, Mexico, site of the 1985 murders of two U.S. Drug Enforcement Administration employees and other assaults against U.S. citizens.

<sup>28</sup> 22 U.S.C. 3943 note. In a memorandum to the Secretary of State on October 24, 1991, the President determined “that implementation of section 136(a) of the [Foreign Relations Authorization] Act [1, Fiscal Years 1986 and 1987] poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.” (Presidential Determination 92-4 of October 24, 1991; 56 F.R. 56567, November 6, 1991).

The Secretary of State, in Department of State Public Notice 1531 of December 2, 1991 (Delegation of Authority No. 191; 56 F.R. 64830), delegated to the Deputy Secretary of State the reporting function requested in sec. 136(b).

Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

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

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2005*, vol. I-B.

principal duty the promotion of United States goods for export to that country; and

(4) the promotion of United States business interests abroad is a fundamental aspect of United States relations with foreign countries.

(b) **POLICY.**—It is the sense of the Congress that it is imperative, and in the national interest of the United States, that each United States mission to a foreign country provide such support as may be necessary to United States citizens seeking to do business in that country.

**SEC. 138.<sup>29</sup> RESPONSIBILITY OF UNITED STATES MISSIONS TO PROMOTE FREEDOM OF THE PRESS ABROAD.**

(a) **RESPONSIBILITY.**—The United States chief of mission to a foreign country in which there is not respect for freedom of the press shall actively promote respect for freedom of the press in that country.

(b) **DEFINITION.**—As used in this section, the term “respect for freedom of the press” means that a government—

(1) allows foreign news correspondents into the country and does not subject them to harassment or restrictions;

(2) allows nongovernment-owned press to operate in the country; and

(3) does not subject the press in the country to systematic censorship.

**SEC. 139.<sup>30</sup> EMERGENCY TELEPHONE SERVICE AT U.S. CONSULAR OFFICES.**

It is the sense of the Congress that the Secretary of State should ensure that all United States consular offices are equipped with 24-hour emergency telephone service through which United States citizens can contact a member of the staff of any such office. The Secretary should publicize the telephone number of each such service for the information of United States citizens. Not more than 90 days after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on steps taken in accordance with this section.

**SEC. 140. RESPONSIBILITIES OF UNITED STATES REPRESENTATIVES TO INTERNATIONAL ORGANIZATIONS.**

(a) **FINDINGS.**—The Congress finds that—

(1) international organizations of which the United States is a member are increasingly involved in the consideration of proposals that may have a significant impact on the interstate or foreign commerce of the United States; and

(2) these proposals are not always adequately publicized or considered pursuant to open and fair procedures available to interested persons.

(b) **POLICY.**—It is the sense of the Congress that—

(1) the United States representatives to United Nations-related agencies and to other international organizations should oppose the adoption of international marketing and distribution regulations or restrictions which unnecessarily impede the export of United States goods and services; and

<sup>29</sup> 22 U.S.C. 2656 note.

<sup>30</sup> 22 U.S.C. 2656 note.

(2) the Secretary of State, to the extent practicable, should publish procedures to provide interested persons with timely notice and an opportunity to comment on such regulations and restrictions under consideration in international organizations as the Secretary determines may significantly affect—

- (A) the interstate or foreign commerce of the United States;
- (B) the policies or programs of the United States Government; or
- (C) any State significantly affected by interstate or foreign commerce.

\* \* \* \* \*

**SEC. 143.**<sup>31</sup> \* \* \* [Repealed—1991]

\* \* \* \* \*

**SEC. 145. INTERNATIONAL JUTE ORGANIZATION.**

The President is authorized to maintain membership of the United States in the International Jute Organization.

**SEC. 146.**<sup>32</sup> **INTELSAT.**

(a) **POLICY.**—The Congress declares that it is the policy of the United States—

(1) as a party to the International Telecommunications Satellite Organization (hereafter in this section referred to as “Intelsat”), to foster and support the global commercial communications satellite system owned and operated by Intelsat;

(2) to make available to consumers a variety of communications satellite services utilizing the space segment facilities of Intelsat and any additional such facilities which are found to be in the national interest and which—

(A) are technically compatible with the use of the radio frequency spectrum and orbital space by the existing or planned Intelsat space segment, and

(B) avoid significant economic harm to the global system of Intelsat; and

(3) to authorize use and operation of any additional space segment facilities only if the obligations of the United States under article XIV(d) of the Intelsat Agreement<sup>33</sup> have been met.

(b) **PRECONDITIONS FOR INTELSAT CONSULTATION.**—Before consulting with Intelsat for purposes of coordination of any separate international telecommunications satellite system under article XIV(d) of the Intelsat Agreement, the Secretary of State shall—

(1) in coordination with the Secretary of Commerce, ensure that any proposed separate international satellite telecommunications system comply with the Executive Branch con-

<sup>31</sup> Formerly at 22 U.S.C. 287e note. Sec. 143, relating to reform in budget decision-making procedures of the United Nations and its specialized agencies, was repealed by sec. 162(e) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676).

<sup>32</sup> 47 U.S.C. 701 note.

<sup>33</sup> 23 UST 3813.

ditions established pursuant to the Presidential Determination No. 85-2;<sup>34</sup> and

(2) ensure that one or more foreign authorities have authorized the use of such system consistent with such conditions.

(c) AMENDMENT OF INTELSAT AGREEMENT.—(1) The Secretary of State shall consult with the United States signatory to Intelsat and the Secretary of Commerce regarding the appropriate scope and character of a modification to article V(d) of the Intelsat Agreement which would permit Intelsat to establish cost-based rates for individual traffic routes, as exceptional circumstances warrant, paying particular attention to the need for avoiding significant economic harm to the global system of Intelsat as well as United States national and foreign policy interests.

(2)(A) To ensure that rates established by Intelsat for such routes are cost-based, the Secretary of State, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall instruct the United States signatory to Intelsat to ensure that sufficient documentation, including documentation regarding revenues and costs, is provided by Intelsat so as to verify that such rates are in fact cost-based.

(B) To the maximum extent possible, such documentation will be made available to interested parties on a timely basis.

(3) Pursuant to the consultation under paragraph (1) and taking the steps prescribed in paragraph (2) to provide documentation, the United States shall support an appropriate modification to article V(d) of the Intelsat Agreement<sup>35</sup> to accomplish the purpose described in paragraph (1).

(d) CONGRESSIONAL CONSULTATION.—In the event that, after United States consultation with Intelsat for the purposes of coordination under article XIV(d) of the Intelsat Agreement for the establishment of a separate international telecommunications satellite system, the Assembly of Parties of Intelsat fails to recommend such a separate system, and the President determines to pursue the establishment of a separate system notwithstanding the Assembly's failure to approve such system, the Secretary of State, after consultation with the Secretary of Commerce, shall submit to the Congress a detailed report which shall set forth—

(1) the foreign policy reasons for the President's determination, and

(2) a plan for minimizing any negative effects of the President's action on Intelsat and on United States foreign policy interests.

(e) NOTIFICATION TO FEDERAL COMMUNICATIONS COMMISSION.—In the event the Secretary of State submits a report under subsection (d), the Secretary, 60 calendar days after the receipt by the Congress of such report, shall notify the Federal Communications Commission as to whether the United States obligations under article XIV(d) of the Intelsat Agreement have been met.

(f) IMPLEMENTATION.—In implementing the provisions of this section, the Secretary of State shall act in accordance with Executive order 12046.<sup>36</sup>

<sup>34</sup> 3 C.F.R. 1984 Comp., p. 254.

<sup>35</sup> 23 UST 3813.

<sup>36</sup> 3 C.F.R. 1978 Comp., p. 158.

(g) DEFINITION.—For the purposes of this section, the term “separate international telecommunications satellite system” or “separate system” means a system of one or more telecommunications satellites separate from the Intelsat space segment which is established to provide international telecommunications services between points within the United States and points outside the United States, except that such term shall not include any satellite or system of satellites established—

(1) primarily for domestic telecommunications purposes and which incidentally provides services on an ancillary basis to points outside the jurisdiction of the United States but within the western hemisphere, or

(2) solely for unique governmental purposes.

**SEC. 147.**<sup>37</sup> \* \* \* [Repealed—1993]

**SEC. 148.**<sup>38</sup> \* \* \* [Repealed—1993]

**SEC. 149. INTER-AMERICAN COOPERATION IN SPACE, SCIENCE, AND TECHNOLOGY.**

The Secretary of State shall conduct an in-depth study of the feasibility and the economic and political benefits of the establishment of a major initiative in Inter-American Cooperation in Space, Science, and Technology. Not more than one year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include recommendations for implementing such an initiative.

**SEC. 150. DEPARTMENT OF STATE INSPECTOR GENERAL.**

(a)<sup>39</sup> \* \* \*

(b)<sup>40</sup> ABOLISHMENT OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF STATE AND THE FOREIGN SERVICE.—Notwithstanding section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929), the Inspector General of the Department of State and the Foreign Service is hereby abolished.

(c) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress on the steps the Secretary has undertaken to implement the provisions of the amendment made by subsection (a).

**SEC. 151.**<sup>41</sup> **EMPLOYEES OF THE UNITED NATIONS.**

(a) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on whether, and the extent to which, international civil servants employed by the United Nations, including those seconded to the United Nations, are required to return all or part of their salaries to their respective governments. The Secretary shall also include in this report a description of the steps taken by the Depart-

<sup>37</sup>Sec. 802 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2329) repealed sec. 147, relating to Soviet and Communist disinformation and press manipulation.

<sup>38</sup>Sec. 904 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) repealed sec. 148, expressing the sense of the Congress regarding the murder of Major Arthur D. Nicholson, Jr.

<sup>39</sup>Subsec. (a) established a Department of State Inspector General under the Inspector General Act of 1978.

<sup>40</sup>Subsec. (b) was substantially amended and restated by sec. 413(c) of the Omnibus Diplomatic and Antiterrorism Act of 1986 (Public Law 99-399; 100 Stat. 868).

<sup>41</sup>22 U.S.C. 287e.

ment of State and by the United States Representative to the United Nations to correct this practice.

(b) REPORT ON STEPS TO CORRECT PRACTICE.—The Secretary of State shall determine and report to the Congress on whether substantial progress has been made by June 1, 1986, in correcting the practice of international civil servants employed by the United Nations being required to return all or part of their salaries to their respective governments.

(c) REDUCTION IN CONTRIBUTION IF SUBSTANTIAL PROGRESS NOT MADE.—If the Secretary of State determines pursuant to subsection (b) that substantial progress has not been made in correcting this practice, the United States shall thereafter reduce the amount of its annual assessed contribution to the United Nations by the amount of that contribution which is the United States proportionate share of the salaries of those international civil servants employed by the United Nations who are returning any portion of their salaries to their respective governments.

(d) NATIONAL TAXATION.—This section does not apply with respect to payments made for purposes of national taxation in accordance with formal treaty reservations concerning such taxation by a member state of the United Nations.

**SEC. 152.<sup>42</sup> REPRESENTATION OF MINORITIES AND WOMEN IN THE FOREIGN SERVICE.**

(a) DEVELOPMENT OF PROGRAM.—The head of each agency utilizing the Foreign Service personnel system shall develop, consistent with section 7201 of title 5 of the United States Code, a plan designed to increase significantly the number of members of minority groups and women in the Foreign Service in that agency.

(b) EMPHASIS ON MID-LEVELS.—Each plan developed pursuant to this section shall, consistent with section 7201 of title 5 of the United States Code, place particular emphasis on achieving significant increases in the numbers of minority group members and women who are in the mid-levels of the Foreign Service.

(c)<sup>43</sup> \* \* \* [Repealed—1987]

\* \* \* \* \*

**SEC. 154.<sup>44</sup> \* \* \* [Repealed—1991]**

**SEC. 155.<sup>45</sup> \* \* \* [Repealed—1993]**

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATION AGENCY<sup>46</sup>**

\* \* \* \* \*

<sup>42</sup>22 U.S.C. 3922a. See also sec. 178 of the Foreign Relations Authorization Act, Fiscal Years 1995 and 1996 (Public Law 103-236; 108 Stat. 414); and sec. 2318 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-829).

<sup>43</sup>Subsec. (c) was repealed by sec. 185(c)(3) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331). It required the head of each agency utilizing Foreign Service personnel to report annually to the Congress on the plan developed pursuant to sec. 152.

<sup>44</sup>Sec. 154, relating to damages resulting from delays in the construction of the U.S. Embassy in Moscow, was repealed by sec. 132(h)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 665).

<sup>45</sup>Sec. 804 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2329) repealed sec. 155, relating to Soviet and international Communist behavior.

<sup>46</sup>For freestanding provisions of this title, see page 1519.



**TITLE III—BOARD FOR INTERNATIONAL  
BROADCASTING**<sup>47</sup>

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**TITLE IV—THE ASIA FOUNDATION**<sup>48</sup>

\*            \*            \*            \*            \*            \*            \*

**TITLE V—IRAN CLAIMS SETTLEMENT**<sup>49</sup>

\*            \*            \*            \*            \*            \*            \*

**TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM  
FOR DEVELOPING COUNTRIES**<sup>50</sup>

\*            \*            \*            \*            \*            \*            \*

**TITLE VII—ARMS CONTROL AND DISARMAMENT**<sup>51</sup>

\*            \*            \*            \*            \*            \*            \*

**TITLE VIII—MISCELLANEOUS PROVISIONS**<sup>52</sup>

\*            \*            \*            \*            \*            \*            \*

**SEC. 802. UNITED STATES INSTITUTE OF PEACE.**

It is the sense of the Congress that, pursuant to title XVII of the Department of Defense Authorization Act,<sup>53</sup> 1985 (22 U.S.C. 4601 et seq.), nominations to the Board of Directors for the United States Institute of Peace should be submitted to the Senate on a timely basis to permit implementation of the congressional mandate.

**SEC. 803.**<sup>52</sup> **EX GRATIA PAYMENT TO THE GOVERNMENT OF SWITZERLAND.**

Section 39 of the Trading With the Enemy Act (62 Stat. 1246, 50 U.S.C. App. 39) is amended by adding at the end thereof the following new subsection:

“(f) Notwithstanding any of the provisions of subsections (a) through (d) of this section, the Attorney General is authorized to pay from property vested in or transferred to the Attorney General under this Act, the sum of \$20,000 as an ex gratia payment to the Government of Switzerland in accordance with the terms of the agreement entered into by that Government and the Government of the United States on March 12, 1980.”

<sup>47</sup>Title III contained amendments to the Board for International Broadcasting Act of 1973. For freestanding provisions of this title, see page 1729.

<sup>48</sup>Title IV amended sec. 404 of the Asia Foundation Act.

<sup>49</sup>For freestanding provisions of this title, see *Legislation on Foreign Relations Through 2005*, vol. IV, sec. N.

<sup>50</sup>For text of this title, see page 1608.

<sup>51</sup>Title VII contained amendments to the Arms Control and Disarmament Act. For freestanding provisions of this title, see vol. II-B.

<sup>52</sup>Title VIII amended the National Emergencies Act, the Trading With the Enemy Act, and the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act. Freestanding provisions are presented below, together with sec. 803, which amended sec. 39 of the Trading With the Enemy Act. Sec. 39 of the amended Act does not appear elsewhere in this volume.

<sup>53</sup>98 Stat. 2649.

**SEC. 804.<sup>54</sup> POLICY TOWARD APPLICATION OF THE YALTA AGREEMENT.**

(a) FINDINGS.—The Congress finds that—

(1) during World War II, representatives of the United States, Britain, and the Soviet Union took part in agreements and understandings concerning other peoples and nations in Europe;

(2) the Soviet Union has not adhered to its obligation undertaken in the 1945 Yalta agreement to guarantee free elections in the countries involved, specifically the pledge for the “earliest possible establishment of free elections of government responsive to the wills of the people and to facilitate where necessary the holding of such elections”;

(3) the strong desire of the people of Central and Eastern Europe to exercise their national sovereignty and self-determination and to resist Soviet domination has been demonstrated on many occasions since 1945, including armed resistance to the forcible Soviet takeover of the Baltic Republics and resistance in the Ukraine as well as in the German Democratic Republic in 1953, in Hungary in 1956, in Czechoslovakia in 1968, and in Poland in 1956, 1970, and since 1980;

(4) it is appropriate that the United States express the hopes of the people of the United States that the people of Central and Eastern Europe be permitted to exercise their national sovereignty and self-determination free from Soviet interference; and

(5) it is appropriate for the United States to reject any interpretation or application that, as a result of the signing of the 1945 Yalta executive agreements, the United States accepts and recognizes in any way Soviet hegemony over the countries of Eastern Europe.

(b) POLICY.—(1) The United States does not recognize as legitimate any spheres of influence in Europe and it reaffirms its refusal to recognize such spheres in the present or in the future, by repudiating any attempts to legitimize the domination of East European nations by the Soviet Union through the Yalta executive agreement.

(2) The United States proclaims the hope that the people of Eastern Europe shall again enjoy the right to self-determination within a framework that will sustain peace, that they shall again have the right to choose a form of government under which they shall live, and that the sovereign rights of self-determination shall be restored to them in accordance with the pledge of the Atlantic Charter and with provisions of the United Nations Charter<sup>55</sup> and the

<sup>54</sup>Sec. 103(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

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

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

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

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2005*, vol. I-B.

<sup>55</sup>55 Stat. 1600.

Helsinki Final Act of the Conference on Security and Cooperation in Europe;<sup>56</sup>

**SEC. 805.**<sup>57</sup> \* \* \* [Repealed—1993]

**SEC. 806. DEMOCRACY ON TAIWAN.**

(a) FINDINGS.—The Congress finds that—

(1) peace has prevailed in the Taiwan Strait since the normalization of relations between the United States and the People's Republic of China;

(2) the United States expects the future of Taiwan to be settled peacefully and considers a secure Taiwan free from external threat an indispensable element for the island's further democratization and a goal set forth in the Taiwan Relations Act;

(3) the authorities on Taiwan are striving to achieve greater democracy at the local level;

(4) an increasing number of native Taiwanese have been appointed to responsible positions at the provincial and national level on Taiwan;

(5) martial law measures tend to impede progress toward democracy and to abridge guarantees of human rights;

(6) movement toward greater democracy on Taiwan serves to bolster continued American public support for the moral and legal responsibilities set forth in the Taiwan Relations Act;<sup>58</sup>

(7) the United States, in the Taiwan Relations Act, has reaffirmed as a national objective the preservation and enhancement of the human rights of all the people on Taiwan; and

(8) the United States considers democracy a fundamental human right.

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

(1) one important element of a peaceful future for Taiwan is greater participation in the political process by all the people on Taiwan; and

(2) accordingly, the United States should encourage the authorities on Taiwan, in the spirit of the Taiwan Relations Act, to work vigorously toward this end.

**SEC. 807. INCREASE UNITED STATES-CHINA TRADE.**

(a) FINDINGS.—The Congress finds that—

(1) the People's Republic of China has made substantial progress in promoting market-oriented practices throughout the Chinese economy;

(2) the Chinese economy has responded to this increased liberalization with record growth that last year alone resulted in increases in the real gross national product of an estimated 13 percent;

(3) this growth has created significant new demand for a vast array of products and services that can be met by American producers;

<sup>56</sup> 59 Stat. 1031.

<sup>57</sup> Sec. 903(c) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2330) repealed sec. 805, relating to treatment in the Soviet Union of pentecostals.

<sup>58</sup> 22 U.S.C. 3301 note.

(4) United States trade with the People's Republic of China totalled only \$6,000,000,000 in 1984 and was again in deficit by more than \$50,000,000;

(5) increased exports are essential to the creation of American jobs and to the vitality of the American economy; and

(6) the People's Republic of China represents the world's largest potential market.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, consistent with overall American foreign policy and national security objectives, the Secretary of State and the Secretary of Commerce should take appropriate steps to increase United States-China trade with a view to improving the trade balance, increasing American jobs through export growth, and assuring significant United States participation in the growing Chinese market.

\* \* \* \* \*

#### SEC. 809. REFUGEES IN THAILAND.

(a) APPRECIATION FOR THE RESPONSE OF THE GOVERNMENT OF THAILAND.—The Congress recognizes and expresses appreciation for the extraordinary willingness of the Government of Thailand to respond in a humanitarian way to the influx of refugees fleeing Vietnamese communist oppression.

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

(1) Cambodians, Laotians, and Vietnamese seeking asylum and refuge in Thailand should not be involuntarily repatriated or otherwise put at risk; and

(2) every effort should be made to provide increased security for refugees in camps in Thailand which should include an increased presence by international humanitarian organizations.

(c) REVIEW OF CERTAIN CAMBODIAN REFUGEES.—

(1) The Secretary of State should—

(A) work with the Government of Thailand and the United Nations High Commissioner for Refugees to conduct a review of the status of Cambodians who have not been permitted to register at refugee camps in Thailand; and

(B) implement a humanitarian solution to their plight.

(2) The Secretary of State, with the assistance of appropriate agencies, should conduct a review of those Cambodians who have been rejected for admission to the United States to ensure such decisions are consistent with the letter and spirit of United States refugee and immigration law.

(3) The Secretary of State, with the assistance of appropriate agencies, should institute as expeditiously as possible a family reunification program for those refugees in Thailand, including those at the border who have family members in the United States.

(4) The Secretary of State should provide for a program of educational assistance for Cambodians in the border camps and for improved literacy training in all camps.

#### SEC. 810. POLICY REGARDING FOREIGN EXCHANGE INTERVENTION.

(a) FINDINGS.—The Congress finds and declares that—

(1) the trade deficit looms larger than any other threat to the ability of the United States to generate jobs and create economic well-being;

(2) the trade deficit continues to deteriorate even from the 1984 level of \$123,000,000,000;

(3) the trade deficit will continue to deteriorate until the value of the dollar declines on foreign exchange markets;

(4) the dollar's rise may slow down but is unlikely to fall sufficiently as a result of Congress' contemplated budget deficit reduction measures;

(5) the value of the dollar would probably fall under a number of tax reform proposals but industries losing market share due to the exchange rate may not be able to wait for a complete tax package;

(6) the only remaining timely option for lowering the value of the dollar is intervention in foreign exchange markets by the Secretary of the Treasury or the Federal Reserve Board;

(7) any such intervention must be strong enough to achieve the intent of the Congress of lowering the dollar's value but sufficiently moderate to prevent a sudden drop in its value;

(8) any such intervention in order to assure a gradual decline and protect against too large a drop in the value of the dollar, will require coordinated action by the central banks of Europe and Japan as well as the United States; and

(9) such coordination is especially important to strengthen economic and political ties with the allies of the United States and to promote consistent macroeconomic policies to the mutual benefit of all.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress that—

(1) the Secretary of the Treasury and the Chairman of the Federal Reserve Board, in concert with United States allies and coordinated with the central banks of the Group of Five or other major central banks, should take such steps as are necessary to lower gradually the value of the dollar;

(2) such steps should not exclude intervention in the foreign exchange markets;

(3) the Secretary of the Treasury and the Chairman of the Federal Reserve Board should work to ensure that the domestic macroeconomic policies of the United States and its allies are forged to reinforce rather than oppose one another.

**SEC. 811. COMMENDING MAYOR TEDDY KOLLEK OF JERUSALEM.**

(a) FINDINGS.—The Congress finds that—

(1) Mayor Teddy Kollek has worked to promote harmony among all the people of Jerusalem; and

(2) he has promoted freedom of access to religious shrines for Muslims, Christians, and Jews; and

(3) through his efforts the aesthetic character of the city has been enhanced.

(b) COMMENDATION.—Therefore, the Congress commends Mayor Kollek for his efforts over the years.

**SEC. 812.<sup>59</sup> JAPAN-UNITED STATES SECURITY RELATIONSHIP AND EFFORTS BY JAPAN TO FULFILL SELF-DEFENSE RESPONSIBILITIES.**

(a) FINDINGS.—The Congress hereby finds—

(1) the Japan-United States security relationship is the foundation of the peace and security of Japan and the Far East, as well as a major contributor to the protection of the United States and of the democratic freedoms and economic prosperity enjoyed by both the United States and Japan;

(2) the threats to our two democracies have increased significantly since 1976, principally through the Soviet invasion of Afghanistan, the expansion of Soviet armed forces in the Far East, the invasion of Cambodia by Vietnam, and the instability in the Persian Gulf region as signified by the continuing Iran-Iraq conflict;

(3) in recognition of these and other threats, the United States has greatly increased its annual defense spending through sustained real growth averaging 8.8 percent yearly between fiscal 1981 and 1985, and cumulative real growth of 50 percent in that period;

(4) the United States Government appreciates the May 1981 commitment by the Prime Minister of Japan that, pursuant to the Treaty of Mutual Cooperation and Security of 1960 between Japan and the United States, Japan,<sup>60</sup> on its own initiative, would seek to make even greater efforts for improving its defense capabilities, and pursuant to Japan's own Constitution, it was national policy for his country to acquire and maintain the self-defense forces adequate for the defense of its land area and surrounding airspace and sealanes, out to a distance of 1,000 miles;

(5) the United States Government applauds the policy of Japan to obtain the capabilities to defend its sea and air lanes out to 1,000 miles, expects that these capabilities should be acquired by the end of the decade, and recognizes that achieving those capabilities would significantly improve the national security of both Japan and the United States;

(6) the United States Government appreciates the contribution already made by Japan through the Host Nation Support Program and its recent efforts to increase its defense spending; and

(7) Japan, however, in recent years consistently has not provided sufficient funding and resources to meet its self-defense needs and to meet common United States-Japan defense objectives and alliance responsibilities.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that Japan, to fulfill its self-defense responsibilities pursuant to the 1960 Mutual Cooperation and Security Treaty with the United States, and in accordance with the national policy declaration made by its Prime Minister in May 1981, to develop a 1,000-mile airspace and sealanes defense capability, should implement a 1986-1990

<sup>59</sup> 22 U.S.C. 1928 note. Sec. 139(14) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (c) of this section, which had required that the President report annually on Japan's progress toward fulfilling its common defense commitment.

<sup>60</sup> 11 UST 1632.

Mid-Term Defense Plan containing sufficient funding, program acquisition, and force development resources to obtain the agreed-upon 1,000 mile self-defense capabilities by the end of the decade, including the allocation of sufficient budgetary resources annually to reduce substantially the ammunition, logistics, and sustainability shortfalls of its self-defense forces.

**SEC. 813.**<sup>61</sup> \* \* \* [Repealed—1993]

**SEC. 814.**<sup>62</sup> **UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL.**<sup>63</sup>

(a) **ESTABLISHMENT.**—There is established the United States Senate Caucus on International Narcotics Control (hereafter in this section referred to as the “Caucus”).<sup>63</sup>

(b) **DUTIES.**—The Caucus<sup>63</sup> is authorized and directed—

(1) to monitor and promote international compliance with narcotics control treaties, including eradication and other relevant issues; and

(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

(c) **MEMBERSHIP.**—(1) The Caucus<sup>63</sup> shall be composed of 12 members as follows:

(A) 7 Members of the Senate appointed by the President of the Senate, 4 of whom (including the member designated as Chairman) shall be selected from the majority party of the Senate, after consultation with the majority leader, and 3 of whom (including the member designated as Cochairman) shall be selected from the minority party of the Senate, after consultation with the minority leader.

(B) 5 members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

(2) There shall be a Chairman and a Cochairman of the Caucus.<sup>63</sup>

(d) **POWERS.**—In carrying out this section, the Caucus<sup>63</sup> may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Caucus<sup>63</sup> or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Caucus,<sup>63</sup> or any member designated by him, may administer oaths to any witness.

(e) **REPORT BY PRESIDENT TO CAUCUS.**—In order to assist the Caucus<sup>63</sup> in carrying out its duties, the President shall submit to

<sup>61</sup>Sec. 501(e) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2326) repealed sec. 813, relating to U.S.-Soviet diplomatic equivalence and reciprocity.

<sup>62</sup>22 U.S.C. 2291 note.

<sup>63</sup>Sec. 306 of the Legislative Branch Appropriations Act, 1986 (Public Law 99-151; 99 Stat. 808), redesignated the United States International Narcotics Control Commission as the United States Senate Caucus on International Narcotics Control.

the Caucus<sup>63</sup> a copy of the report required by section 489<sup>64</sup> of the Foreign Assistance Act of 1961 (22 U.S.C. 2991(e)).

(f) REPORT TO SENATE.—The Caucus<sup>63</sup> is authorized and directed to report to the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the Senate as requested. For each fiscal year for which an appropriation is made the Caucus<sup>63</sup> shall submit to the Congress a report on its expenditures under such appropriation.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Caucus<sup>63</sup> \$370,000<sup>65</sup> for each fiscal year, to remain available until expended, to assist in meeting the expenses of the Caucus<sup>63</sup> for the purpose of carrying out the provisions of this section.

(2) For purposes of section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), the Caucus<sup>63</sup> shall be deemed to be a standing committee of the Senate and shall be entitled to the use of funds in accordance with such section.

(h) STAFF.—The Caucus<sup>63</sup> may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.<sup>66</sup>

(i) TERMINATION.—The Caucus<sup>63</sup> shall cease to exist on September 30, 2005.<sup>67</sup>

<sup>64</sup> Formerly read “481(e)”. Sec. 6(a) of the International Narcotics Act of 1992 (Public Law 102-583; 106 Stat. 4932) provided that any reference in any provision of law enacted before November 2, 1992, to sec. 481(e) shall be deemed to be a reference to sec. 489.

<sup>65</sup> Sec. 625(a) of Public Law 105-119 (111 Stat. 2522) struck out “\$325,000” and inserted in lieu thereof “\$370,000”.

<sup>66</sup> 5 U.S.C. 5101 *et seq.*, 5331.

<sup>67</sup> Sec. 684 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1411), struck out “2002” and inserted in lieu thereof “2005”. Previously, sec. 7 of the Legislative Branch Appropriations Act, 2000 (Public Law 106-57; 113 Stat. 412), struck out “September 30, 1999” and inserted in lieu thereof “September 30, 2002”; sec. 625(b) of Public Law 105-119 (111 Stat. 2522) struck out “September 30, 1997” and inserted in lieu thereof “September 30, 1999”; sec. 323 of the Legislative Branch Appropriations Act, 1993 (Public Law 102-392; 106 Stat. 1726), struck out “September 30, 1988” and inserted in lieu thereof “September 30, 1997”; “1988” was substituted in lieu of “1987” by sec. 5 of title I of the Legislative Branch Appropriations Act, 1988 (sec. 101(i) of the Continuing Appropriations for 1988; Public Law 100-202; 101 Stat. 1329).



**s. Department of State Authorization Act, Fiscal Years 1984 and 1985**

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983, as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-415 [Anglo-Irish Agreement Support Act of 1986, H.R. 4329], 100 Stat. 949, approved September 19, 1986; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-459 [Department of State Appropriations Act, 1989; H.R. 4782], 102 Stat. 2207, approved October 1, 1988; Public Law 101-515 [Department of State Appropriations Act, 1991; H.R. 5021], 104 Stat. 2101 at 2128, approved November 5, 1990; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1501, approved November 29, 1999; and Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title and title X of this Act may be cited as the “Department of State Authorization Act, Fiscal Years 1984 and 1985”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. In addition to amounts otherwise authorized for such purposes, the following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions,

duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law:

(1) For “Administration of Foreign Affairs”, \$1,486,213,000 for the fiscal year 1984<sup>1</sup> and \$1,580,820,000 for the fiscal year 1985.<sup>2</sup>

(2) For “International Organizations and Conferences”, \$602,343,000 for the fiscal year 1984<sup>3</sup> and \$602,343,000 for the fiscal year 1985.<sup>4</sup>

(3) For “International Commissions”, \$23,207,000 for the fiscal year 1984<sup>5</sup> and \$25,355,000 for the fiscal year 1985.<sup>6</sup>

<sup>1</sup>The Department of State Appropriations Act, 1984 (Public Law 98–166), appropriated \$1,406,497,000 for the “Administration of Foreign Affairs” during fiscal year 1984, itemized in the following manner: salaries and expenses—\$1,114,810,000; representation allowances—\$4,148,000; acquisition, operation, and maintenance of buildings abroad—\$160,000,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$10,012,000; emergencies in the diplomatic and consular service—\$4,356,000; payment to the American Institute in Taiwan—\$9,380,000; and payment to the Foreign Service Retirement and Disability Fund—\$103,791,000.

The Second Supplemental Appropriations Act, 1984 (Public Law 98–396), for additional amounts provided for “Administration of Foreign Affairs” during fiscal year 1984.

<sup>2</sup>The Department of State Appropriations Act, 1985 (title III of Public Law 98–411), appropriated \$1,631,721,000 for the “Administration of Foreign Affairs” during fiscal year 1985, itemized in the following manner: salaries and expenses—\$1,264,901,000; reopening consulates—\$1,929,000; representation allowances—\$4,500,000; protection of foreign missions and officials—\$9,500,000; acquisition, operation, and maintenance of buildings abroad—\$211,000,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$19,353,000; emergencies in the diplomatic and consular service—\$4,000,000; payment to the American Institute in Taiwan—\$9,800,000; and payment to the Foreign Service Retirement and Disability Fund—\$106,738,000.

In addition, sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98–473), appropriated \$110,200,000 for the “Administration of Foreign Affairs” during fiscal year 1985, itemized in the following manner: salaries and expenses—\$81,200,000; acquisition, operation, and maintenance of buildings abroad—\$28,000,000; and emergencies in the diplomatic and consular service (to pay rewards for information concerning terrorist acts)—\$1,000,000.

<sup>3</sup>The Department of State Appropriations Act, 1984 (Public Law 98–166), appropriated \$595,694,000 for “International Organizations and Conferences” during fiscal year 1984, itemized in the following manner: contributions to international organizations—\$520,515,000; contributions to international peacekeeping activities—\$66,279,000; and international conferences and contingencies—\$8,910,000.

The Supplemental Appropriations Act, 1985 (Public Law 99–88), appropriated funds for the “Administration of Foreign Affairs” in the following manner: salaries and expenses—\$73,342,000 (plus \$12,781,000 transferred from “Contributions to International Organizations”); acquisition, operation, and maintenance of buildings abroad—\$167,579,000 (plus \$2,000,000 for the Special Foreign Currency Program); and payment to the Foreign Service Retirement and Disability Fund—\$5,399,000.

<sup>4</sup>The Department of State Appropriations Act, 1985 (title III of Public Law 98–411), appropriated \$559,067,200 for “International Organizations and Conferences” during fiscal year 1985, itemized in the following manner: contributions to international organizations—\$501,667,200; contributions to international peacekeeping activities—\$47,400,000; and international conferences and contingencies—\$10,000,000.

The Supplemental Appropriations Act, 1985 (Public Law 99–88), appropriated a \$1,200,000 transfer of funds for International Fisheries Commissions from “Contributions to International Organizations”, and \$1,000,000 for the Fishermen’s Protective Fund.

<sup>5</sup>The Department of State Appropriations Act, 1984 (Public Law 98–166), appropriated \$23,625,000 for “International Commissions” during fiscal year 1984, itemized in the following manner: International Boundary and Water Commission, United States and Mexico (salaries and expenses)—\$10,651,000 and (construction)—\$672,000; American sections, international commissions—\$3,426,000; and international fisheries commissions—\$8,876,000.

Title II of the Second Supplemental Appropriations Act, 1984 (Public Law 98–396), appropriated additional funds for increased pay costs during fiscal year 1984 for “International Commissions” as follows: International Boundary and Water Commission, United States and Mexico—\$125,000; and American sections, international commissions—\$38,000.

<sup>6</sup>The Department of State Appropriations Act, 1985 (title III of Public Law 98–411), appropriated \$27,185,000 for “International Commissions” during fiscal year 1985, itemized in the following manner: International Boundary and Water Commission, United States and Mexico—\$12,000,000 (salaries and expenses) and \$2,400,000 (construction); American sections, international commissions—\$3,685,000; and international fisheries commissions—\$9,100,000.

(4) For “Migration and Refugee Assistance”, \$344,500,000 for the fiscal year 1984<sup>7</sup> and \$326,400,000 for the fiscal year 1985.<sup>8</sup>

(5) For “United States Bilateral Science and Technology Agreements”, \$1,700,000 for the fiscal year 1984<sup>9</sup> and \$1,700,000 for the fiscal year 1985.

#### IMPROVEMENT OF CONSULAR FACILITIES IN MEXICO CITY

SEC. 103. In addition to the amounts authorized to be appropriated by section 102(1) of this Act, there are authorized to be appropriated for “Administration of Foreign Affairs” for the fiscal year 1984, \$4,000,000 to be used for the purchase of land for and the construction of additional consular facilities, and for certain improvements in existing consular facilities, at the United States Embassy in Mexico City, Mexico.

#### ADDITIONAL POSITIONS FOR POLITICAL AND ECONOMIC REPORTING AND FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY

SEC. 104. The Secretary of State shall allocate such funds as may be necessary of the amounts appropriated to the Department of State for the fiscal year 1984 for “Administration of Foreign Affairs” in order to fund 73 additional positions for political and economic reporting and 11 additional positions for international communications and information policy. The positions funded pursuant to this section shall be in addition to the positions which the Department was authorized to have in fiscal year 1983 plus the number of additional positions which have been requested for the Department for the fiscal year 1984.

#### ALTERNATE COMMUNICATIONS CENTER

SEC. 105. Of the funds authorized to be appropriated under paragraph (1) of section 102, not less than \$3,000,000 for the fiscal year 1984 and not less than \$7,000,000 for the fiscal year 1985 shall be available only to cover expenses related to the establishment in the State of Maryland of an alternative communications center for the Department of State in order to secure the uninterrupted transmission of communications related to the foreign policy and national security interests of the United States and of communications of other departments and agencies of the United States.

<sup>7</sup>The Foreign Assistance Appropriations Act, 1984 (sec. 101(b)(1) of Public Law 98–151), appropriated \$323,000,000 for “Migration and Refugee Assistance” during fiscal year 1984.

In addition, supplemental funds for migration and refugee assistance during fiscal year 1984 were provided in two acts, as follows: Supplemental Appropriations, 1984 (Public Law 98–332)—\$7,000,000 for assistance to displaced persons in El Salvador; and Second Supplemental Appropriations Act, 1984 (Public Law 98–396)—\$7,650,000, of which \$2,000,000 is available for “International disaster assistance” for medical and medically related assistance for Afghan refugees.

<sup>8</sup>The Foreign Assistance Appropriations Act, 1985 (sec. 101(g) of the Continuing Appropriations Act, 1985; (Public Law 98–473), appropriated \$325,500,000 for “Migration and Refugee Assistance” during fiscal year 1985.

The Supplemental Appropriations Act, 1985 (Public Law 99–88, 99 Stat 329), transferred an additional amount of \$12,500,000 for “migration and refugee assistance” from the “Economic Support Fund” for Lebanon as provided in Public Law 98–63: “*Provided*, That this amount shall be available only for Soviet, Eastern European and other refugees resettling in Israel”.

<sup>9</sup>The Department of State Appropriations Act, 1984 (Public Law 98–166), appropriated \$1,683,000 for “United States Bilateral Science and Technology Agreements” during fiscal year 1984.

NATIONAL COMMISSION ON EDUCATIONAL, SCIENTIFIC, AND CULTURAL COOPERATION

SEC. 106. (a) Section 5 of the joint resolution entitled “Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor”, approved July 30, 1946 (22 U.S.C. 287q), is amended by repealing the eighth sentence.

(b) Of the amounts authorized to be appropriated for “Administration of Foreign Affairs” by section 102(1) of this Act, \$250,000 for each of the fiscal years 1984 and 1985 shall be available only for the expenses of the secretariat of the National Commission on Educational, Scientific, and Cultural Cooperation.

COORDINATING COMMITTEE ON EXPORT CONTROLS

SEC. 107. Of the funds authorized to be appropriated for the fiscal year 1984 under paragraph (2) of section 102, \$2,000,000 shall be used to modernize the facilities and operating procedures of the Coordinating Committee on Export Controls. The Congress finds that the executive branch should seek cost sharing arrangements with other member countries to modernize both the facilities and operations of the Coordinating Committee on Export Controls.

WORLD HERITAGE TRUST FUND

SEC. 108. Of the funds authorized to be appropriated by paragraph (2) of section 102, not less than \$248,500 for each of the fiscal years 1984 and 1985 shall be available only for the United States contribution to the World Heritage Trust Fund.

INTERPARLIAMENTARY GROUPS

SEC. 109. (a)<sup>10</sup> \* \* \*

(b)<sup>11</sup> There are authorized to be appropriate each fiscal year \$100,000,<sup>12</sup> to be equally divided between delegations of the Senate and the House of Representatives, to assist in<sup>13</sup> meeting the expenses of the United States Group<sup>14</sup> of the British-American Parliamentary Group.<sup>14</sup> Amounts appropriated under this section are authorized to remain available until expended.

<sup>10</sup> Subsec. (a) amended the Act of July 11, 1956 (22 U.S.C. 1928e), authorizing U.S. participation in parliamentary conferences of the North Atlantic Treaty Organization. For text of this Act, see *Legislation on Foreign Relations Through 2005*, vol. IV, sec. N.

<sup>11</sup> 22 U.S.C. 276l note.

<sup>12</sup> Sec. 408(b)(4) of the Department of State and Related Agency Appropriations Act, 2002 (title IV of Public Law 107–77; 115 Stat. 791), struck out “\$50,000” and inserted in lieu thereof “\$100,000”.

<sup>13</sup> Sec. 304(b)(1) of the Department of State Appropriations Act (Public Law 101–515; 104 Stat. 2128), struck out “Of the amount appropriated for the purposes authorized by the amendment made by subsection (a) of this section, up to \$25,000 may be used to meet the expenses incurred in hosting the spring 1984” and inserted in lieu thereof “There are authorized to be appropriate each fiscal year \$50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in”.

<sup>14</sup> Sec. 304(b)(2) of the Department of State Appropriations Act (Public Law 101–515; 104 Stat. 2128), inserted “the expenses of the United States Group” after “meeting”.

Sec. 304(b)(3) and (4) of that Act, respectively, struck out “which is to be held in the United States” after “Group”, and added the last sentence.

(c)<sup>15</sup> There are authorized to be appropriated for each fiscal year \$50,000 for expenses of United States participation in the Transatlantic Legislators' Dialogue (United States-European Union Interparliamentary Group).

#### PIRACY IN THE GULF OF THAILAND

SEC. 110. Of the amounts authorized to be appropriated for "Migration and Refugee Assistance" by section 102(4) of this Act, \$5,000,000 for each of the fiscal years 1984 and 1985 shall be used for assistance to combat piracy in the Gulf of Thailand.

#### RELIEF ASSISTANCE FOR EL SALVADOR AND LEBANON

SEC. 111. Notwithstanding any other provision of law, of the funds authorized to be appropriated for fiscal year 1984 under section 102(4) of this Act—

- (1) \$10,000,000 shall be available only for El Salvador for relief assistance for displaced persons; and
- (2) up to \$25,000,000, but not less than \$5,000,000 shall be available only for Lebanon for relief and rehabilitation assistance for refugees and displaced persons.

#### WORLD INTELLECTUAL PROPERTY ORGANIZATION

SEC. 112. The joint resolution entitled "Joint Resolution to authorize appropriations incident to United States participation in the International Bureau for the Protection of Industrial Property", approved July 12, 1960 (22 U.S.C. 269(f)), is amended by striking out all after the resolving clause and inserting in lieu thereof the following: "That funds appropriated to the Secretary of State for 'International Organizations and Conferences' shall be available for the payment by the United States of its proportionate share of the expenses of the International Bureau for the Protection of Industrial Property for any year after 1981 as determined under article 16(4) of the Paris Convention for the Protection of Industrial Property, as revised, except that in no event shall the payment for any year exceed 6.6 percent of all expenses of the Bureau apportioned among countries for that year."

#### RESTRICTION ON ASSESSED PAYMENTS TO THE UNITED NATIONS

SEC. 113. None of the funds authorized to be appropriated by this Act shall be used to make assessed payments to the United Nations, the United Nations Educational, Scientific, and Cultural Organization, the World Health Organization, the Food and Agriculture Organization, and the International Labor Organization

<sup>15</sup> 22 U.S.C. 276 note. Sec. 701(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–459), struck out "United States-European Community Interparliamentary Group" at the end of the sentence and inserted in lieu thereof "Transatlantic Legislators' Dialogue (United States-European Union Interparliamentary Group)". Previously, sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2207), extensively amended subsec. (c), to take effect October 1, 1988. It formerly read as follows:

"Of the amounts authorized to be appropriated for each fiscal year for 'International Organizations and Conferences' \$50,000 may be used for expenses of United States participation in the United States-European Community Interparliamentary Group."

Subsec. (c) was amended previously by sec. 7(b) of Public Law 99–415 (100 Stat. 949).

which, in the aggregate, are in excess of the aggregate calendar year 1983 United States assessed contributions to such organizations.

RESTRICTIONS RELATING TO THE PALESTINE LIBERATION  
ORGANIZATION AND THE SOUTH WEST AFRICA PEOPLE'S ORGANIZATION

SEC. 114.<sup>16</sup> (a) Funds appropriated for any fiscal year for the Department of State for "International Organizations and Conferences" may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

- (1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (for any similar successor entity);

<sup>16</sup> 22 U.S.C. 287e note. Sec. 705 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331), added subpara. (3) and redesignated the subparas. that follow. Subparas. (5), (6) and (7) were originally added as subparas. (4), (5), and (6) respectively by sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 405).

Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103–125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 114 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in the Middle East Peace Facilitation Act of 1994 (part E of Public Law 103–236) and the Middle East Peace Facilitation Act of 1995, (title VI of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; Public Law 104–107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94–13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94–30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95–12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95–31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95–36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95–50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96–5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96–8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96–20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96–32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96–41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97–17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of Public Law 108–447); see secs. 534(d), 544, 547, and 550. See also sec. 555, restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, sec. 558, prohibiting assistance to the Palestinian Broadcasting Corporation, and sec. 559, West Bank and Gaza Program.

On December 5, 1997, the President waived the provisions of sec. 1003 of the Anti-Terrorism Act of 1987 (Public Law 100–204) through June 4, 1998 (Presidential Determination No. 98–8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98–29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98–5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99–25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00–2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000–19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01–13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002–03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002–14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03–03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003–20; April 16, 2003; 68 F.R. 20327); through April 14, 2004 (Presidential Determination No. 2004–04; October 14, 2003; 68 F.R. 60841); through October 14, 2004 (Presidential Determination No. 2004–28; April 14, 2004; 69 F.R. 21679); through April 14, 2005 (Presidential Determination No. 2005–02; October 14, 2004; 69 F.R. 62795); through October 14, 2005 (Presidential Determination No. 2005–22; April 14, 2005; 70 F.R. 21611); and through April 14, 2006 (Presidential Determination No. 2006–01; October 14, 2005; 70 F.R. 62225).

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (for any similar successor entity);

(3) 25 percent of the amount budgeted for that year for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (or any similar successor entity);

(4) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization;

(5) 25 percent of the amount budgeted for that year for the Second Decade to Combat Racism and Racial Discrimination;

(6) 25 percent of the amount budgeted for any other United Nations agency or conference whose sole or partial purpose is to implement the provisions of General Assembly Resolution 33/79; and

(7) 25 percent of the amount budgeted for the General Assembly-approved \$73,500,000 conference center to be constructed for the Economic Commission for Africa (ECA) in the Ethiopian capital of Addis Ababa.

(b) Funds appropriated for any fiscal year for the Department of State for "International Organizations and Conferences" may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization.

(c) The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing benefits to the Palestine Liberation Organization or to the South West Africa People's Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations or its specialized agencies for projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits.

UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS  
ILLEGALLY EXPELLED

SEC. 115.<sup>17</sup> (a) The Congress finds that—

(1) the United Nations was founded on the principle of universality;

<sup>17</sup> 22 U.S.C. 287e note.

(2) the United Nations Charter stipulates that members may be suspended by the General Assembly only “upon the recommendation of the Security Council”; and

(3) any move by the General Assembly that would illegally deny Israel its credentials in the Assembly would be a direct violation of these provisions of the Charter.

(b)<sup>18</sup> If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in any principal or subsidiary organ or in any specialized, technical, or other agency of the United Nations, the United States shall suspend its participation in any such organ or agency until the illegal action is reversed. The United States shall reduce its annual assessed contribution to the United Nations or such specialized agency by 8.34 percent for each month in which United States participation is suspended pursuant to this section.<sup>19</sup> Nothing in this section may be construed to diminish or to affect United States participation in the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency.<sup>20</sup>

#### REVIEW OF UNITED STATES PARTICIPATION IN THE UNITED NATIONS

SEC. 116. (a) The Congress finds that—

(1) the United Nations was founded for the primary purpose of maintaining international peace and security by encouraging peaceful resolution of disputes and the development of friendly relations among nations;

(2) the United States, as a founding member of the United Nations and the largest contributor to the United Nations, became and remains a member of the United Nations in order to contribute to collective efforts among the nations of the world to realize the ends of international peace and security;

(3) the United States is committed to upholding and strengthening the principles and purposes of the United Nations Charter upon which the United Nations was founded.

(b) It is the sense of the Congress that—

(1) a review of United States participation in the United Nations is urgently called for with a view to examining—

(A) the extent and levels of United States financial contributions to the United Nations;

(B) the importance of the United Nations, as presently constituted, to fulfilling the policies and objectives of the United States;

(C) the benefits derived by the United States from participation in the United Nations;

<sup>18</sup>The first sentence of subsec. (b) was amended and restated by sec. 704 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331). It formerly read as follows:

“If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in the General Assembly of the United Nations or any specialized agency of the United Nations, the United States shall suspend its participation in the General Assembly or such specialized agency until the illegal action is reversed.”

<sup>19</sup>Sec. 142 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 405), substituted this sentence in lieu of: “The United States shall withhold payment of its assessed contribution to the United Nations or a specialized agency during any period in which United States participation is suspended pursuant to this section.”

<sup>20</sup>The last sentence of subsec. (b) was added by sec. 704(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1331).



(2) the President should review and make recommendations to the Congress regarding the matters described in this section by June 30, 1984; and

(3) the Secretary of State should communicate to the member states of the General Assembly of the United Nations the policy contained in this section.

SEC. 117.<sup>21</sup> \* \* \* [Repealed—1994]

1985 CONFERENCE—UNITED NATIONS DECADE FOR WOMEN

SEC. 118. The President shall use every available means at his disposal to ensure that the 1985 Conference to commemorate the conclusion of the United Nations Decade for Women is not dominated by political issues extraneous to the goals of the 1985 Women's Conference that would jeopardize United States participation in and support for that Conference consistent with applicable legislation concerning United States contributions to the United Nations. Prior to the 1985 Conference, the President shall report to the Congress on the nature of the preparations, the adherence to the original goals of the Conference, and the extent of any continued United States participation and support for the Conference.

UNITED NATIONS WORLD ASSEMBLY ON AGING

SEC. 119. (a) The Congress finds that—

(1) in 1977 the Congress called for the United Nations to convene a World Assembly on Aging;

(2) the United Nations World Assembly on Aging was held in Vienna, Austria, from July 26 to August 6, 1982, and unanimously adopted the Vienna International Plan of Action on Aging on August 6, 1982, which called for the development of policies designed to enhance the individual lives of the aging and to allow the aging to enjoy their advancing years in peace, health, and security;

(3) the United Nations General Assembly on December 3, 1982, unanimously endorsed the World Assembly International Plan of Action; and

(4) the General Assembly of the United Nations, in adopting the plan, called upon governments to make continuous efforts to implement the principles and recommendations contained in the Plan of Action as adopted by the World Assembly on Aging.

(b) Therefore, it is the sense of the Congress that the President should take steps to—

(1) encourage government-wide participation in implementing the recommendations of the World Assembly and planning for the scheduled review in 1985 by the United Nations on the implementation of the Vienna International Plan of Action on Aging;

(2) encourage the exchange of information and the promotion of research on aging among the States, the Federal Government, international organizations, and other nations;

<sup>21</sup> Formerly at 22 U.S.C. 287b note. Repealed by sec. 139(27) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 399). Had required a report on policies pursued by other countries in international organizations.

(3) encourage greater private sector involvement in responding to the concerns of the aging; and

(4) inform developing nations that the United States Government recognizes aging as an important issue, requiring close and sustained attention in national and regional development plans.

\* \* \* \* \*

#### COUNSELOR OF THE DEPARTMENT OF STATE

SEC. 125. (a)<sup>22</sup> \* \* \*

(b)(1) Section 5314 of title 5, United States Code, is amended by inserting immediately after the item relating to the Under Secretaries of State the following:

“Counselor of the Department of State.”

(2) Section 5315 of such title is amended by striking out “Counselor of the Department of State.”

\* \* \* \* \*

#### FOREIGN NATIONAL EMPLOYEES

SEC. 127. (a)<sup>23</sup> \* \* \*

(b)<sup>24</sup> (1) Section 5944 of title 5, United States Code, is repealed.

(2) The chapter analysis for chapter 59 of such title 5 is amended by striking out the item relating to section 5944.

\* \* \* \* \*

#### MERGER OF FOREIGN SERVICE INFORMATION CORPS WITH FOREIGN SERVICE CORPS

SEC. 130.<sup>25</sup> (a) \* \* \*

(b) \* \* \*

(c) \* \* \* [Repealed—1994]

<sup>22</sup> Subsec. (a) amended sec. 2 of “An Act to strengthen and improve the organization and administration of the Department of State” (22 U.S.C. 2653) in order to remove the Counselor of the Department of State from equal rank with Assistant Secretaries so that the Counselor would rank equally with the Under Secretaries. The amendments in subsec. (b) to title 5, U.S.C., changed the salary level of the Counselor from Executive Level IV to Executive Level III.

<sup>23</sup> Subsec. (a) amended sec. 408(a)(1) of the Foreign Service Act of 1980 in order to clarify the Secretary of State’s authority to utilize provident funds (retirement benefits) for foreign national employees of the United States Government.

<sup>24</sup> 5 U.S.C. 5944 concerned payment of burial expenses for foreign national employees of the United States Government. This provision was superseded by sec. 408 of the Foreign Service Act of 1980.

<sup>25</sup> Subsecs. (a) and (b) amended secs. 102 and 502, respectively, of the Foreign Service Act of 1980. These provisions changed the designation of members of the Foreign Service Information Officers to Foreign Service Officers and directed the Secretary of State to implement policies to insure that Foreign Service Officers from all agencies are able to compete for chief of missions positions on an equal basis.

Subsec. (c), requiring a report in policies and procedures adopted pursuant to the above amendments, was repealed by sec. 139(10) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398).

## DANGER PAY

SEC. 131.<sup>26</sup> Section 5928 of title 5, United States Code, is amended by adding at the end thereof the following: “The presence of non-essential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.”.

\* \* \* \* \*

## FOREIGN RELATIONS PUBLICATIONS

SEC. 133. (a) The Congress expresses concern about the excessive delays currently experienced in the publication of the Department of State’s vital series of historical volumes, “The Foreign Relations of the United States”. It is the sense of the Congress that the current delays must be substantially reduced so that publication of this series will occur after twenty years, and no later than twenty-five years, from the date of the events themselves.

(b) The Historian of the Department of State shall prepare and submit a report within three months after the date of enactment of this Act to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>27</sup> of the House of Representatives explaining the reasons for these delays and the steps which would be required to reach the goal of publication within twenty-five years.

## UNITED STATES DIPLOMATIC RELATIONS WITH THE VATICAN

SEC. 134.<sup>28</sup> In order to provide for the establishment of United States diplomatic relations with the Vatican, the Act entitled “An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the Year ending thirtieth June, eighteen hundred and sixty-eight, and for other purposes”, approved February 28, 1867, is amended by repealing the following sentence (14 Stat. 413): “And no money hereby or otherwise appropriated shall be paid for the support of an American legation at Rome, from and after the thirtieth day of June, eighteen hundred and sixty-seven.”.

## USE OF HERBICIDES CONTAINING DIOXIN COMPOUNDS BY INTERNATIONAL COMMISSIONS

SEC. 135. (a) Notwithstanding any other provision of law, none of the funds made available under this Act for “International Commissions” for the fiscal year 1984 and the fiscal year 1985 shall be available for the use, by such commissions or their agents, of herbicides containing dioxin compounds.

<sup>26</sup> 5 U.S.C. 5928 concerned danger pay allowances for United States Government employees serving in certain foreign areas.

<sup>27</sup> Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>28</sup> 22 U.S.C. 2656 note.

(b) Unless the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate, the Committee on Foreign Affairs<sup>27</sup> of the House of Representatives, and the Governors of the affected border States are notified forty-five days in advance of the use of a herbicide by an international commission, funds appropriated for such use shall not be available for obligation or expenditure. Such notification shall include—

- (1) the name of the herbicide;
- (2) an estimate of the quantity of herbicide planned for use;
- (3) an identification of the area on which the herbicide will be used; and
- (4) a description of the herbicide's chemical composition.

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#### TITLE II—UNITED STATES INFORMATION AGENCY<sup>29</sup>

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#### TITLE III—BOARD FOR INTERNATIONAL BROADCASTING<sup>30</sup>

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#### TITLE IV—THE ASIA FOUNDATION<sup>31</sup>

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#### TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY<sup>32</sup>

\* \* \* \* \*

#### TITLE VI—FOREIGN MISSIONS<sup>33</sup>

\* \* \* \* \*

#### TITLE VII—INTERNATIONAL ENVIRONMENTAL PROTECTION<sup>34</sup>

\* \* \* \* \*

#### TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION<sup>35</sup>

\* \* \* \* \*

<sup>29</sup>For freestanding provisions of this title, see page 1523.

<sup>30</sup>This title contained amendments to the Board for International Broadcasting Act of 1973 and freestanding provisions. See page 1726.

<sup>31</sup>Title IV is cited as the Asia Foundation Act. For text, see page 1422.

<sup>32</sup>Title V is cited as the National Endowment for Democracy Act. For text, see page 1615.

<sup>33</sup>Title VI contained amendments to the Diplomatic Relations Act and to the State Department Basic Authorities Act of 1956. Freestanding provisions in the title are cited as the Foreign Missions Amendments Act of 1983.

<sup>34</sup>Title VII amended the Foreign Assistance Act of 1961, the Mutual Educational and Cultural Exchange Act of 1961, and is cited as the International Environmental Protection Act of 1983. For text, see *Legislation on Foreign Relations Through 2005*, vol. IV, sec. L.

<sup>35</sup>Title VIII, formerly cited as the Soviet-Eastern European Research and Training Act of 1983, was extensively amended by Public Law 103–199.

TITLE IX—UNITED STATES-INDIA FUND FOR CULTURAL,  
EDUCATIONAL, AND SCIENTIFIC COOPERATION <sup>36</sup>

\* \* \* \* \*

TITLE X—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

TERMINATION OF ASSISTANCE PROGRAMS FOR SYRIA

SEC. 1004.<sup>37</sup> (a) After the enactment of this section, funds available to the Agency for International Development may not be used for any payment or reimbursement of any kind to the Government of Syria or for the delivery of any goods or services of any kind to the Government of Syria.

(b) The Administrator of the Agency for International Development shall deobligate all funds which have been obligated for Syria under the Foreign Assistance Act of 1961 prior to the enactment of this section, except that—

(1) such funds may continue to be used to finance the training or studies outside of Syria of students whose course of study began before the enactment of this section;

(2) the Administrator may adopt as a contract of the United States Government any contract with a United States or third-country contractor which would otherwise be terminated pursuant to this subsection, and may assume in whole or in part any liabilities arising under such contract, except that the authority provided by this paragraph may be exercised only to the extent that budget authority is available to meet the obligations of the United States under such contracts; and

(3) amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955,<sup>38</sup> as having been obligated for Syria under chapter 4 of part II of the Foreign Assistance Act of 1961 shall continue to be available until expended to meet necessary expenses arising from the termination of assistance programs for Syria pursuant to this subsection.

PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE IN  
KAMPUCHEA

SEC. 1005.<sup>39</sup> (a) Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Kampuchea or elsewhere in Indochina.

(b) All funds appropriated before the date of enactment of this section which were obligated but not expended for activities having the purpose or effect described in subsection (a) shall be

<sup>36</sup>Title IX is cited as the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act.

<sup>37</sup>22 U.S.C. 2346a note.

<sup>38</sup>31 U.S.C. 1108.

<sup>39</sup>22 U.S.C. 2151 note.

deobligated and shall be deposited in the Treasury of the United States as miscellaneous receipts.

(c) This section shall not be construed as limiting the provision of food, medicine, or other humanitarian assistance to the Kampuchea people.

RAOUL WALLENBERG AND JAN KAPLAN

SEC. 1006. (a) The Congress finds that—

(1) the Soviet Union arrested one of the great heroes of modern times in 1945 when they arrested Raoul Wallenberg;

(2) Raoul Wallenberg was a Swedish diplomat who, at great personal risk, had acted to save hundreds of thousands of Hungarian Jews from the Nazi Holocaust;

(3) Raoul Wallenberg took these actions as a humanitarian and with the knowledge, consent, and financial assistance of the United States Government;

(4) Raoul Wallenberg has recently been made an honorary citizen of the United States;

(5) the Soviet Union has changed their story a number of times about the whereabouts of Raoul Wallenberg;

(6) the most recent position of the Soviet Union is that he died in 1947;

(7) there are many eyewitnesses who have testified that they saw Raoul Wallenberg in Russian prisons and hospitals in the decades since the 1940's;

(8) one of the most recent eyewitnesses was Jan Kaplan, a Russian refusnik who shortly after his release from a Soviet jail in 1977, phoned his daughter, Doctor Anna Bilder, in Israel and reported that he had met a Swede in prison who had survived thirty years in the Gulag;

(9) during the next two years, Anna Bilder received no further word from or about her father;

(10) in July 1977, Jan Kaplan's wife smuggled a letter to Doctor Bilder informing her that Jan Kaplan had been re-arrested because of a letter he had tried to smuggle to her about Raoul Wallenberg;

(11) in 1980, the Swedish Government sent an official request to interview Jan Kaplan;

(12) the Soviets made no response to this request;

(13) the whereabouts of Jan Kaplan are not known; and

(14) Jan Kaplan could provide valuable information about Raoul Wallenberg.

(b) It is the sense of the Congress that the President, acting directly or through the Secretary of State, should take all possible steps at all appropriate times to ascertain that whereabouts of Jan Kaplan and to request an interview with him in order to learn more concerning the whereabouts of Raoul Wallenberg.

POLICY TOWARD THE EXPORT OF NUCLEAR-RELATED EQUIPMENT, MATERIALS, OR TECHNOLOGY TO INDIA, ARGENTINA, AND SOUTH AFRICA

SEC. 1007. (a) It is the sense of Congress that the United States Government should disapprove the export of, and should suspend

or revoke approval for the export of, any nuclear-related equipment, material, or technology, including nuclear components and heavy water, to the Government of India, Argentina, or South Africa until such time as such government gives the Government of the United States stronger nuclear nonproliferation guarantees. Such guarantees should include—

- (1) reliable assurances by such government that it is not engaged in any program leading to the development, testing, or detonation of nuclear explosive devices; and
- (2) agreement by such government to accept international safeguards on all its nuclear facilities.

(b) If the President determines, in the case of India's Tarapur reactor, while it is under International Atomic Energy Agency inspection, that certain equipment or non-nuclear material or technology is necessary for humanitarian reasons to protect the health and safety of operations and is not available from a foreign supplier, the President may authorize the export of such equipment or non-nuclear material or technology.

#### ACID RAIN

SEC. 1008. (a) The Congress finds the following:

(1) Acid deposition, commonly known as "acid rain" is believed to have caused serious damage to the natural environment in large parts of Canada and the United States and has raised justified concerns among citizens of both countries.

(2) Acid rain is believed to have caused billions of dollars of damage annually to both natural and man-made materials. It damages crops and the forest which support 25 percent of the Canadian economy and much of our own. It threatens marine life in fresh water lakes, rivers, and streams.

(3) The principal sources of acid rain are believed to be emissions resulting from power generation, industrial production, mineral smelters, and automobile transportation which originate in both the United States and Canada and which affect the environment of the other.

(4) Section 612 of the Foreign Relations Authorization Act, Fiscal Year 1979, called upon the President to "make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources".

(5) On August 5, 1980, the Governments of Canada and the United States signed a Memorandum of Intent committing both parties "to develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary air pollution," and, as an interim action, committing both parties to "promote vigorous enforcement of existing laws and regulations" and "to develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them".

(6) The Government of Canada has made a formal offer to reduce eastern emissions of sulfur dioxide by 50 percent by

1990 should the United States make a comparable commitment.

(7) Both the United States and Canada have taken steps to reduce transboundary pollutants. Present United States air emission standards are the most stringent in the world. In the past decade, the United States has reduced sulfur dioxide emissions by 15 percent. However, the failure of the United States to respond in a timely manner to concerns about transboundary air pollution would harm the historically close relations between the United States and Canada.

(8) The strategies and techniques adopted to control air pollution emissions should weigh heavily on the employment and other economic effects on employment in the United States and Canada of the acid precipitation, electricity generation, manufacture, distribution and installation of pollution control equipment, and any curtailment of emission producing industrial activity.

(b) It is therefore the sense of the Congress that the President should—

(1) respond constructively to the Canadian offer on air pollution emissions;

(2) proceed to negotiate as expeditiously as possible a bilateral agreement with Canada providing for significant reductions in transboundary air pollution while keeping economic dislocations in both countries to the minimum possible; and

(3) consider prompt initiation of a joint Government-supported program to develop new cost-effective technologies that will facilitate reduction of sulfur dioxide emissions and other copollutants;

(4) instruct the Secretary of State to report to the Congress no later than December 1, 1983, on the progress toward achieving a new transboundary air pollution agreement, including a cooperative program on new technologies.

#### INTERNATIONAL AGREEMENTS ON NATURAL GAS

SEC. 1009. (a) The Congress finds that—

(1) the foreign policy and economic well-being of the United States depend on mutually beneficial relationships with our trading partners throughout the world;

(2) America's present economic difficulties have been caused in part by the huge increases in the price of energy, especially imported energy, during the 1970's;

(3) at a time when prices for other forms of energy are stabilizing or falling, the burner-tip price of natural gas continues to rise throughout the United States;

(4) the high price of natural gas is a severe hardship for low-income persons, the elderly, the agricultural industry, small businesses, and other consumers without alternative fuel sources;

(5) high-priced imported natural gas is a major factor contributing to these price increases;



- (6) imports of high-priced natural gas continue at prices above fair market levels, despite the increased availability of uncommitted and ample supplies of lower priced domestic gas;
- (7) it is in the interest of the United States to continue to import natural gas from secure sources in whatever quantity consumers require, as long as the price is fair;
- (8) the principles of free and fair international trade require that natural gas prices and terms of trade be made fair to all trading partners; and
- (9) the immediacy of this problem requires the prompt and serious attention of all parties involved.
- (b) It is the sense of the Congress that—
- (1) the United States Government should move immediately to promote lower prices and fair market conditions for imported natural gas; and
- (2) within thirty days after the date of enactment of this section, the Secretary of State, with the assistance of the Secretary of Energy, should prepare and transmit to the Congress a report on the progress made in achieving lower prices and fair market conditions for imported natural gas.

PREPUBLICATION REVIEW OF WRITINGS OF FORMER FEDERAL  
EMPLOYEES

SEC. 1010. The head of a department or agency of the Government may not, before April 15, 1984, enforce, issue, or implement any rule, regulation, directive, policy, decision, or order which (1) would require any officer or employee to submit, after termination of employment with the Government, his or her writings for prepublication review by an officer or employee of the Government, and (2) is different from the rules, regulations, directives, policies, decisions, or orders (relating to prepublication review of such writings) in effect on March 1, 1983.

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EXTENDED VOLUNTARY DEPARTURE STATUS FOR CERTAIN EL  
SALVADORANS

- SEC. 1012. (a) The Congress finds that—
- (1) ongoing fighting between the military forces of the Government of El Salvador and opposition forces is creating potentially life-threatening situations for innocent nationals of El Salvador;
- (2) thousands of El Salvadoran nationals have fled from El Salvador and entered the United States since January 1980;
- (3) currently the United States Government is detaining these nationals of El Salvador for the purpose of deporting or otherwise returning them to El Salvador, thereby irreparably harming the foreign policy image of the United States;
- (4) deportation of these nationals could be temporarily suspended, until it became safe to return to El Salvador, if they are provided with extended voluntary departure status; and

- (5) such extended voluntary departure status has been granted in recent history in cases of nationals who fled from Vietnam, Laos, Iran, and Nicaragua.
- (b) Therefore, it is the sense of the Congress that—
- (1) the Secretary of State should recommend that extended voluntary departure status be granted to aliens—
- (A) who are nationals of El Salvador,
- (B) who have been in the United States since before January 1, 1983,
- (C) who otherwise qualify for voluntary departure (in lieu of deportation) under section 242(b) or 244(e) of the Immigration and Nationality Act (8 U.S.C. 1252(b) and 1254(e)), and
- (D) who were not excludable from the United States at the time of their entry on any ground specified in section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) other than the grounds described in paragraphs (14), (15), (20), (21), and (25); and
- (2) such status should be granted to those aliens until the situation in El Salvador has changed sufficiently to permit their safely residing in that country.

EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTIONS AND BILLS

SEC. 1013.<sup>40</sup> Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House.

<sup>40</sup> 50 U.S.C. 1546a.

**t. Department of State Authorization Act, Fiscal Years 1982 and 1983**

Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273, approved August 24, 1982, as amended by Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1030, approved November 22, 1983; Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the “Department of State Authorization Act, Fiscal Years 1982 and 1983”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", \$1,245,637,000 for the fiscal year 1982<sup>1</sup> and \$1,248,059,000 for the fiscal year 1983.<sup>2</sup>

(2) For "International Organizations and Conferences", \$503,462,000 for the fiscal year 1982<sup>3</sup> and \$514,436,000 for the fiscal year 1983.<sup>4</sup>

(3) For "International Commissions", \$19,808,000 for the fiscal year 1982<sup>5</sup> and \$22,432,000 for the fiscal year 1983.<sup>6</sup>

<sup>1</sup>Sec. 101(h) of Continuing Appropriations, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$1,176,381,000 for the "Administration of Foreign Affairs" during fiscal year 1982, itemized in the following manner: salaries and expenses—\$890,758,000; representation allowances—\$3,570,000; acquisition, operation, and maintenance of buildings abroad—\$185,970,000; acquisition, operation and maintenance of buildings abroad (special foreign currency program)—\$9,102,000; emergencies in the diplomatic and consular service—\$4,400,000; buying power maintenance—\$1,500,000; payment to the American Institute in Taiwan—\$7,884,000; and payment to the Foreign Service Retirement and Disability Fund—\$73,197,000.

Subsequently, the Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 819 at 822), provided the following additional amounts: salaries and expenses—\$37,978,000, of which \$31,228,000 shall remain available until September 30, 1984; acquisition, operation, and maintenance of buildings abroad—\$17,655,000, to remain available until September 30, 1984; payment to the American Institute in Taiwan—\$244,000; and payment to the Foreign Service Retirement and Disability Fund—\$4,615,000.

<sup>2</sup>Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1876), and S. 2956, as reported in the Senate on September 24, 1982, and made part of Public Law 97-377, appropriated \$1,310,232,000 for "Administration of Foreign Affairs" during fiscal year 1983, itemized in following manner: salaries and expenses—\$995,000,000; reopening consulates—\$1,000,000; representation allowances—\$3,876,000; acquisition, operation, and maintenance of buildings abroad—\$193,040,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$8,360,000; emergencies in the diplomatic and consular service—\$4,400,000; buying power maintenance—\$4,500,000; payment to the American Institute in Taiwan—\$8,744,000; and payment to the Foreign Service Retirement and Disability Fund—\$91,312,000.

In addition to the regular fiscal year 1983 appropriation of \$1,310,232,000 for the "Administration of Foreign Affairs" contained in Public Law 97-377, the Supplemental Appropriations Act, 1983 (Public Law 98-63) provided the following amounts: salaries and expenses—\$7,985,000; acquisition, operation, and maintenance of buildings abroad—\$22,256,000; payment to the Foreign Service Retirement and Disability Fund—\$4,658,000; and salaries and expenses (increased pay costs)—\$21,711,000, of which \$8,111,000 was derived by transfer from contributions to the international organizations.

<sup>3</sup>Sec. 101(h) of the Continuing Appropriations Act, 1982 (Public Law 97-92; 95 Stat. 1183) and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$466,462,000 for "International Organizations and Conferences" during fiscal year 1982 itemized in the following manner: contributions to international organizations—\$398,240,000 including funds for the payment of assessed contributions to the Pan American Health Organization, and to reimburse the Pan American Health Organization for payments under the tax equalization program for employees who are U.S. citizens; contributions for international peacekeeping activities—\$60,938,000; and international conferences and contingencies—\$7,284,000.

<sup>4</sup>Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on September 24, 1982, and made part of Public Law 97-377, appropriated \$526,915,000 for "International Organizations and Conferences" during fiscal year 1983 itemized in the following manner: contributions to international organizations—\$444,315,000, of which \$12,506,000 shall be for payment of the full 1983 assessed contributions to the Inter-American Institute for Cooperation on Agriculture; contributions for international peacekeeping activities—\$73,400,000, of which not more than \$50,000,000 shall be available for contributions to a United Nations Transition Assistance Group, upon a determination by the President; and international conferences and contingencies—\$9,200,000.

<sup>5</sup>Sec. 101(h) of the Continuing Appropriations Act, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$20,197,000 for "International Commissions" during fiscal year 1982 itemized in the following manner: International Boundary and Water Commission, United States and Mexico, salaries and expenses—\$7,927,000, and for detailed plan preparation and construction of authorized projects—\$1,186,000; American sections, international commissions—\$2,847,000; and international fisheries commissions—\$8,237,000. Subsequently, the Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 819 at 823) provided the following additional amounts: American sections, international commissions—\$95,000 for the International Joint Commission to remain available until September 30, 1983.

<sup>6</sup>Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1866), and S. 2956, as reported in the Senate on September 24, 1982 and made part of Public Law 97-377, appropriated \$20,198,000 for "International Commissions" during fiscal year 1983 itemized in the following manner: International Boundary and Water Commission,

(4) For "Migration and Refugee Assistance", \$504,100,000 for the fiscal year 1982<sup>7</sup> and \$460,000,000 for the fiscal year 1983.<sup>8</sup>

#### REOPENING CERTAIN UNITED STATES CONSULATES

SEC. 103. (a) Notwithstanding any other provision of law, \$400,000 of the funds available for the fiscal year 1982 for "Salaries and Expenses" of the Department of State are hereby reprogrammed for, and shall be used by the Department for, the expenses of operating and maintaining the consulates specified in subsection (c) of this section.<sup>9</sup>

(b) None of the funds made available under this or any other Act for "Administration of Foreign Affairs" may be used for the establishment or operation of any United States consulate that did not exist on the date of enactment of this Act (other than the consulates specified in subsection (c)) until all the United States consulates specified in subsection (c) have been reopened as required by section 108 of the Department of State Authorization Act, Fiscal

United States and Mexico—\$8,754,000; American sections, international commissions—\$2,918,000; and international fisheries commissions—\$8,526,000.

In addition to the regular fiscal year 1983 appropriation of \$20,198,000 contained in Public Law 97-377, the Supplemental Appropriations Act, 1983 (Public Law 98-63) provided \$174,000 for the International Boundary and Water Commission, United States and Mexico, for increased pay costs.

<sup>7</sup> Foreign Assistance and Related Programs Appropriations Act, 1982 (Public Law 97-121; 95 Stat. 1652), provided the following:

#### "MIGRATION AND REFUGEE ASSISTANCE

"For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for European Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$503,000,000: *Provided*, That \$30,000,000 of this amount shall be transferred to the Agency for International Development to be used only for resettlement services and facilities for refugees and displaced persons in Africa: *Provided further*, That \$5,000,000 of this amount shall be used for assistance for persons displaced by strife in El Salvador as provided in H.R. 3566 as reported May 19, 1981: *Provided further*, That these funds shall be administered in a manner that insures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to insure against Communist infiltration in the Western Hemisphere: *Provided further*, That not more than \$7,426,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State."

<sup>8</sup> Appropriations for "Migration and Refugee Assistance", as well as all foreign assistance programs, during fiscal year 1983 are included in the Further Continuing Appropriations Act, 1983 (Public Law 97-377). Under the terms of this Act, appropriations for foreign aid are set at the rates and conditions provided in Public Law 97-121, Foreign Assistance Appropriations Act of 1982, except for certain programs. The exceptions to Public Law 97-121 are stated in the Further Continuing Appropriations Act, 1983, which includes the following: "\$395,000,000 for 'Migration and Refugee Assistance' (without applying prior year earmarking of funds)." See footnote 7 above for text of the terms and conditions stipulated in Public Law 97-121 for migration and refugee assistance.

<sup>9</sup> Sec. 307 of Supplemental Appropriations Act, 1982 (Public Law 97-257; 96 Stat. 875), provided the following:

"SEC. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes, unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate."

Years 1980 and 1981, to the extent such reopening is authorized by the foreign government involved.<sup>10</sup>

(c) The consulates referred to in subsections (a) and (b) of this section are the consulates in the following locations: Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

RESTRICTIONS RELATING TO PALESTINIAN RIGHTS UNITS AND  
PROJECTS PROVIDING POLITICAL BENEFITS TO THE PALESTINE LIB-  
ERATION ORGANIZATION

SEC. 104. (a) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (or any similar successor entity); and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity); and

(3) 25 percent of the amount budgeted for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(b) Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 percent of the amount budgeted by such agency for that year for projects whose primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(c)<sup>11</sup> The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing political benefit to the Palestine Liberation Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations, or its specialized agencies, for projects whose primary purpose is to provide hu-

<sup>10</sup>Sec. 139(8) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), struck out the second sentence in this subsec., which required a report be submitted to the Committees on Foreign Relations and Foreign Affairs concerning the reopening of consulates.

<sup>11</sup>Sec. 3 of Executive Order 12374 (July 28, 1982; 47 F.R. 32903), as amended by Executive Order 12408 (February 23, 1983; 48 F.R. 8035), stated that the functions vested in the President under this subsection are delegated to the Secretary of State. Executive Order 12408 was revoked by Executive Order 12553.

manitarian, educational, developmental, and other nonpolitical benefits to the Palestinian people.

PAYMENT OF ASSESSED CONTRIBUTIONS FOR CERTAIN INTERNATIONAL ORGANIZATIONS

SEC. 105. (a) Funds authorized to be appropriated for the fiscal year 1982 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1982 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(b) Funds authorized to be appropriated for the fiscal year 1983 by paragraph (2) of section 102 of this Act shall be used for payment of the entire amount payable for the United States contribution for the calendar year 1983 to the Organization of American States, to the Pan American Health Organization, and to the Inter-American Institute for Cooperation on Agriculture.

(c) For purposes of this section, the term “United States contribution” means the United States assessed contribution to the budget of the Organization of American States, the Pan American Health Organization, or the Inter-American Institute for Cooperation on Agriculture, as the case may be, plus amounts required to be paid by the United States or minus amounts credited to the United States (as appropriate) under that organization’s tax equalization program.

INTERNATIONAL COMMITTEE OF THE RED CROSS

SEC. 106. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, \$1,500,000 shall be available for the fiscal year 1982 and \$1,500,000 shall be available for the fiscal year 1983 only for the International Committee of the Red Cross to support the activities of the protection and assistance program for “political” detainees.

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 107. Of the amounts authorized to be appropriated by paragraph (4) of section 102 of this Act, \$12,500,000 for the fiscal year 1982 and \$16,875,000 for the fiscal year 1983 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics, from Communist countries in Eastern Europe, and from other countries.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

SEC. 108. (a) The Congress finds that—

(1) a free press is vital to the functioning of free governments;

(2) Article 19 of the Universal Declaration of Human Rights provides for the right to freedom of expression and to “seek, receive, and impart information and ideas through any media and regardless of frontiers”;

(3) the Constitution of the United Nations Educational, Scientific and Cultural Organization provides for the promotion of “the free flow of ideas by word and image”;

(4) the signatories of the Final Act of the Conference on Security and Cooperation in Europe (Helsinki, 1975) pledged themselves “to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and to improve the conditions under which journalists from one participating State exercise their profession in another participating State”; and

(5) government censorship, domination, or suppression of a free press is a danger to free men and women everywhere.

(b) Therefore, it is the sense of the Congress that the United Nations Educational, Scientific and Cultural Organization should cease efforts to attempt to regulate news content and to formulate rules and regulations for the operation of the world press.

(c) The Congress opposes efforts by some countries to control access to and dissemination of news.

(d)<sup>11</sup> The President shall evaluate and, not later than six months after the date of enactment of this Act, shall report to the Congress his assessment of—

(1) the extent to which United States financial contributions to the United Nations Educational, Scientific and Cultural organization, and the extent to which the programs and activities of that Organization, serve the national interests of the United States;

(2) the programs and activities of the United Nations Educational, Scientific and Cultural Organization, especially its programs and activities in the communications sector; and

(3) the quality of United States participation in the United Nations Educational, Scientific and Cultural Organization, including the quality of United States diplomatic efforts with respect to that Organization, the quality of United States representation in the Secretariat of that Organization, and the quality of recruitment of United States citizens to be employed by that Organization.

Such report should include the President’s recommendations regarding any improvements which should be made in the quality and substance of United States representation in the United Nations Educational, Scientific and Cultural Organization.

RESTRICTION ON CONTRIBUTIONS TO THE UNITED NATIONS  
EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

SEC. 109.<sup>12</sup> (a) None of the funds authorized to be appropriated by paragraph (2) of section 102 of this Act or by any other Act for “International Organizations and Conferences” may be used for payment by the United States of its contribution toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if that organization implements any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of infor-

<sup>12</sup> 22 U.S.C. 287c note.



mation within or among countries, or to impose mandatory codes of journalistic practice or ethics.

(b) Not later than February 1 of each year, the Secretary of State shall report to the Congress with respect to whether the United Nations Educational, Scientific and Cultural Organization has taken any action described in subsection (a) of this section.

#### BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

SEC. 110. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State \$3,700,000 for the fiscal year 1982<sup>13</sup> and \$3,700,000 for the fiscal year 1983<sup>14</sup> for payment of the United States share of expenses of the science and technology agreements between the United States and Yugoslavia and between the United States and Poland.

#### ASIA FOUNDATION

SEC. 111. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State \$4,500,000 for the fiscal year 1982<sup>15</sup> and \$4,500,000 for the fiscal year 1983<sup>16</sup> for the Asia Foundation in furtherance of that organization's purposes as described in its charter. Amounts appropriated under this section shall be made available to the Asia Foundation by the Secretary of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Secretary and the Foundation.

\* \* \* \* \*

#### PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

SEC. 113. Paragraph (1) of the first section of the joint resolution entitled "Joint Resolution to provide for membership of the United States in the Pan American Institute of Geography and History; and to authorize the President to extend an invitation for the next general assembly of the institute to meet in the United States in 1935, and to provide an appropriation for expenses thereof", approved August 2, 1935 (22 U.S.C. 273), is amended by striking out ", not to exceed \$200,000 annually,".

<sup>13</sup>Sec. 101(h) of the Continuing Appropriations, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$3,700,000 for U.S. bilateral science and technology agreements during fiscal year 1982.

<sup>14</sup>Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1866), and S. 2956, as reported in the Senate on September 24, 1982 and made part of Public Law 97-377, appropriated \$1,700,000 for U.S. bilateral science and technology agreements with Yugoslavia and Poland during fiscal year 1983.

<sup>15</sup>Sec. 101(h) of the Continuing Appropriations, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made part of Public Law 97-92, appropriated \$3,100,000 for the Asia Foundation during fiscal year 1982.

<sup>16</sup>Sec. 101(d) of the Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on September 24, 1982 and made part of Public Law 97-377, appropriated \$4,100,000 for the Asia Foundation during fiscal year 1983.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW  
AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

SEC. 114. Section 2 of the joint resolution entitled “Joint Resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor”, approved December 30, 1963 (22 U.S.C. 269g–1), is amended by striking out “, except that” and all that follows through “that year”.

PAN AMERICAN RAILWAY CONGRESS

SEC. 115. Section 2(a) of the joint resolution entitled “Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor”, approved June 28, 1948 (22 U.S.C. 280k), is amended by striking out “Not more than \$15,000 annually” and inserting in lieu thereof “Such sums as may be necessary”.

\* \* \* \* \*

PRIVATE SECTOR REPRESENTATIVES ON UNITED STATES DELEGATIONS  
TO INTERNATIONAL TELECOMMUNICATIONS MEETINGS AND CONFERENCES

SEC. 120. (a) Sections 203, 205, 207, and 208 of title 18, United States Code,<sup>17</sup> shall not apply to a private sector representative on the United States delegation to an international telecommunications meeting or conference who is specifically designated to speak on behalf of or otherwise represent the interests of the United States at such meeting or conference with respect to a particular matter, if the Secretary of State (or the Secretary’s designee) certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

(b) As used in this section, the term “international telecommunications meeting or conference” means the conferences of the International Telecommunications Union, meetings of its International Consultative Committees for Radio and for Telephone and Telegraph, and such other international telecommunications meetings or conferences as the Secretary of State may designate.

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SEC. 126.<sup>18</sup> \* \* \* [Repealed—1993]

TITLE II—FOREIGN MISSIONS<sup>19</sup>

\* \* \* \* \*

<sup>17</sup>These are provisions of the Ethics in Government Act which restrict the movement of individuals between the Government and private sector.

<sup>18</sup>Sec. 306 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2324) repealed sec. 126, relating to scientific exchange activities with the Soviet Union.

<sup>19</sup>Title II, cited as the Foreign Missions Act, amended the State Department Basic Authorities Act of 1956 by adding a new title concerning the regulation of foreign missions.

TITLE III—UNITED STATES INFORMATION AGENCY<sup>20</sup>

\* \* \* \* \*

TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING<sup>21</sup>

\* \* \* \* \*

TITLE V—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

REPORT ON COSTS FOR REFUGEES AND CUBAN AND HAITIAN ENTRANTS

SEC. 502. (a) Not later than 60 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a full and complete report on the total cost of Federal, State, and local efforts to assist refugees and Cuban and Haitian entrants within the United States or abroad for each of the fiscal years 1981 and 1982. Such report shall include and set forth for each such fiscal year—

(1) the costs of assistance for resettlement of refugees and Cuban and Haitian entrants within the United States or abroad;

(2) the costs of United States contributions to foreign governments, international organizations, or other agencies which are attributable to assistance for refugees and Cuban and Haitian entrants;

(3) the costs of Federal, State, and local efforts other than those described in paragraphs (1) and (2) to assist and provide services for refugees and Cuban and Haitian entrants;

(4) administrative and operating expenses of Federal, State, and local governments that are attributable to programs of assistance or services described in paragraphs (1), (2), and (3); and

(5) administrative and operating expenses incurred by the United States because of the entry of such aliens into the United States.

(b) For purposes of this section—

(1) the term “refugees” is used within the meaning of paragraph (42) of section 101(a) of the Immigration and Nationality Act; and

(2) the term “Cubans and Haitian entrants” means Cuban and Haitians paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act, during 1980 who have not been given or denied refugee status under that Act.

\* \* \* \* \*

INTERNATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES

SEC. 504. The Congress expresses its strong support for the promotion by the United States of sound infant feeding practices, and

<sup>20</sup> For text of freestanding provisions contained in this title, see page 1528.

<sup>21</sup> For the most part, title IV contained amendments to the Board for International Broadcasting Act of 1973.

continues to be concerned with the sole negative vote cast by the United States against the International Code of Marketing of Breastmilk Substitutes. The Congress urges the President, in light of congressional concern and of new indications of international support for general implementation of the Code, to review the United States position on the Code prior to the 25th World Health Assembly meeting. The Congress also urges United States infant formula manufacturers to continue to re-examine their own position regarding the Code.

\* \* \* \* \*

**u. Department of State Authorization Act, Fiscal Years 1980 and 1981**

Partial text of Public Law 96-60 [H.R. 3363], 93 Stat. 395, approved August 15, 1979; as amended by Public Law 96-110 [Cambodian Disaster Assistance Authorization Act, H.R. 4955], 93 Stat. 843, approved November 13, 1979; Public Law 96-533 [International Security and Development Cooperation Act of 1980, H.R. 6942], 94 Stat. 3131 at 3151, approved December 16, 1980; and Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 298, approved August 24, 1982

AN ACT To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

NOTE.—Sections amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the “Department of State Authorization Act, Fiscal Years 1980 and 1981”.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law, the following amounts, subject to the limitation in subsection (b):

(1) For “Administration of Foreign Affairs”, \$849,423,000 for the fiscal year 1980 and \$1,009,815,000 for the fiscal year 1981.<sup>1</sup>

<sup>1</sup>The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$996,385,000 for Admin-

Continued

(2) For "International Organizations and Conferences", \$502,945,000 for the fiscal year 1980 and \$525,082,000 for the fiscal year 1981.<sup>2</sup>

(3) For "International Commissions", \$26,733,000 for the fiscal year 1980 and \$26,081,000 for the fiscal year 1981.<sup>3</sup>

(4) For "Migration and Refugee Assistance", \$104,910,000 for the fiscal year 1979 (in addition to amounts otherwise authorized), \$456,241,000 for the fiscal year 1980, and \$517,209,000 for the fiscal year 1981.<sup>4</sup>

(b) The aggregate amount appropriated under paragraphs (1), (2), and (3) of subsection (a) may not exceed \$1,369,401,000 for the fiscal year 1980 and may not exceed \$1,547,778,000 for the fiscal year 1981.

(c) Funds appropriated under paragraph (2) of subsection (a) may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise of the Inalienable Rights of the Palestinian People (or any similar successor entity), and

illustration of Foreign Affairs itemized in the following manner: salaries and expenses—\$813,000,000; representation allowances—\$3,125,000; acquisition, operation, and maintenance of buildings abroad—\$118,432,000; acquisition, operation, and maintenance of buildings abroad (special foreign currency program)—\$8,200,000; emergencies in the Diplomatic and Consular Service—\$5,000,000; payment to the American Institute in Taiwan—\$6,282,000; and payment to the Foreign Service Retirement and Disability Fund—\$42,346,000.

<sup>2</sup>The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$538,110,000 for International Organizations and Conferences itemized in the following manner: contributions to international organizations—\$481,110,000; contributions for international peacekeeping activities—\$50,000,000; and international conferences and contingencies—\$7,000,000.

<sup>3</sup>The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$24,713,000 for International Commissions itemized in the following manner: International Boundary and Water Commission, United States and Mexico—\$13,675,000; American sections, international commissions—\$3,000,000; and international fisheries commissions—\$8,038,000.

<sup>4</sup>Sec. 1 of the Cambodian Disaster Assistance Authorization Act (Public Law 96-110; 93 Stat. 843) substituted authorization figures of \$456,241,000 and \$457,798,000 in lieu of the original fiscal years 1980 and 1981 authorizations of \$248,951,000 and \$254,188,000, respectively. The fiscal year 1981 authorization was further increased to \$517,209,000 by sec. 406 of the International Security and Development Cooperation Act of 1980 (Public Law 96-533; 94 Stat. 3151).

A foreign assistance appropriation bill was not enacted for fiscal years 1980 or 1981. Since October 1, 1979, programs funded under this appropriation measure operated pursuant to a series of continuing resolutions. The final continuing resolution (H.J. Res. 644, Public Law 96-536) provided (with several exceptions) such amounts as may be necessary for continuing projects or activities "which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96-787), and in accordance with associated agreements stated in the Joint Explanatory Statements of the Committee of Conference, accompanying H.R. 4473 \* \* \*" (this conference report was never approved by Congress).

Pursuant to Public Law 96-536, the fiscal year 1981 appropriation for Migration and Refugee Assistance was \$456,241,000.

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity).

ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 103. Of the amounts authorized to be appropriated by section 102(a)(4) of this Act for the fiscal year 1980 and for the fiscal year 1981, \$25,000,000 for each such fiscal year shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

UNITED STATES-YUGOSLAVIA BILATERAL SCIENCE AND TECHNOLOGY AGREEMENT

SEC. 104. In addition to the amounts authorized to be appropriated by section 102(a) of this Act, there are authorized to be appropriated to the Secretary of State \$1,400,000 for the fiscal year 1980 and \$1,400,000 for the fiscal year 1981<sup>5</sup> for payment of the United States share of expenses of a five-year bilateral science and technology agreement between the United States and Yugoslavia, following entry into force of such agreement.

\* \* \* \* \*

EFFECTIVE DATE FOR CERTAIN PROMOTIONS OF FOREIGN SERVICE OFFICERS

SEC. 106. The promotion for each of 64 Foreign Service officers of classes 8 and 7 to the next higher class, as the case may be, for which the Senate gave its advice and consent on March 21, 1979, and which was attested to on March 22, 1979, shall be considered for all purposes to take effect on December 17, 1978. Any payments made in implementation of this section shall be from funds previously authorized and appropriated for the fiscal year 1979.

IMPROVEMENT IN FOREIGN NATIONAL PAY PLANS<sup>6</sup>

SEC. 107. (a) It is the sense of the Congress that the Secretary of State should—

(1) improve coordination between the Department of State and the Department of Defense and other departments and agencies of the United States operating outside the United States with respect to foreign national pay systems and wage schedules to the extent that—

(A) joint wage surveys and compatible pay schedules are adopted in countries where two or more departments or agencies of the United States directly employ foreign nationals, and

<sup>5</sup> The Department of State Appropriation Act, 1981 (title I of H.R. 7584), was adopted by Congress on December 3, 1980, but vetoed by the President on December 3, 1980. Appropriations for the Department of State during fiscal year 1981 were governed by Public Law 96-536, a continuing resolution providing funds for any Federal agency which had not yet received funding through an appropriation act. Under the terms of Public Law 96-536, the Department of State was funded at levels established in H.R. 7584. H.R. 7584 appropriated \$1,400,000 for United States-Yugoslavia Bilateral Science and Technology Agreement.

<sup>6</sup> 22 U.S.C. 899 note.

- (B) Department of Defense wage rates are included in wage surveys of the Department of State where the Department of Defense operates under indirect-hire arrangements;
  - (2) monitor the establishment of wage rates outside the United States more closely to insure that United States missions—
    - (A) operate under salary schedules that reflect private sector average pay or average pay ranges,
    - (B) include the cost of severance in making pay adjustments, and
    - (C) survey jobs in the private sector which represent as closely as possible the work force of the mission; and
  - (3) substitute, whenever possible, prevailing local retirement plans for civil service retirement with respect to the retirement of foreign nationals employed by the United States.
- (b) \* \* \*

UNITED STATES CONSULATES

SEC. 108. (a) The following United States consulates shall not be closed or, if closed on the date of enactment of this Act, shall be reopened as soon as possible after such date: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia.

(b) Personnel assigned to the consulates described in subsection (a) shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.

\* \* \* \* \*

UNITED NATIONS TECHNICAL ASSISTANCE PROGRAMS

SEC. 110. Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (Public Law 95-431, 92 Stat. 1021), is amended in the paragraph under the heading "CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS" by striking out ", of which no part may be made available for the furnishing of technical assistance by the United Nations or any of its specialized agencies".<sup>7</sup>

TITLE II—INTERNATIONAL COMMUNICATION AGENCY<sup>8</sup>

\* \* \* \* \*

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING<sup>9</sup>

\* \* \* \* \*

<sup>7</sup>Such paragraph in Public Law 95-431 appropriated \$327,676,000 for contributions to international organizations but prohibited the use of these funds for technical assistance by the United Nations or any of its specialized agencies. This amendment lifted this prohibition.

<sup>8</sup>For text of freestanding provisions contained in this title, see page 1532.

<sup>9</sup>Title III amended the Board for International Broadcasting Act of 1973.



## TITLE IV—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

## CHANGE IN STATUTORY REFERENCE

SEC. 402. Any reference in any provision of law to the Committee on International Relations of the House of Representatives shall be deemed to be a reference to the Committee on Foreign Affairs of the House of Representatives.<sup>10</sup>

## EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

SEC. 403. It is the sense of the Congress that it should be the policy of the United States to promote and encourage cultural, scientific, and economic relations between the Arab Republic of Egypt and the State of Israel.

\* \* \* \* \*

## MORATORIUM ON THE COMMERCIAL KILLING OF WHALES

SEC. 405. (a) The Congress finds and declares that—

(1) whales are a unique marine resource of great esthetic and scientific interest to mankind and are a vital part of the marine ecosystem;

(2) the protection and conservation of whales are of particular interest to citizens of the United States;

(3) in 1971 the Congress adopted resolutions requesting the Secretary of State to negotiate a ten-year moratorium on the commercial killing of whales;

(4) the United States, which effectively banned all commercial whaling by United States nationals in December 1971, has sought an international moratorium on the commercial killing of whales since 1972;

(5) the United Nations Conference on the Human Environment adopted a resolution in 1972 calling for a ten-year moratorium on commercial whaling;

(6) the United Nations Governing Council for Environment Programs in 1973 and 1974 confirmed such call for a ten-year moratorium, and the Council continues to support ongoing efforts relating to the whale conservation;

(7) the International Convention for the Regulation of Whaling, signed in 1946, as implemented by the International Whaling Commission, is not providing adequate protection to whales;

(8) the data-gathering structure established under the International Whaling Commission has not provided all the available data necessary for sound whale conservation;

(9) there is strong evidence that the members of the International Whaling Commission continue to import, in some instances in increasing amounts, whale products from countries not members of the Commission; and

<sup>10</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(10) defects in the implementation of the International Convention for the Regulation of Whaling by the International Whaling Commission allow harvests of the declining whale species.

(b) The Congress urges—

(1) the International Whaling Commission to agree to a moratorium on the commercial killing of whales; and

(2) Brazil, Denmark, Iceland, Japan, Norway, the Soviet Union, and the Republic of Korea, as parties to the International Convention for the Regulation of Whaling and which still engage in commercial whaling, and Chile, the People's Republic of China, Peru, Portugal, the Democratic Republic of Korea, Spain, and Taiwan, as countries which are not parties to the Convention and which still engage in commercial whaling, to recognize and comply voluntarily with a moratorium on the commercial killing of whales, as endorsed by the United Nations Conference on the Human Environment and the United Nations Governing Council for Environment Programs.

PRIVATE SECTOR REPRESENTATIVES ON THE UNITED STATES  
DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE

SEC. 406. The provisions of sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to a private sector representative on the United States Delegation to the World Administrative Radio Conference to be convened in Geneva on September 24, 1979, who is specifically designated to speak on behalf of or otherwise represent the interest of the United States at such conference with respect to a particular matter, if the Secretary of State or his designee certifies that no Government employee on the delegation is as well qualified to represent United States interests with respect to such matter and that such designation serves the national interest. All of such representatives shall have on file with the Department of State the financial disclosure report required for special Government employees.

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SEC. 408.<sup>11</sup> \* \* \* [Repealed—1982]

<sup>11</sup>Sec. 505(a)(1) of Public Law 97–241 (96 Stat. 298) repealed sec. 408. It formerly read as follows:

“SANCTIONS AGAINST ZIMBABWE-RHODESIA

“SEC. 408. (a) The Congress finds that—

“(1) it is in the interest of the United States to encourage the development of a multiracial democracy in Zimbabwe-Rhodesia based on both majority rule and minority rights;

“(2) the elections held in April 1979, in which Zimbabwe-Rhodesians approved through elections the transfer of power to a black majority government, constituted a significant step toward multiracial democracy in Zimbabwe-Rhodesia;

“(3) the Government of Zimbabwe-Rhodesia has expressed its willingness to negotiate in good faith at an all-parties conference, held under international auspices, on all relevant issues;

“(4) it is in the foreign policy interest of the United States to further continuing progress toward genuine majority rule in Zimbabwe-Rhodesia and to encourage a peaceful resolution of the conflict; and

“(5) the Government of Great Britain, which retains responsibility for Zimbabwe-Rhodesia under international law, has not yet taken steps to recognize the legality of the new government.

“(b) In view of these considerations, the President shall—

“(1) continue United States efforts to promote a speedy end to the Rhodesian conflict; and

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“(2) terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless the President determines it would not be in our national interest to do so and so reports to the Congress.

“If the President so reports to the Congress, then sanctions shall be terminated if the Congress, within 30 calendar days after receiving the report under paragraph (2), adopts a concurrent resolution stating in substance that it rejects the determination of the President. A concurrent resolution under the preceding sentence shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act.”

Pursuant to the authority contained in subsec. (b) of this section, the President issued Determination No. 80–6 on November 14, 1979, in which he found it to be in the national interest of the United States to continue sanctions against Zimbabwe-Rhodesia.

## v. Foreign Relations Authorization Act, Fiscal Year 1979

Partial text of Public Law 95-426 [H.R. 12598], 92 Stat. 963, approved October 7, 1978, as amended by Public Law 95-482 [Continuing Appropriations, Fiscal Year 1979; H.J. Res 1139], 92 Stat. 1603 at 1605, approved October 18, 1978; Public Law 96-60 [Department of State Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 405, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983; Public Law 100-418 [Omnibus Trade and Competitiveness Act, H.R. 4848], 102 Stat. 1107, approved August 23, 1988; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and Public Law 104-66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995

AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this compilation.

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

### SHORT TITLE

SECTION 1. This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1979”.

### TITLE I—DEPARTMENT OF STATE

#### AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 101. (a) There are authorized to be appropriated for the Department of State for the fiscal year 1979 to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

(1) For “Administration of Foreign Affairs”, \$849,118,000.

(2) For "International Organizations and Conferences", \$412,826,000.

(3) For "International Commissions", \$20,773,000.

(4) For "Migration and Refugee Assistance", \$116,536,000.

(5) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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

(c) Funds authorized to be appropriated for the fiscal year 1979 by paragraphs (1) through (4) of subsection (a) may be appropriated for the fiscal year 1979 for a purpose for which appropriations are authorized by any other of those paragraphs, except that the total amount appropriated for a purpose described in any of those paragraphs may not exceed by more than 10 percent the amount specifically authorized for that purpose by subsection (a).

\* \* \* \* \*

UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

SEC. 103. (a) The Congress find that—

(1) science and technology are keys to eradicating hunger and poverty in developing countries;

(2) the ability of the developing countries to achieve self-sustaining growth has been hindered by the lack of an indigenous scientific and technological base;

(3) this scientific and technological base is vital to the emergence of developing countries as full and equal partners in the international system;

(4) expanded cooperation with respect to science and technology and can significantly contribute to an improved North-South relationship; and

(5) the United Nations Conference on Science and Technology for Development offers a valuable forum for the analysis of problems of development that might be alleviated or solved with the aid of scientific and technical expertise.

(b) It is therefore the sense of the Congress that the United States should strongly support the purpose of the United Nations Conference on Science and Technology for Development and that the United States delegation to this conference should actively develop and offer proposals which would facilitate an expansion of mutually beneficial cooperation among developed and developing countries with respect to science and technology, including joint education and research and development programs.

(c) In addition to amounts otherwise available for such purpose, \$945,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only for expenses incurred by the Department of State in connection with the United Nations Conference on Science and Technology for Development, including expenses for preparatory conferences and seminars held in the United States.

## MEMORIAL STATUE OF GENERAL MARSHALL

SEC. 104. (a) The Secretary of State is authorized to acquire on behalf of the United States a memorial statue or bust of General George C. Marshall (hereafter in this section referred to as the "memorial") to be placed in an appropriate location within the Department of State.

(b)(1) To assist the Secretary of State in carrying out the provisions of subsection (a), there is established a Commission to be composed of seven members as follows:

(A) The Secretary, who shall be the chairman of the Commission.

(B) Two members appointed by the Secretary.

(C) Two members appointed by the chairman of the Committee on Foreign Relations of the Senate.

(D) Two members appointed by the chairman of the Committee on International Relations of the House of Representatives.

Members of the Commission shall serve without compensation.

(2) The Commission shall operate under the direction of the Secretary of State and, subject to final approval by the Secretary, shall select the sculptor for the memorial and select its size, style, design, and material.

(3) The Commission shall cease to exist upon completion of its functions under this section, as determined by the Secretary.

(c)(1) Of the funds authorized to be appropriated by section 101(a)(1) of this Act, not more than \$10,000 may be used for payment of costs incurred in carrying out subsection (a) of this section.

(2) All other costs incurred in carrying out subsection (a) shall be paid by the Secretary of State with funds contributed to the United States for such purpose.

(d) The Secretary of State shall be responsible for maintenance and care of the memorial.

## FOREIGN MISSION SOLAR ENERGY DEMONSTRATION

SEC. 105.<sup>1</sup> (a) It is the purpose of this section to provide for the demonstration of solar energy and other renewable energy technologies in foreign countries through the use of such energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292(a)), in order that—

(1) countries in which such buildings are located may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in furtherance of the purpose of section 119 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151q),<sup>2</sup> cooperation

<sup>1</sup>22 U.S.C. 292a.

<sup>2</sup>Sec. 119 was repealed in 1980.

may be developed between the United States and other countries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more reliable and less dependent upon interruptible local energy supplies.

(b)(1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) of the first section of the Foreign Service Buildings Act, 1926.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for—

- (A) the heating and cooling of buildings;
- (B) solar thermal electric systems;
- (C) solar photovoltaic conversion systems;
- (D) wind energy systems; and
- (E) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the countries in which such projects are to be implemented. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State any technical information or other technical assistance which the Secretary of State considers necessary with respect to any such project. Any project selected under this section should be similar to projects which have been demonstrated by the Department of Energy (or any of its predecessor agencies) to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climatic conditions, and economic circumstances of the country in which such project is implemented in order that such country will be more likely to implement similar projects.

(4) The Secretary of State shall insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the country in which such project is implemented.

(5) In selecting projects under this section, the Secretary of State shall give the priority to projects to be implemented in developing countries.

(c) Whenever any building is constructed under the authority contained in the first section of the Foreign Service Buildings Act, 1926, the Secretary of State shall insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) In addition to amounts otherwise available for such purposes, \$4,000,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only to carry out the purposes of this section.

## ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 106. Of the amount authorized to be appropriated by section 101(a)(4) of this Act, \$25,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

## ASSISTANCE FOR REFUGEES IN AFRICA

SEC. 107. In addition to amounts otherwise available for such purpose, \$5,000,000 of the amount authorized to be appropriated by section 101(a)(4) of this Act shall be available only for assistance for refugees in Africa.

\* \* \* \* \*

SEC. 115. (a)<sup>3</sup> \* \* \* [Repealed—1994]

\* \* \* \* \*

## PUBLICATION OF HISTORICAL DOCUMENTS BY THE DEPARTMENT OF STATE

SEC. 120.<sup>4</sup> (a) The Congress finds that the Department of State publication “Foreign Relations of the United States” plays an important role in making the documentary record of United States foreign relations available to the Congress and the American public.

(b) The Secretary of State shall therefore insure that publication of the “Foreign Relations of the United States” volumes is continued in such a manner as will maintain the high standard of comprehensive documentation already established by past volumes.

## ASSISTANCE TO BEREAVED UNITED STATES FAMILIES

SEC. 121.<sup>5</sup> The Congress finds that the Department of State should, in the performance of its consular duties, render all reasonable administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad.

## SYSTEMATIC INFORMATION-SHARING

SEC. 122.<sup>6</sup> The Congress finds that—

- (1) international political, economic, and other studies prepared systematically by analysts of the Department of State as needed background information for executive branch policy-

<sup>3</sup>Formerly at 22 U.S.C. 2652a. Sec. 162(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 405), repealed sec. 115(a), which had established an Assistant Secretary of State for International Narcotics Matters.

<sup>4</sup>44 U.S.C. 1314 note.

<sup>5</sup>22 U.S.C. 1175 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State describing alternative procedures by which the Department of State could provide loans or other forms of assistance to a U.S. citizen to facilitate arrangements following the death of another U.S. citizen abroad. The Secretary submitted this report on January 19, 1979.

<sup>6</sup>22 U.S.C. 2280 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section, which had required a report from the Secretary of State containing recommendations for the establishment of an information-sharing arrangement between the State Department and congressional committees. The Secretary submitted this report on January 19, 1979.



makers could be similarly valuable to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in fulfilling their responsibilities; and

(2) a formal information-sharing arrangement between the Department of State and such congressional committees could therefore serve the national interest, provided that controls on dissemination are established which insure that neither the process of analysis nor necessary confidentiality is jeopardized.

#### ASSISTING MINORITY ENTERPRISE

SEC. 123. (a) The Congress finds that the Inter-Agency Council for Minority Enterprise has been created to assist minority owned and operated businesses in establishing broader markets, including markets with respect to procurement by the United States Government.

(b) It is the sense of the Congress that the Secretary of State, in cooperation with such Council, should—

(1) broaden minority business participation in the provision of goods and services for the Department of State; and

(2) establish and expand export markets for minority businesses.

#### LIMITATION ON GEOGRAPHICAL TRAVEL RESTRICTIONS IN UNITED STATES PASSPORTS

SEC. 124. For the purpose of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for the purpose of encouraging other countries which are signatories to the Final Act to comply with those provisions, the first section of the Act entitled “An Act to regulate the issue and validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a), is amended by adding at the end thereof the following: “Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.”.

#### DIPLOMATIC AND OFFICIAL PASSPORTS

SEC. 125.<sup>7</sup> It is the sense of the Congress that a diplomatic or official United States passport should be issued only to, and used only by, a person who holds a diplomatic or other official position in the United States Government or who is otherwise eligible for such a passport under conditions specifically authorized by law.

<sup>7</sup> 22 U.S.C. 211a note.

## TRAVEL RESTRICTIONS ON FOREIGN CITIZENS

SEC. 126.<sup>8</sup> (a) For the purpose of implementing general principles of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) emphasizing the lowering of international barriers to the free movement of people and ideas and in accordance with provisions of the Vienna Convention on Diplomatic Relations establishing the legal principles of nondiscrimination and reciprocity, it shall be the general policy of the United States to impose restrictions on travel within the United States by citizens of another country only when the government of that country imposes restrictions on travel by the United States citizens within that country.

(b) The Secretary of State shall—

(1) insure that this policy is clearly conveyed to any foreign government imposing travel restrictions on United States citizens; and

(2) seek to elimination, on a mutual and reciprocal basis, of travel restrictions imposed by such government and by the Government of the United States on each other's citizens.

(c)<sup>9</sup> \* \* \* [Repealed—1983]

(d) Subsection (a) may not be construed as limiting any restrictions on travel within the United States which are imposed by the United States Government, on a reciprocal basis, with respect to the officials of particular foreign governments.

## TITLE II—INTERNATIONAL COMMUNICATION AGENCY

\* \* \* \* \*

## TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

SEC. 401.<sup>10</sup> \* \* \* [Repealed—1981]

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SEC. 405. (a)<sup>11</sup> \* \* \*

(b)<sup>11</sup> \* \* \* [Repealed—1983]

\* \* \* \* \*

SEC. 406.<sup>12</sup> \* \* \* [Repealed—1978]

\* \* \* \* \*

<sup>8</sup>22 U.S.C. 2691 note.

<sup>9</sup>Sec. 1011(a)(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1061), repealed subsec. (c), which had required a report to Congress by the Secretary of State annually for 1979-1981 concerning domestic travel restrictions imposed by the U.S. Government, on a reciprocal basis, with respect to similar restrictions imposed by foreign governments on U.S. citizens.

<sup>10</sup>Sec. 2205(2) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160), repealed sec. 401, relating to employment of family members overseas.

<sup>11</sup>Sec. 405(a) amended the Foreign Service Act of 1946 by adding a new sec. 708. (Foreign Service Act of 1946 was replaced by the Foreign Service Act of 1980.) Sec. 1101(a)(2) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1061), repealed sec. 405(b) which had required a report to Congress from the Secretary of State regarding orientation and language training programs for family members of U.S. Government employees.

<sup>12</sup>Sec. 109 of the Continuing Appropriations, Fiscal Year 1979 (Public Law 95-482; 92 Stat. 1604), repealed sec. 406, relating to computation of annuities.

SEC. 411.<sup>13</sup> \* \* \*

\* \* \* \* \*

SEC. 413.<sup>14</sup> \* \* \* [Repealed—1981]

\* \* \* \* \*

## TITLE V—SCIENCE, TECHNOLOGY, AND AMERICAN DIPLOMACY

### FINDINGS

SEC. 501.<sup>15</sup> The Congress finds that—

(1) the consequences of modern scientific and technological advances are of such major significance in United States foreign policy that understanding and appropriate knowledge of modern science and technology by officers and employees of the United States Government are essential in the conduct of modern diplomacy;

(2) many problems and opportunities for development in modern diplomacy lie in scientific and technological fields;

(3) in the formulation, implementation, and evaluation of the technological aspects of United States foreign policy, the United States Government should seek out and consult with both public and private industrial, academic, and research institutions concerned with modern technology; and

(4) the effective use of science and technology in international relations for the mutual benefit of all countries requires the development and use of the skills and methods of long-range planning.

### DECLARATION OF POLICY

SEC. 502.<sup>16</sup> In order to maximize the benefits and to minimize the adverse consequences of science and technology in the conduct of foreign policy, the Congress declares the following to be the policy of the United States:

(1) Technological opportunities, impacts, changes, and threats should be anticipated and assessed, and appropriate measures should be implemented to influence such technological developments in ways beneficial to the United States and other countries.

(2) The mutually beneficial applications of technology in bilateral and multilateral agreements and activities involving the United States and foreign countries or international organizations should be recognized and supported as an important element of United States foreign policy.

(3) The United States Government should implement appropriate measures to insure that individuals are trained in the use of science and technology as an instrument in international

<sup>13</sup>Sec. 411 added a new sec. 5926 to title 5, United States Code, relating to compensatory time off at certain posts in foreign areas.

<sup>14</sup>Sec. 2205(2) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160) repealed sec. 413, which had required a review of Foreign Service personnel requirements and compensation.

<sup>15</sup>22 U.S.C. 2656a.

<sup>16</sup>22 U.S.C. 2656b.

relations and that officers and employees of the United States Government engaged in formal and informal exchanges of scientific and technical information, personnel, and hardware are knowledgeable in international affairs.

(4) In recognition of the environmental and technological factors that change relations among countries and in recognition of the growing interdependence between the domestic and foreign policies and programs of the United States, United States foreign policy should be continually reviewed by the executive and legislative branches of the Government to insure appropriate and timely application of science and technology to the conduct of United States foreign policy.

(5)<sup>17</sup> Federally supported international science and technology agreements should be negotiated to ensure that—

(A) intellectual property rights are properly protected; and

(B) access to research and development opportunities and facilities and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.

#### RESPONSIBILITIES OF THE PRESIDENT

SEC. 503.<sup>18</sup> (a) The President, in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall—

(1) notwithstanding any other provision of law, insure that the Secretary of State is informed and consulted before any agency of the United States Government takes any major action, primarily involving science or technology, with respect to any foreign government or international organization;

(2) identify and evaluate elements of major domestic science and technology programs and activities of the United States Government with significant international implications;

(3) identify and evaluate international scientific or technological developments with significant implications for domestic programs and activities of the United States Government; and

(4) assess and initiate appropriate international scientific and technological activities which are based upon domestic scientific and technological activities of the United States Government and which are beneficial to the United States and foreign countries.

(b)<sup>19</sup> \* \* \* [Repealed—1995]

(c) Except as otherwise provided by law, nothing in this section shall be construed as requiring the public disclosure of sensitive information relating to intelligence sources or methods or to persons engaged in monitoring scientific or technological developments for intelligence purposes.

<sup>17</sup> Sec. 5171(a) of Public Law 100-418 (102 Stat. 1452) added para. (5).

<sup>18</sup> 22 U.S.C. 2656c.

<sup>19</sup> Sec. 1111(b) of Public Law 104-66 (109 Stat. 723) repealed subsec. (b), which had required the President to report annually on personnel requirements, and standards and training for service of U.S. Government officers and employees with respect to assignments in any Federal agency which involve foreign relations and science or technology and related matters.

(d)<sup>20</sup> (1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees, as he may consider necessary.

#### RESPONSIBILITY OF THE SECRETARY OF STATE

SEC. 504.<sup>21</sup> (a)(1)<sup>22</sup> In order to implement the policies<sup>22</sup> set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

(2)<sup>22</sup> In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

(3)<sup>22</sup> Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

(B) national security policies;

(C) United States trade policies; and

(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.

(b) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations with respect to the application of science or technology to problems of foreign policy.

(c) The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and

<sup>20</sup> Sec. 5171(c) of Public Law 100-418 (102 Stat. 1453) added a new subsec. (d).

<sup>21</sup> 22 U.S.C. 2656d.

<sup>22</sup> Sec. 5171(d) of Public Law 100-418 (102 Stat. 1453) redesignated subsec. (a) as (a)(1); struck out "policy" and inserted "policies"; and added paras. (2) and (3).

shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training officers and employees of the United States Government, at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

(d) In obtaining assistance pursuant to subsection (c) in training personnel who are officers or employees of the Department of State, the Secretary may provide for detached service for graduate study at accredited colleges and universities.

(e)<sup>23</sup> \* \* \* [Repealed—1982]

## TITLE VI—POLICY PROVISIONS

### INTERNATIONAL COMMUNICATIONS POLICY

SEC. 601.<sup>24</sup> The Congress finds that—

(1) a series of multilateral meetings scheduled to convene in 1978 and 1979 (including the twentieth General Conference of the United Nations Educational, Scientific, and Cultural Organization; the Thirty-second United Nations General Assembly; the United Nations Conference on Science and Technology for Development; and the World Administrative Radio Conference of the International Telecommunications Union) will address a complex variety of international communications and information issues and will likely, through the promulgation of binding agreements relating to such issues, have a significant and lasting effect on the free flow of information and ideas among the countries of the world; and

(2) since the United States is the leading user of communications channels and information in the world, the United States Government should have a comprehensive policy regarding the various communications and information issues that have entered international discussions and should establish an effective mechanism by which to develop and coordinate United States policy on such issues.

### ACTION CONCERNING RESOURCES

SEC. 602.<sup>25</sup> It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing

<sup>23</sup> Subsec. (e), which had required a report from the Secretary of State concerning the coordination and oversight of all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979, and filed a supplemental report on October 26, 1979.

<sup>24</sup> Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President describing procedures established by which to develop and maintain a comprehensive U.S. policy regarding international communication and information issues and discussing U.S. goals and positions concerning anticipated international meetings addressing such issues. The President submitted this report on February 8, 1979.

<sup>25</sup> 22 U.S.C. 1361 note.

destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

(A) the impact of cetaceans on ecologically related human foodstuffs, and

(B) alternative methods of dealing with cetacean problems as they occur;

(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

(4) to adopt comprehensive marine mammal protection legislation.

#### INTERNATIONAL JOURNALISTIC FREEDOM

SEC. 603.<sup>26</sup> (a) The Congress finds that—

(1) news dissemination and the free flow of information across national boundaries are vital to international understanding and to healthy relations among countries; and

(2) recurring and reliable reports strongly indicate that in many countries foreign news correspondents are subject to governmental harassment and restriction, including the denial of access to legitimate news sources, the imposition of censorship, and detention, incarceration, and expulsion.

(b) It is therefore the sense of the Congress that the President should—

(1) advise the appropriate officials of any foreign government which subjects foreign news correspondents to harassment and restrictions that the United States considers such mistreatment a significant and potentially damaging factor in overall relations of the United States with such country; and

(2) raise in appropriate international forums the issue of the treatment of foreign news correspondents, with a view toward gaining multilateral support for the legitimate rights of such correspondents.

(c)<sup>27</sup> \* \* \* [Repealed—1982]

#### INTERNATIONAL FOOD RESERVE

SEC. 604.<sup>28</sup> (a) The Congress finds that—

<sup>26</sup> 22 U.S.C. 2656 note.

<sup>27</sup> Subsec. (c), which had required a report from the President describing actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The President submitted this report on February 8, 1979.

<sup>28</sup> 22 U.S.C. 2220 note.

(1) half a billion people suffer regularly from malnutrition or undernutrition;

(2) even very modest shortfalls in crop production can result in greatly increased human suffering, and undercut the benefits of bilateral and multilateral assistance programs, in poor developing countries with chronic food deficits;

(3) increasing variability in world food production and trade presents a serious threat not only to consumers but also to producers;

(4) the World Food Conference recognized the urgent need for an international undertaking to achieve a system of world food security based largely upon strategic food reserves;

(5) the Congress through legislation has repeatedly urged the President to negotiate with other nations to establish such a system of reserves;

(6) although the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability, agreement on a global network of nationally held reserves still eludes the international community;

(7) while some progress has taken place in the United States in creating domestic farmer held reserves, the scale of such reserves does not insure adequate protection against fluctuations in world production and price; and

(8) the United States, as the world's leading producer of foodstuffs, remains in a unique position to provide the leadership necessary to make world food security a reality.

(b) It is therefore the sense of the Congress that the President should continue his efforts directed toward achievement of an agreement establishing an international network of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

#### SPANISH DEMOCRACY

SEC. 605. (a) The Congress finds that—

(1) the Senate, in rendering its advice and consent to ratification of the Treaty of Friendship and Cooperation between the United States and Spain (signed on January 24, 1976), declared its hope and intent that the Treaty would serve to support and foster Spain's progress toward free institutions;

(2) this declaration reflected the strong desire of the United States Government and the American people to see a restoration of democracy in Spain and an expansion of mutually beneficial relations between Spain and the democracies of America and Europe; and

(3) political developments in Spain during the past two years constitute a major step toward the construction of a stable and lasting Spanish democracy.

(b) The Congress finds further that—

(1) the masterpiece "Guernica", painted by Pablo Picasso, has for four decades been a powerful and poignant symbol of the horror of war;

(2) this treasured painting, while universal in its significance, holds special meaning for the people of Spain by its rep-



resentation of the tragic civil war which destroyed Spanish democracy;

(3) Pablo Picasso, having painted "Guernica" for the Spanish Republican Government and concerned for Spain's future when that government fell, stipulated that the painting should remain in the custody of the Museum of Modern Art in New York until Spanish democracy had been restored; and

(4) the United States and Spain, in a Supplementary Agreement entered into with the Treaty of Friendship and Cooperation, have committed themselves to expand their cooperation in the fields of education and culture.

(c) It is therefore the sense of the Congress, anticipating the continuance of recent promising developments in Spanish political life, that "Guernica" should, at some point in the near future and through appropriate legal procedures, be transferred to the people and Government of a democratic Spain.

(d) It is further the sense of the Congress that the American people, having long benefited from this treasure and admiring Spain's achievement, would wish, as an expression of appreciation and congratulation upon the transfer of "Guernica" to Spain, to assist in the preparation of facilities for the permanent display of the painting, if such assistance is found to be appropriate by the elected leaders of Spain.

#### DISCRIMINATORY TRADE PRACTICES AFFECTING UNITED STATES FOREIGN RELATIONS

SEC. 606.<sup>29</sup> (a) The Congress finds that those provisions of United States statutes which authorize or require suspension of or discrimination with respect to all trade between the United States and a particular foreign country and which affect, directly and significantly, the conduct of the United States foreign relations should be periodically reevaluated by the President and the Congress.

(b) Therefore, not later than January 20, 1979, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairman of other appropriate committees of the Senate, a report which—

(1) identifies all statutory provisions which provide for such discriminatory trade practices;

(2) evaluates each such practice; and

(3) recommends, in the form of draft legislation, such amendments to those provisions as the President certifies would in his judgment advance United States foreign policy interests.

#### CONDUCT OF DIPLOMATIC RELATIONS

SEC. 607.<sup>30</sup> The Congress finds that the conduct of diplomatic relations with a foreign government has as its principal purpose the discussion and negotiation with that government of outstanding issues and, like the recognition of a foreign government, does not

<sup>29</sup> 22 U.S.C. 2842 note.

<sup>30</sup> 22 U.S.C. 2656 note.

in itself imply approval of that government or of the political-economic system it represents.

#### NUCLEAR-POWERED SATELLITES

SEC. 608.<sup>31</sup> (a) The Congress finds that—

(1) no international regime governs the use of nuclear-powered satellites in space;

(2) the unregulated use of such technology poses the possibility of catastrophic damage to human life and the global environment; and

(3) this danger has been evidenced by mishaps encountered, despite certain precautions, by nuclear-powered satellites of both the United States and the Soviet Union.

(b) It is therefore the sense of the Congress that the United States should take the initiative immediately in seeking a multilateral agreement governing the use of nuclear-powered satellites in space.

(c)<sup>32</sup> \* \* \* [Repealed—1982]

#### WORLD ALTERNATE ENERGY CONFERENCE

SEC. 609. (a) The Congress finds that—

(1) increasing global dependence on fossil fuels, particularly oil and natural gas, when existing supplies are rapidly being depleted, is costly to developed and developing countries both environmentally and economically;

(2) the uncontrolled spread of nuclear power carries serious dangers due to waste pollution and the possibility of accidents or material diversion;

(3) expanded development and use of alternate, nonconventional, or renewable sources of energy (including solar energy, wind, biomass waste materials, and alcohol fuels) could assist all countries in satisfying rising energy demands, while reducing environmental and economic risk;

(4) no international agency exists at present which assists countries in exchanging information and technical assistance concerning energy-related problems or which promotes the development and use of alternate energy sources; and

(5) an international agency performing these functions could be of benefit to all countries and could be particularly effective in assisting developing countries to become more self-sufficient and thereby to increase their standard of living.

(b) It is therefore the sense of the Congress that the United States should encourage the United Nations to convene a World Alternate Energy Conference in 1981 for the purpose of considering ways to meet the energy needs of the world through the development and use of alternate energy sources. Among proposals considered at such a conference should be the establishment, under United Nations auspices, of an international Alternate Energy Commission to encourage the worldwide use of alternate energy

<sup>31</sup> 22 U.S.C. 2656d note.

<sup>32</sup> Subsec. (c), which had required a report from the Secretary of State on actions taken by the U.S. Government pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979.

sources by assisting in the dissemination of information and by other appropriate means.

(c)<sup>33</sup> \* \* \* [Repealed—1982]

#### ATROCITIES IN CAMBODIA AND UGANDA

SEC. 610.<sup>34</sup> (a) The Congress finds that reliable reports of events in Cambodia and Uganda attest to the existence of governmental practices in those countries of such systematic and extensive brutality as to require special notice and continuing condemnation by outside observers.

(b) Recognizing the limited direct influence of the United States in Cambodia and Uganda, the Congress urges the President to move aggressively to support multilateral action by the United Nations and other international organizations, and to encourage bilateral action by countries having more extensive relations with Cambodia and Uganda, to bring an end to the brutal and inhumane practices of the governments of those two countries.

(c)<sup>35</sup> \* \* \* [Repealed—1982]

(d) It is the sense of the Congress that the President should—

(1) prohibit the export of military, paramilitary, and police equipment to Uganda;

(2) direct that the visa application of any official or employee of the Government of Uganda seeking to enter the United States for the purpose of military, paramilitary, or police training, may be approved by a consular officer only after the appropriate official of the Department of State in Washington has reviewed the application and has determined that the Government of Uganda has demonstrated a proper respect for the rule of law and for internationally recognized human rights; and

(3) instruct the Permanent Representative of the United States to the United Nations to submit to the Security Council of the United Nations for its consideration a resolution imposing a mandatory arms embargo on Uganda by all members of the United Nations.

#### EQUITABLE TREATMENT OF UNITED STATES CITIZENS LIVING ABROAD

SEC. 611.<sup>36</sup> The Congress finds that—

(1) United States citizens living abroad should be provided fair and equitable treatment by the United States Government with regard to taxation, citizenship of progeny, veterans' bene-

<sup>33</sup> Subsec. (c), which had required a report from the Secretary of State on actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979.

<sup>34</sup> 22 U.S.C. 2151 note.

<sup>35</sup> Subsec. (c), which had required a report from the Secretary of State concerning actions taken pursuant to subsec. (b), was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299). The Secretary submitted this report on January 19, 1979.

<sup>36</sup> 22 U.S.C. 1731 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section. Subsec. (b), as amended by sec. 407(b) of Public Law 96-60, had required a report from the President identifying all U.S. statutes and regulations which treat U.S. citizens living abroad differently from U.S. citizens living in the United States or which may cause competitive disadvantage for Americans working abroad relative to the treatment by other major trading nations of the world of their citizens who are working abroad. The report also required an evaluation of such practices and draft legislation to correct any unfair or competitively disadvantageous treatment. The President submitted reports pursuant to this requirement on August 27, 1979, and January 24, 1980.

fits, voting rights, Social Security benefits, and other obligations, rights, and benefits; and

(2)<sup>37</sup> United States statutes and regulations should be designed so as not to create competitive disadvantage for individual American citizens living abroad or working in international markets.

#### UNITED STATES-CANADIAN NEGOTIATIONS ON AIR QUALITY

SEC. 612.<sup>38</sup> (a) The Congress finds that—

(1) the United States and Canada share a common environment along a 5,500 mile border;

(2) the United States and Canada are both becoming increasingly concerned about the effects of pollution, particularly that resulting from power generation facilities, since the facilities of each country affect the environment of the other;

(3) the United States and Canada have subscribed to international conventions; have joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development, and other international environmental forums; and have entered into and implemented effectively the provisions of the historic Boundary Waters Treaty of 1909; and

(4) the United States and Canada have a tradition of cooperative resolution of issues of mutual concern which is nowhere more evident than in the environmental area.

(b) It is the sense of the Congress that the President should make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources and insure the attainment and maintenance of air quality protective of public health and welfare.

(c) It is further the sense of the Congress that the President, through the Secretary of State working in concert with interested Federal agencies and the affected States, should take whatever diplomatic actions appear necessary to reduce or eliminate any undesirable impact upon the United States and Canada resulting from air pollution from any source.

#### CUBAN PRESENCE IN AFRICA

SEC. 613.<sup>39</sup> The Congress finds that—

(1) the President authorized the exchange of notes of May 30, 1977, between the Governments of the United States and Cuba which established an Interests Section for the United States in the Embassy of Switzerland in Havana and an Interests Section for Cuba in the Embassy of Czechoslovakia in Washington;

<sup>37</sup> Para. (2) was amended and restated by sec. 407(a) of Public Law 96-60 (93 Stat. 405). It formerly read as follows: "(2) such fair and equitable treatment would be facilitated by a periodic review of statutes and regulations affecting Americans living abroad."

<sup>38</sup> 42 U.S.C. 7415 note.

<sup>39</sup> 22 U.S.C. 2370 note. Sec. 505(a) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President reviewing U.S. diplomatic and economic relations with Cuba. The President submitted this report on February 8, 1979.

(2) the President has the authority under the Export Administration Act of 1969 to limit trade with Cuba being conducted by subsidiaries of American firms operating in third countries;

(3) the President has the power to sever all diplomatic and economic relations with Cuba; and

(4) there has been a sharp increase in the number of Cuban military personnel serving in Africa in the past year.

#### PALESTINIAN RIGHTS UNITS

SEC. 614. (a) The Congress, noting United Nations General Assembly Resolution 3376 (XXX) which established the Committee on the Exercise of the Inalienable Rights of the Palestinian People and noting United Nations General Assembly Resolutions 32/40/A and 32/40/B which continued the mandate of that Committee and requested that the Secretary General establish within the Secretariat of the United Nations a Special Unit on Palestinian Rights, declares that—

(1) the continuation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the creation of the Special Unit on Palestinian Rights are wasteful expenditures of limited United Nations resources at a time when the United Nations is experiencing severe financial difficulties and when the United Nations is under close scrutiny from contributing members;

(2) the work of the Committee on the Exercise of the Inalienable Rights of the Palestinian People does not contribute to the process of peacemaking underway at present in the Middle East; and

(3) the United States Ambassador to the United Nations should be instructed to continue to oppose extensions of the mandate of that Committee as well as extensions of the Special Unit on Palestinian Rights.

(b) It is the sense of the Congress that the President should direct the Permanent Representative of the United States to the United Nations to use all means at his disposal to obtain action by the General Assembly terminating the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights.

#### TITLE VII—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

#### CONTRIBUTION TO THE INTERNATIONAL TIN COUNCIL

SEC. 704. Effective October 1, 1978, there is authorized to be appropriated to the President \$60,000,000 for the purpose of acquiring tin metal to contribute to the buffer stock of the International Tin Council established under the Fifth International Tin Agreement.

## PROHIBITION ON AID OR REPARATIONS TO VIETNAM

SEC. 705.<sup>40</sup> The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

## USE OF FOREIGN AIR CARRIERS

SEC. 706. Notwithstanding the limitations established by section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517), funds appropriated after the date of enactment of this Act to the Department of State, the International Communications Agency, the Agency for International Development (or any successor agency),<sup>41</sup> and the Arms Control and Disarmament Agency may be used to pay for the transportation, between two places both of which are outside the United States, of officers and employees of those agencies, their dependents, and accompanying baggage, aboard air carriers which do not hold certificates under section 401 of that Act.

\* \* \* \* \*  
SEC. 709.<sup>42</sup> \* \* \* [Repealed—1982]

\* \* \* \* \*  
SEC. 711.<sup>43</sup> \* \* \* [Repealed—1982]

<sup>40</sup>Sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299) repealed subsec. (a), which had prohibited the use of any funds authorized to be appropriated by this Act for reparations, aid, or any other form of payment to Vietnam.

<sup>41</sup>This responsibility of AID was transferred to the Director of IDCA, pursuant to sec. 6 of Reorganization Plan No. 2 of 1979 (establishing IDCA).

<sup>42</sup>Sec. 709, which had prohibited the use of any funds authorized to be appropriated by this Act, directly or indirectly, to effect the implementation of the Panama Canal treaties without authorization by the Constitution or by Act of Congress, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

<sup>43</sup>Sec. 711, which had authorized \$1.5 million in each of the fiscal years 1979 and 1980 for a commission on global hunger and malnutrition, was repealed by sec. 505(a)(2) of Public Law 97-241 (96 Stat. 299).

## w. Foreign Relations Authorization Act, Fiscal Year 1978

Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844, approved August 17, 1977; as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; and Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize fiscal year 1978 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this volume.

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

### SHORT TITLE

SECTION 1. This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1978”.

### TITLE I—STATE DEPARTMENT

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1978, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

- (1) For the “Administration of Foreign Affairs”, \$762,005,000.
- (2) For “International Organizations and Conferences”, \$426,687,000.<sup>1</sup>
- (3) For “International Commissions”, \$21,839,000.
- (4) For “Education Exchange”, \$94,600,000.
- (5) For “Migration and Refugee Assistance”, \$63,554,000.

<sup>1</sup>This authorization figure was substituted in lieu of the original authorization of \$389,412,000 by sec. 102 of Public Law 95-426 (92 Stat. 963).

(6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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

#### TRANSFER AUTHORITY

SEC. 102. Funds authorized to be appropriated for fiscal year 1978 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

#### CONTRIBUTION TO THE WORLD HEALTH ORGANIZATION

SEC. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110),<sup>2</sup> \$7,281,583 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to pay the unpaid portion of the United States assessed contributions to the World Health Organization for the calendar years 1974 through 1977.

#### ASSISTANCE FOR REFUGEES SETTLING IN ISRAEL

SEC. 104. Of the amount authorized to be appropriated by section 101(a)(5) of this Act, \$20,000,000 shall be available only for assistance for the resettlement in Israel of refugees from the Union of Soviet Socialist Republics and from Communist countries in Eastern Europe.

SEC. 105.<sup>3</sup> \* \* \* [Repealed—1985]

\* \* \* \* \*

#### STRENGTHENING EDUCATIONAL EXCHANGE PROGRAMS

SEC. 107.<sup>4</sup> The Congress finds that—

(1) for over thirty years the United States program for the international exchange of teachers and scholars, begun by the Act of August 1, 1946 (60 Stat. 754; known as the "Fulbright Act of 1946"), has contributed significantly to the free flow of knowledge and to greater understanding between the United States and other nations;

<sup>2</sup>Such Act placed a 25 percent ceiling on U.S. payments of assessed contributions to the United Nations or any affiliated agency. The amount authorized in this section was in excess of the 25 percent limit.

<sup>3</sup>Sec. 105, relating to the U.S. contribution to the International Committee of the Red Cross, was repealed by sec. 109(d) of Public Law 99-93 (99 Stat. 410).

<sup>4</sup>Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State on measures taken to strengthen educational exchange activities. The Secretary submitted this report on January 3, 1978.



(2) it is in the interest of the United States that this program be strengthened; and

(3) a still stronger educational exchange program can be attained by—

(A) diversifying exchange opportunities so as to assist persons from professional and public life to spend time in an academic setting and to assist teachers and scholars to spend time in professional and other pursuits in the public arena;

(B) providing sharper focus to exchange activities by bringing selected grant recipients together for joint work on themes and problems identified as having current significance in international affairs; and

(C) lengthening the period of some scholarships to allow work by grant recipients to be phased over more than one location.

SEC. 108.<sup>5</sup> \* \* \* [Repealed—1994]

#### ASSISTANT SECRETARIES OF STATE

SEC. 109. (a) \* \* \*

(6)<sup>6</sup> The individual holding the position of Coordinator for Human Rights and Humanitarian Affairs on the date of enactment of this section shall assume the duties of the Assistant Secretary of State for Human Rights and Humanitarian Affairs and shall not be required to be reappointed by reason of the enactment of this section.

(7)<sup>7</sup> \* \* \* [Repealed—1982]

(b)–(d) \* \* \*

#### SAINT LAWRENCE SEAWAY TOLL NEGOTIATIONS

SEC. 110. (a) There is established an advisory board (hereafter in this section referred to as the “Board”) to advise the Secretary of State with respect to the negotiations with Canada concerning toll increases on the Saint Lawrence Seaway and the Welland Canal.

(b) The Board shall consist of 15 members appointed by the President from among representatives of groups in the Great Lakes area which would be affected most directly by increased tolls, including port directors, port authorities, maritime labor, shipping companies, shippers, and consumers.

(c)(1) Members of the Board shall each be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board.

<sup>5</sup>Formerly at 22 U.S.C. 2151n-1. Sec. 139(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed sec. 108, which had required that the Secretary of State report annually on Americans incarcerated abroad.

<sup>6</sup>22 U.S.C. 2384 note. This position has been restated in sec. 1(c)(2) of the State Department Basic Authorities Act of 1956, as amended by sec. 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1995 and 1996, as the Assistant Secretary of State for Democracy, Human Rights, and Labor.

<sup>7</sup>Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed para. (7), which had required a report from the Secretary of State on operations and organization plans for the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs. The Secretary submitted this report on January 31, 1978.

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

(d) The Board shall cease to exist on the date designated by the Secretary of State as the date on which the negotiations described in subsection (a) are completed or on September 30, 1978, whichever date occurs first.

#### LIABILITY OF CONSULAR OFFICERS

SEC. 111. (a)(1) Sections 1735 and 1736 of the Revised Statutes of the United States (22 U.S.C. 1199) are repealed.<sup>8</sup>

(2) The section analysis of chapter two of title XVIII of the Revised Statutes of the United States is amended by striking out the items relating to sections 1735 and 1736.

(b) The repeals made by subsection (a) shall not affect suits commenced before the date of enactment of this Act.

\* \* \* \* \*

#### TITLE II—UNITED STATES INFORMATION AGENCY<sup>9</sup>

\* \* \* \* \*

#### TITLE IV—FOREIGN SERVICE AND OTHER PERSONNEL

\* \* \* \* \*

#### SPECIAL ANNUITY FOR CERTAIN OFFICERS SELECTED-OUT FROM THE FOREIGN SERVICE

SEC. 411.<sup>10</sup> (a) Subject to the conditions established in subsection (b), any Foreign Service officer—

(1) who was retired under section 633(a)(1) of the Foreign Service Act of 1946 before the date of enactment of this section;

(2) who was not in class 1, 2, or 3 at the time of retirement;

(3) who was 40 years of age or older at the time of retirement; and

(4) who had at least 20 years of service, exclusive of credit for unused sick leave, creditable for purposes of section 821 of such Act at the time of retirement;

shall be entitled to receive retirement benefits in accordance with the provisions of such section 824 in lieu of any retirement benefits which the officer may be entitled to elect under section 634(b)(2) of such Act. Such retirement benefits shall be paid from the Foreign Service Retirement and Disability Fund and shall be effective on the date the officer reaches age 50, the date of enactment of this section, or October 1, 1977, whichever date is latest.

(b) Retirement benefits may not be paid under this section unless (1) any refund of contributions paid to the officer under section

<sup>8</sup>These sections authorized suits against U.S. consular officers for damages due to willful neglect or failure to perform any duty imposed by law.

<sup>9</sup>For text of this title, see page 1537.

<sup>10</sup>22 U.S.C. 1004 note.

634(b)(2) of the Foreign Service Act of 1946 is repaid to the Foreign Service Retirement and Disability Fund, with interest, in accordance with sections 811 (d) and (f) of such Act; and (2) the service forming the basis for such retirement benefits is not used as the basis for any other retirement benefits under any retirement system.

(c) In the event that an officer who is entitled to retirement benefits under this section dies before reaching the age of fifty, but after the date of enactment of this section, his or her death shall be considered a death in service within the meaning of section 832 of the Foreign Service Act of 1946,<sup>11</sup> except that no survivor's annuity (other than a survivor's annuity which would be payable under the first complete sentence in section 634(b)(2) of such Act but for the enactment of this section) shall become effective before October 1, 1977.

(d) An officer entitled to retirement benefits under this section may make the election described in section 821 (b) or (f), as appropriate, of the Foreign Service Act of 1946<sup>11</sup> at any time before reaching the age of fifty or before the end of the sixty-day period beginning on the date of enactment of this section, whichever is later.

#### COMPENSATION FOR JUNIOR FOREIGN SERVICE OFFICERS

SEC. 412. (a)(1) Paragraph (2) of section 5541 of title 5, United States Code, is amended—<sup>12</sup>

(A) by striking out “or” at the end of clause (xii);

(B) by striking out the period at the end of clause (xiii) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following clauses:

“(xiv) a ‘Foreign Service officer’ within the meaning of section 401 of the Foreign Service Act of 1946; or

“(xv) a ‘Foreign Service information officer’ as provided for by the first section of the Act entitled ‘An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency<sup>13</sup> through establishment of a Foreign Service Information Officer Corps,’ approved August 20, 1968”.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1978.

(b)<sup>14</sup> \* \* \* [Repealed—1978]

SEC. 413.<sup>15</sup> \* \* \* [Repealed—1981]

<sup>11</sup> Repealed by the Foreign Service Act of 1980.

<sup>12</sup> This amendment to sec. 5541 of title 5 excluded Foreign Service officers from civil service law which required overtime pay for certain Federal employees of GS-10 or lesser rank.

<sup>13</sup> The reference to the International Communication Agency was substituted in lieu of a reference to the United States Information Agency by sec. 204(b)(5) of Public Law 95-426 (92 Stat. 974). However, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the Agency as the United States Information Agency and directed that any reference to the International Communication Agency shall be deemed to refer to the United States Information Agency.

<sup>14</sup> Subsec. (b), which had provided for a \$250 per annum salary increase for Foreign Service officers in classes 5 through 8, was repealed by sec. 410 of Public Law 95-426 (92 Stat. 980). Such salary increase became effective with pay periods beginning on or after October 1, 1978.

<sup>15</sup> Sec. 413 was repealed by sec. 2205(3) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160). For current text concerning the employment of family members of Foreign Service personnel, see sec. 311 of the Foreign Service Act of 1980.

## LANGUAGE TRAINING FOR FOREIGN SERVICE SPOUSES

SEC. 414.<sup>16</sup> It is the sense of Congress that, in order to increase the effectiveness of United States diplomatic representation abroad, the Secretary of State should make greater use of his authority under section 701 of the Foreign Service Act of 1946 in order to increase the language training opportunities available to the family members of Foreign Service personnel.

## TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501.<sup>17</sup> \* \* \* [Repealed—1982]

## BELGRADE CONFERENCE

SEC. 502. The Congress finds that the Belgrade Conference to review compliance with the Helsinki Accords provides the United States an important forum to press its case for greater respect for human rights. Furthermore, the Congress is convinced that the emphasis given human rights in general by the United States should be translated into concern for specific individuals. In this regard, the Congress is particularly concerned about the fate of Anatoly Shcharansky and urges the United States representatives to the Belgrade Conference to express the official concern of the United States over the Shcharansky case.

## UNITED NATIONS REFORM

SEC. 503.<sup>18</sup> The United States should make a major effort toward reforming and restructuring the United Nations system so that it might become more effective in resolving global problems. Toward that end, the United States should present a program for United Nations reform to the Special United Nations Committee on the Charter of the United Nations and on Strengthening of the Role of the Organization. In developing such a program the United States should give appropriate consideration to various possible proposals for reforming the United Nations, including but not limited to proposals which would—

- (1) adjust decisionmaking processes in the United Nations by providing voting in the General Assembly weighted according to population and contributions and by modifying veto powers on certain categories of questions, such as membership recommendations, in the Security Council;
- (2) foster greater use of the International Court of Justice by the United States and other members of the United Nations;

<sup>16</sup> 22 U.S.C. 1041 note. Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the Secretary of State on increased language training opportunity for the families of Foreign Service personnel. The Secretary submitted this report on December 20, 1977.

<sup>17</sup> Sec. 501, which had required a report from the President containing recommendations for reorganizing the international information, education, cultural, and broadcasting activities of the United States, was repealed by sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299). The President submitted this report on October 31, 1977.

<sup>18</sup> Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had required a report from the President on recommendations for reform in the United Nations. The President submitted this report on March 7, 1978.

(3) supplement United Nations finances through contributions from commerce, services, and resources regulated by the United Nations;

(4) improve coordination of and expand United Nations activities on behalf of human rights;

(5) establish more effective United Nations machinery for the peaceful settlement of disputes, including means for the submission of differences to mediation or arbitration;

(6) adjust assessment scale calculations to reflect more accurately the actual ability of member nations to contribute to the United Nations and its specialized agencies; and

(7) provide greater coordination of United Nations technical assistance activities by the United Nations Development program.

#### INFORMATION OFFICES IN THE UNITED STATES

SEC. 504. It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law.

#### REPARATIONS FOR VIETNAM

SEC. 505.<sup>19</sup> The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam.

#### PANAMA CANAL

SEC. 506. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this Act must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

#### UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

SEC. 507. (a) The President shall take appropriate steps to ensure that, at all stages of the United Nations Conference on Science and Technology for Development, representatives of the United States place important emphasis, in both official statements and informal discussions, on the development and use of light capital technologies in agriculture, in industry, and in the production and conservation of energy.

(b) As used in this section, the term "light capital technologies" means those means of production which economize on capital wherever capital is scarce and expensive and labor abundant and cheap, the purposes being to insure that the increasingly scarce capital in the world can be stretched to help all, rather than a small minority, of the world's poor; that workers will not be displaced by sophisticated labor-saving devices where there is already much un-

<sup>19</sup>22 U.S.C. 2151 note. Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed subsec. (a) of this section which had prohibited the use of any funds authorized to be appropriated by this Act for reparations, aid, or any other form of payment to Vietnam.

employment; and further, that, poor nations can be encouraged eventually to produce their own capital from surplus labor time, thus enhancing their chances of developing independently of outside help.

\* \* \* \* \*

#### FOREIGN EMPLOYMENT

SEC. 509. (a)–(c)<sup>20</sup> \* \* \* [Repealed—1982]

- (d)(1) Section 1032 of title 10, United States Code, is repealed.<sup>21</sup>  
 (2) The section analysis for chapter 53 of such title is amended by striking out the item relating to section 1032.  
 (3) Section 280 of such title is amended by striking out “1032,”.

#### INTERNATIONAL FOOD RESERVE

SEC. 510.<sup>22</sup> (a) The Congress finds and declares that—

- (1) half a billion people suffer from malnutrition or under-nutrition;
- (2) very modest shortfalls in crop production can result in widespread human suffering;
- (3) increasing variability in world food production and trade remains an ever-present threat to producers and consumers;
- (4) the World Food Conference recognized the urgent need for an international undertaking on world food security based largely upon strategic food reserves;
- (5) the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability;
- (6) the Congress through legislation has repeatedly urged the President to enter negotiations with other nations to establish such a network of grain reserves;
- (7) little progress has resulted from the initial multilateral discussions toward the negotiation of an international grain reserve system;
- (8) this lack of progress caused, in part, by lack of leadership in such discussions; and
- (9) the United States is in a unique position as the world's most important producer of foodstuffs to provide such leadership.

<sup>20</sup>Public Law 97-295 (96 Stat. 1304) made technical amendments in subsecs. (a) through (c) of sec. 509, codified the text at 37 U.S.C. 908, and removed it from session law. 37 U.S.C. 908, as amended, reads as follows:

“§ 908. Employment of reserves and retired members by foreign governments  
 “(a) CONGRESSIONAL CONSENT.—Subject to subsection (b) of this section, Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

“(1) Retired members of the uniformed services.  
 “(2) Members of a reserve component of the armed forces.  
 “(3) Members of the Commissioned Reserve Corps of the Public Health Service.

“(b) APPROVAL REQUIRED.—A person described in subsection (a) of this section may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

“(c) MILITARY SERVICE IN FOREIGN ARMED FORCES.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.”

<sup>21</sup>10 U.S.C. 1032 granted congressional consent of foreign employment to reserve officers of the Armed Forces only.

<sup>22</sup>22 U.S.C. 2220 note.

(b) It is therefore the sense of the Congress that the President should initiate a major diplomatic initiative toward the creation of an international system of nationally held grain reserves which provides for supply assurance to consumers and income security to producers.

#### NEGOTIATIONS WITH CUBA

SEC. 511. (a) It is the sense of the Congress that any negotiations toward the normalization of relations with Cuba be conducted in a deliberate manner and on a reciprocal basis, and that the vital concerns of the United States with respect to the basic rights and interests of United States citizens whose persons or property are the subject of such negotiations be protected.

(b) Furthermore, it is the sense of Congress that the Cuban policies and actions regarding the use of its military and paramilitary personnel beyond its borders and its disrespect for the human rights of individuals are among the elements which must be taken into account in any such negotiations.

#### UNITED STATES POLICY TOWARD KOREA

SEC. 512.<sup>23</sup> (a) The Congress declares that—

(1) United States policy toward Korea should continue to be arrived at by joint decision of the President and the Congress;

(2) in any implementation of the President's policy of gradual and phased reduction of United States ground forces from the Republic of Korea, the United States should seek to accomplish such reduction in stages consistent with United States interests in Asia, notably Japan, and with the security interests of the Republic of Korea;

(3) any implementation of this policy should be carried out with a careful regard to the interest of the United States in continuing its close relationship with the people and government of Japan, in fostering democratic practices in the Republic of Korea, and in maintaining stable relations among the countries of East Asia; and

(4) these interests can be served most effectively by a policy which involves consultations by the United States Government, as appropriate, with the governments of the region, particularly those directly involved.

(b)(1)<sup>24</sup> Any implementation of the foregoing policy shall be carried out in regular consultation with the Congress.

SEC. 513.<sup>25</sup> \* \* \* [Repealed—1982]

#### INTERNATIONAL BOUNDARY AND WATER COMMISSION

SEC. 514. (a) Section 2(2) of the Act entitled "An Act to authorize conclusion of an agreement with Mexico for joint measures for solu-

<sup>23</sup> 22 U.S.C. 2428a.

<sup>24</sup> Sec. 139(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (b)(2), which had required that the President report annually on the implementation of the policy outlined in sec. 512.

<sup>25</sup> Sec. 505(a)(3) of Public Law 97-241 (96 Stat. 299) repealed sec. 513, which had requested the Secretary of State to report at an appropriate date to Congress on procedures followed by the executive branch in preparation for the U.N. special session on disarmament and on U.S. objectives for that special session.

tion of the Lower Rio Grande salinity problem," approved September 19, 1966 (22 U.S.C. 277d-31), is amended by inserting immediately after "\$25,000" the following: "based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein."

(b) Section 3 of the Act entitled "An Act to authorize the conclusion of agreements with Mexico for joint construction, operation, and maintenance of emergency flood control works on the lower Colorado River, in accordance with the provisions of article 13 of the 1944 Water Treaty with Mexico, and for other purposes", approved August 10, 1964 (22 U.S.C. 277d-28), is amended by inserting immediately after "\$30,000" the following: "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein."

(c) Section 103 of the American-Mexican Treaty Act of 1950 (22 U.S.C. 277d-3) is amended by striking out "\$100 per diem" in the second sentence and inserting in lieu thereof "the maximum daily rate for grade GS-15 of the General Schedule".

(d) The amendments made by this section shall take effect on October 1, 1977.

#### FOREIGN GIFTS AND DECORATIONS

SEC. 515. (a)<sup>26</sup> \* \* \*

(b)(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

<sup>26</sup>Subsec. (a) comprehensively amended 5 U.S.C. 7342, entitled, "Receipt and disposition of foreign gifts and decorations".



## x. Foreign Relations Authorization Act, Fiscal Year 1977

Partial text of Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; as amended by Public Law 95-45 [Department of State Authorization, Fiscal Year 1977; H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982; and Public Law 99-514 [Tax Reform Act of 1986, H.R. 3838], 100 Stat. 2085, approved October 22, 1986

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1977”.

NOTE.—Sections amend other State Department or foreign relations legislation and are incorporated elsewhere in this volume. In addition, title V of this Act which relates to Foreign Service retirement may be found on page 902.

### TITLE I—STATE DEPARTMENT

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) There are authorized to be appropriated for the Department of State for fiscal year 1977, to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, including trade negotiations, and other purposes authorized by law, the following amounts:

- (1) For the “Administration of Foreign Affairs”, \$552,455,000.
- (2) For “International Organizations and Conferences”, \$402,460,453.<sup>1</sup>
- (3) For “International Commissions”, \$17,069,000.
- (4) For “Educational Exchange”, \$68,500,000.
- (5) For “Migration and Refugee Assistance”, \$28,725,000.<sup>2</sup>

<sup>1</sup>Sec. 1 of Public Law 95-45 substituted “\$402,460,453” and “\$28,725,000” in lieu of “\$342,460,453” and “\$10,000,000,” respectively.

<sup>2</sup>The Supplemental Appropriations Act, 1977 (Public Law 95-26), provided: “For an additional amount for ‘Migration and refugee assistance’, \$18,725,000, to remain available until December 31, 1977: *Provided*, That of the funds appropriated under this paragraph, \$3,000,000 shall be allocated for reception and placement of refugees in the United States: *Provided further*, That

Continued

(6) For increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs, such amounts as may be necessary.

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

#### TRANSFER AUTHORITY

SEC. 102. Funds authorized to be appropriated for fiscal year 1977 by any paragraph of section 101(a) (other than paragraph (6)) may be appropriated for such fiscal year for a purpose for which appropriations are authorized by any other paragraph of such section (other than paragraph (6)), except that the total amount appropriated for a purpose described in any paragraph of section 101(a) (other than paragraph (6)) may not exceed the amount specifically authorized for such purpose by section 101(a) by more than 10 per centum.

#### CONTRIBUTION TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

SEC. 103. Notwithstanding the limitation contained in the proviso in the paragraph under the subheading "Contributions to International Organizations" in title I of the Act of October 25, 1972 (86 Stat. 1110), and notwithstanding the requirements of section 302(h) of the Foreign Assistance Act of 1961, \$3,545,453 of the amount authorized to be appropriated by section 101(a)(2) of this Act may be used to complete the fiscal year 1975 United States contribution to the United Nations Educational, Scientific, and Cultural Organization.

\* \* \* \* \*

#### RUSSIAN REFUGEE ASSISTANCE

SEC. 105. In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of State for fiscal year 1977 not to exceed \$20,000,000<sup>3</sup> to carry out the provisions of section 101(b) of the Foreign Relations Authorizations Act of 1972<sup>4</sup> (relating to Russian refugee assistance) and to furnish similar assistance to refugees from Communist countries in Eastern Europe. None of the funds appropriated under this section may be used to resettle refugees in any country other than Israel. Amounts appropriated under this section are authorized to remain available until expended.

\_\_\_\_\_ this appropriation shall be made available only upon enactment into law of authorizing legislation."

<sup>3</sup>The Foreign Assistance Appropriations Act, 1977, provided: "For necessary expenses to carry out the provisions of section 101(b) of the Foreign Relations Authorization Act of 1972 and the provisions of section 105 of the Foreign Relations Authorization Act, Fiscal Year 1977, \$15,000,000."

<sup>4</sup>Sec. 101(b) of the Foreign Relations Authorizations Act of 1972 read as follows: "The Secretary of State is authorized to furnish, on terms and conditions he considers appropriate, assistance to Israel or another suitable country, including assistance for the resettlement in Israel or such country of Jewish or other similar refugees from the Union of Soviet Socialist Republics. There are authorized to be appropriated to the Secretary not to exceed \$85,000,000 to carry out the provisions of this subsection."

## UNITED STATES PASSPORT OFFICE

SEC. 106. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for fiscal year 1977, \$1,000,000, to be used for miniaturization of the files of the United States Passport Office. Amounts appropriated under this section are authorized to remain available until expended.

\* \* \* \* \*

## PAYMENT TO LADY CATHERINE HELEN SHAW

SEC. 108. Of the amount appropriated under paragraph (1) of section 101(a) of this Act for salaries and expenses, \$10,000 shall be available for payment ex gratia to Lady Catherine Helen Shaw, wife of the former Australian Ambassador to the United States, as an expression of the concern of the United States Government for the injuries which she sustained as a result of an attack on her in the District of Columbia.

\* \* \* \* \*

## PAN AMERICAN GAMES

SEC. 110. (a) The Congress finds that—

(1) the Eighth Pan American Games to be held in San Juan, Puerto Rico, in 1979 will provide an opportunity for more than six thousand young men and women, representing thirty-three countries in the Western Hemisphere, to participate in friendly athletic competition;

(2) international sporting events such as the Eighth Pan American Games make a unique contribution in promoting common understanding and mutual respect among people of different cultural backgrounds; and

(3) the President has the authority under the Mutual Educational and Cultural Exchange Act of 1961 to provide financing, when he considers that it would strengthen international cooperative relations, for (A) tours abroad by American athletes, (B) United States representation in international sports competitions, and (C) participation by groups and individuals from other countries in tours and in sports competitions in the United States.

(b) In order to strengthen international cooperative relations and promote the purposes of the Mutual Educational and Cultural Exchange Act of 1961,<sup>5</sup> the Secretary of State shall use funds appropriated to carry out this section to provide financial assistance for the Eighth Pan American Games to be held in Puerto Rico in 1979. Such funds shall be transferred by the Secretary to the Recreation Development Company of Puerto Rico (a government corporation of the Commonwealth of Puerto Rico) for expenses directly related to the Eighth Pan American Games, including expenses for—

(1) promoting, organizing, and conducting such games;

(2) constructing new and repairing existing athletic and recreational facilities;

<sup>5</sup>The Supplemental Appropriations Act, 1977 (Public Law 95-26; 91 Stat. 89), appropriated \$10,000,000, "to remain available until expended."

(3) providing lodging, food, and transportation for participants in such games and for related personnel; and

(4) acquiring necessary material and equipment for such games. Such expenditures shall be subject to such controls and audits as the Comptroller General may prescribe.

(c) To carry out this section, there is authorized to be appropriated to the Secretary of State \$12,000,000.<sup>5</sup>

\* \* \* \* \*

MEMBERSHIP AUTHORITY FOR INTERNATIONAL ORGANIZATIONS

SEC. 113. The President is authorized to maintain United States membership in the International Cotton Advisory Committee, the International Lead and Zinc Study Group, the International Rubber Study Group, and the International Seed Testing Association.

PANAMA CANAL

SEC. 114. Any new Panama Canal treaty or agreement negotiated with funds appropriated under this title must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property, and defense of the Panama Canal.

INTERNATIONAL JOINT COMMISSION

SEC. 115. After the date of enactment of this Act, any commissioner of the International Joint Commission appointed on the part of the United States, pursuant to article VII of the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada, signed at Washington on January 11, 1909 (36 Stat. 2448, TS 548, III Redmond 2607), shall be appointed by the President by and with the advice and consent of the Senate.

\* \* \* \* \*

SEC. 117.<sup>6</sup> \* \* \* [Repealed—1981]

\* \* \* \* \*

SEC. 120.<sup>7</sup> \* \* \* [Repealed—1981]

DISCRIMINATION

SEC. 121.<sup>8</sup> Information should not be disseminated about opportunities for, and there should be no participation or other assistance by any officer or employee of the Department of State (including the Agency for International Development) in, the negotiation of any contract or arrangement with a foreign country, individual, or entity, if—

<sup>6</sup>Sec. 117 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160).

<sup>7</sup>Sec. 120 was repealed by sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160).

<sup>8</sup>22 U.S.C. 2661a.

(1) any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1986)<sup>9</sup> is prohibited from entering into such contract or arrangement, or

(2) such contract or arrangement requires that any such person be excluded from participating in the implementation of such contract or arrangement,

on account of the race, religion, national origin, or sex of such person in the case of an individual or, in the case of a partnership, corporation, association, or other entity, any officer, employee, agent, director, or owner thereof.

TITLE II—UNITED STATES INFORMATION AGENCY<sup>10</sup>

\* \* \* \* \*

TITLE IV—MISCELLANEOUS

\* \* \* \* \*

SEC. 403.<sup>11</sup> \* \* \* [Repealed—1982]

\* \* \* \* \*

<sup>9</sup>Sec. 2 of Public Law 99-514 (100 Stat. 2095) redesignated “Internal Revenue Code of 1954” as “Internal Revenue Code of 1986”.

<sup>10</sup>For text of this title, see page 1541.

<sup>11</sup>Sec. 403, which had required a report from the President concerning international broadcasting, was repealed by sec. 505(a)(4) of Public Law 97-241 (96 Stat. 299). The President submitted this report on March 22, 1977.

**y. Foreign Relations Authorization Act, Fiscal Year 1976**

**Partial text of Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; as amended by Public Law 97-241 [Department of State Authorization, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982**

AN ACT To authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 1976".

TITLE I—ADMINISTRATION OF FOREIGN AFFAIRS

PART 1—DEPARTMENT OF STATE

\* \* \* \* \*

TRAVEL DOCUMENT AND ISSUANCE SYSTEM

SEC. 102.<sup>1</sup> No part of any funds authorized to be appropriated by this title may be used for the development or implementation of the Travel Document and Issuance System which has been proposed by the United States Passport Office (and which involves a restructuring of the passport issuance function and the issuance of machine readable passport books), or of any other new passport system.

\* \* \* \* \*

REOPENING OF UNITED STATES CONSULATE AT GOTHENBURG, SWEDEN

SEC. 105. (a) It is the sense of the Congress that the United States Consulate at Gothenburg, Sweden, should be reopened as soon as possible after the date of enactment of this Act.

(b)(1) There are authorized to be appropriated for the Department of State for fiscal year 1976, in addition to amounts authorized under section 101 of this Act, such sums as may be necessary for the operation of such consulate.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

<sup>1</sup>Sec. 505(a)(5) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section which had authorized \$100,000 to conduct a study on the desirability and cost implications of the Travel Document and Issuance System. Congress received this study on February 5, 1976.

AGRICULTURAL ATTACHÉ IN CHINA

SEC. 106. It is the sense of the Congress that the President should establish an agricultural attaché in the People's Republic of China.

\* \* \* \* \*

TITLE II—INTERNATIONAL ORGANIZATIONS,  
CONFERENCES, AND COMMISSIONS

\* \* \* \* \*

UNITED STATES CONTRIBUTION TO THE UNITED NATIONS UNIVERSITY  
ENDOWMENT FUND

SEC. 205. There is authorized to be appropriated, upon request of the President, to the President for fiscal year 1977, \$10,000,000 to be used for a contribution of the United States to the United Nations University Endowment Fund, such contribution to be made on such terms as the President finds will promote the purposes of the University as stated in University Charter approved by the General Assembly of the United Nations in December 1973; except that the contribution of the United States to the United Nations University Endowment Fund may not exceed 25 per centum of the total amount actually contributed to such fund by other members of the United Nations. Amounts appropriated under this section are authorized to remain available until expended.

\* \* \* \* \*

TITLE IV—FOREIGN SERVICE

\* \* \* \* \*

SEC. 406.<sup>2</sup> \* \* \*

\* \* \* \* \*

TITLE V—GENERAL

\* \* \* \* \*

UNITED NATIONS COOPERATION REGARDING MEMBERS OF UNITED  
STATES ARMED FORCES MISSING IN ACTION IN SOUTHEAST ASIA

SEC. 503.<sup>3</sup> The President shall direct the United States Ambassador to the United Nations to insist that the United Nations take all necessary and appropriate steps to obtain an accounting of members of the United States Armed Forces and United States civilians missing in action in Southeast Asia.

<sup>2</sup>Sec. 406 amended the Act of June 28, 1955 (22 U.S.C. 2666), to authorize certain officers and employees to carry firearms. The Act of June 28, 1955 was subsequently repealed by Public Law 99-93. See instead, sec. 37 of the State Department Basic Authorities Act of 1956.

<sup>3</sup>Sec. 505(a)(5) of Public Law 97-241 (96 Stat. 299) repealed subsec. (b) of this section, which had required a report from the President on actions taken by the United Nations to account for U.S. servicemen and civilians missing in action in Southeast Asia. The President submitted this report on June 1, 1976.

**z. State Department/USIA Authorization Act, Fiscal Year  
1975**

**Partial text of Public Law 93-475 [S. 3473], 88 Stat. 1439, approved October 26, 1974; as amended by Public Law 97-241 [Department of State Authorization, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 299, approved August 24, 1982**

AN ACT To authorize appropriations for the Department of State and the United States Information Agency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "State Department/USIA Authorization Act, Fiscal Year 1975".

\* \* \* \* \*

REPEAL OF THE FORMOSA RESOLUTION

SEC. 3. The joint resolution entitled "Joint resolution authorizing the President to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores and related possessions and territories of that area", approved January 29, 1955 (69 Stat. 7, Public Law 84-4), and known as the Formosa Resolution, is repealed.

\* \* \* \* \*

LIMITATION ON PAYMENTS

SEC. 8. There are authorized to be appropriated funds for payment prior to January 1, 1975, of United States expenses of membership in the United Nations Educational, Scientific, and Cultural Organization, the International Civil Aviation Organization, and the World Health Organization notwithstanding that such payments are in excess of 25 percent of the total annual assessment of such organizations.

\* \* \* \* \*

INTERNATIONAL MATERIALS

SEC. 14. It is the sense of the Congress that the Secretary of State should, and he is authorized to, establish within the Department of State a bureau which shall be responsible for continuously reviewing (1) the supply, demand, and price, throughout the world, of basic raw and processed materials (including agricultural commodities), and (2) the effect of United States Government programs and policies (including tax policy) in creating or alleviating, or assisting in creating or alleviating, shortages of such materials. In conducting such review, the bureau should obtain information with respect to—



(A) the supply, demand, and price of each such material in each major importing, exporting, and producing country and region of the world in order to understand long-term and short-term trends in the supply, demand, and price of such materials;

(B) projected imports and exports of such materials on a country-by-country basis;

(C) unusual patterns or changes in connection with the purchase or sale of such materials;

(D) a list of such materials in short supply and an estimate of the amount of shortage;

(E) international geological, geophysical, and political conditions which may affect the supply of such materials; and

(F) other matters that the Secretary considers appropriate in carrying out this section.

SEC. 15.<sup>1</sup> \* \* \* [Repealed—1982]

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<sup>1</sup>Sec. 505(a)(6) of Public Law 97-241 (96 Stat. 299) repealed sec. 15, which had expressed the sense of the Congress that the Secretary of State should prepare a plan to reduce aid to South Vietnam, that the number of executive branch personnel (except members of certain agencies) located overseas should be reduced, and that the number of Defense Department officials assigned to military aid missions abroad should be reduced. Pursuant to sec. 15, the Secretary of State submitted a report on April 28, 1975, describing steps taken to carry out these provisions.

**aa. Department of State Appropriations Authorization Act of 1973**

Partial text of Public Law 93-126 [H.R. 7645], 87 Stat. 451, approved October 18, 1973; as amended by Public Law 93-312 [Department of State Appropriations Authorization Act of 1973, H.R. 12466], 88 Stat. 237, approved June 8, 1974; Public Law 93-475 [State Department Authorization, Fiscal Year 1975; S. 3473], 88 Stat. 1439 approved October 26, 1974; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 969, approved October 7, 1978; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and Public Law 103-306 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995; H.R. 4426], 108 Stat. 1608, approved August 23, 1994

AN ACT To authorize appropriations for the Department of State, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of State Appropriations Authorization Act of 1973".*

\* \* \* \* \*  
SEC. 6.<sup>1</sup> \* \* \* [Repealed—1981]  
\* \* \* \* \*

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

SEC. 9.<sup>2</sup> (a)<sup>3</sup> There is established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs. There<sup>4</sup> shall be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, appointed by the President, by and with the advice and consent of the

<sup>1</sup> Sec. 2205(5) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160) repealed sec. 6, as amended by Public Law 93-475. Sec. 6 had required the submission of a report to Congress detailing the political campaign contributions made by ambassadors and ministers (and their families) nominated by the President. This requirement now applies to all individuals nominated to be chiefs of mission, ambassadors at large, and ministers, and can be found at sec. 304(b)(2) of the Foreign Service Act of 1980.

<sup>2</sup> 22 U.S.C. 2655a. In Department of State Public Notice No. 2719 of January 8, 1998 (63 F.R. 6253), the Secretary of State delegated "the duties, functions and responsibilities now or hereafter vested in the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs to the Principal Deputy Assistant Secretary for Ocean [sic] and International Environmental and Scientific Affairs."

<sup>3</sup> Sec. 162(q)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 410), struck out subsec. (b) to this sec., which had amended 5 U.S.C. 5315 to add reference to this Assistant Secretary of State.

<sup>4</sup> Sec. 162(q)(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 410), struck out "In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there", and inserted in lieu thereof "There".

Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs and for such other related duties as the Secretary may from time to time designate.<sup>5</sup>

\* \* \* \* \*

REIMBURSEMENT FOR DETAILED STATE DEPARTMENT PERSONNEL

SEC. 11.<sup>6</sup> (a) An Executive agency to which any officer or employee of the Department of State is detailed, assigned, or otherwise made available, shall reimburse the Department for the salary and allowances of each such officer or employee for the period the officer or employee is so detailed, assigned, or otherwise made available. However, if the Department of State has an agreement with an Executive agency or agencies providing for the detailing, assigning, or otherwise making available, of substantially the same numbers of officers and employees between the Department and the Executive agency or agencies, and such numbers with respect to a fiscal year are so detailed, assigned, or otherwise made available, or if the period for which the officer or employee is so detailed, assigned, or otherwise made available does not exceed one year,<sup>7</sup> or if the number of officers and employees so detailed, assigned, or otherwise made available at any one time does not exceed fifteen and the period of any such detail, assignment, or availability of an officer or employee does not exceed two years,<sup>8</sup> no reimbursement shall be required to be made under this section. Officers and employees of the Department of State who are detailed, assigned, or otherwise made available to another Executive agency for a period of not to exceed one year shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.<sup>7</sup>

(b) For purposes of this section, "Executive agency" has the same meaning given that term by section 105 of title 5, United States Code.

\* \* \* \* \*

SEC. 13.<sup>9</sup> \* \* \* [Repealed—1994]

LIMITATION ON PUBLICITY AND PROPAGANDA PURPOSES

SEC. 14. No appropriation made available under this Act shall be used—

- (1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress; or

<sup>5</sup> Sec. 162(q)(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 410), inserted "and for such other related duties as the Secretary may from time to time designate" before the period in this subsec.

<sup>6</sup> 22 U.S.C. 2685.

<sup>7</sup> Sec. 118 of Public Law 95-426 (92 Stat. 969) extended this time period from ninety days to one year and added the final sentence of subsec. (a).

<sup>8</sup> Sec. 117 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405), added text beginning with "or if the number \* \* \*" to this point.

<sup>9</sup> Formerly at 5 U.S.C. 5924. Sec. 13, which had required Congressional authorization for the involvement of U.S. Armed Forces in further hostilities in Indochina, and for extending assistance to North Vietnam, was repealed by sec. 526(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103-306; 108 Stat. 1632).

(2) to influence in any way the outcome of a political election.

\* \* \* \* \*

MUTUAL RESTRAINT ON MILITARY EXPENDITURES

SEC. 16. It is the sense of the Congress that the United States and the Union of Soviet Socialist Republics should, on an urgent basis and in their mutual interests, seek agreement on specific mutual reductions in their respective expenditures for military purposes so that both nations can devote a greater proportion of their available resources to the domestic needs of their respective peoples; and, the President of the United States is requested to seek such agreements for the mutual reduction of armament and other military expenditures in the course of all discussions and negotiations in extending guaranties, credits, or other forms of direct or indirect assistance to the Soviet Union.

\* \* \* \* \*

**bb. Foreign Relations Authorization Act of 1972, as amended**

**Partial text of Public Law 92-352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; as amended by Public Law 93-126 [Department of State Appropriations Authorization Act of 1973, H.R. 7645], 87 Stat. 451, approved October 18, 1973; and Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998, subdivision A of division G, H.R. 4328], 112 Stat. 2681-765), approved October 21, 1998**

AN ACT To provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Relations Authorization Act of 1972".*

\* \* \* \* \*

**TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS**

\* \* \* \* \*

**EXPRESSION OF INDIVIDUAL VIEWS TO CONGRESS**

SEC. 502.<sup>1</sup> Upon the request of a committee of either House of Congress, a joint committee of Congress, or a member of such committee, any officer or employee of<sup>2</sup> the Department of State,<sup>3</sup> the Agency for International Development,<sup>4</sup> or any other department, agency, or independent establishment of the United States Government primarily concerned with matters relating to foreign countries or multilateral organizations, may express his views and opinions, and make recommendations he considers appropriate, if the request of the committee or member of the committee relates to a subject which is within the jurisdiction of that committee.

\* \* \* \* \*

<sup>1</sup> 2 U.S.C. 194a.

<sup>2</sup> Sec. 1335(n) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-789) struck out "the United States Information Agency," after "Department of State".

<sup>3</sup> Sec. 1225(g) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-775) struck out "the United States Arms Control and Disarmament Agency," after "Agency for International Development".

<sup>4</sup> Sec. 17 of Public Law 93-126 (87 Stat. 452), inserted the words "or employees of" in lieu of "appointed by the President, by and with the advice and consent of the Senate, in a position in".

TITLE VI—STUDY COMMISSION RELATING TO FOREIGN  
POLICY

FINDINGS AND PURPOSE

SEC. 601.<sup>5</sup> It is the purpose of this title to establish a study commission which will submit findings and recommendations to provide a more effective system for the formulation and implementation of the Nation's foreign policy.

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE  
CONDUCT OF FOREIGN POLICY

SEC. 602.<sup>6</sup> (a) To carry out the purpose of section 601 of this Act, there is established a Commission on the Organization of the Government for the Conduct of Foreign Policy (hereafter referred to in this title as the "Commission").

(b) The Commission shall be composed of the following twelve members:

(1) four members appointed by the President, two from the executive branch of the Government and two from private life;

(2) four members appointed by the President of the Senate, two from the Senate (one from each of the two major political parties) and two from private life; and

(3) four members appointed by the Speaker of the House of Representatives, two from the House of Representatives (one from each of the two major political parties) and two from private life.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Each member of the Commission who is not otherwise employed by the United States Government shall receive \$145 a day (including traveltime) during which he is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

DUTIES OF THE COMMISSION

SEC. 603.<sup>7</sup> (a) The Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the

<sup>5</sup> 22 U.S.C. 2821.

<sup>6</sup> 22 U.S.C. 2822.

<sup>7</sup> 22 U.S.C. 2823.

United States Government participating in the formulation and implementation of United States foreign policy and shall make recommendations which the Commission considers appropriate to provide improved governmental processes and programs in the formulation and implementation of such policy, including, but not limited to, recommendations with respect to—

(1) the reorganization of the departments, agencies, independent establishments, and instrumentalities of the executive branch participating in foreign policy matters;

(2) more effective arrangements between the executive branch and Congress, which will better enable each to carry out its constitutional responsibilities;

(3) improved procedures among departments, agencies, independent establishments, and instrumentalities of the United States Government to provide improved coordination and control with respect to the conduct of foreign policy;

(4) the abolition of services, activities, and functions not necessary to the efficient conduct of foreign policy; and

(5) other measures to promote peace, economy, efficiency, and improved administration of foreign policy.

(b) The Commission shall submit a comprehensive report to the President and Congress, not later than June 30, 1975,<sup>8</sup> containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include proposed constitutional amendments, legislation, and administrative actions the Commission considers appropriate in carrying out its duties. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

#### POWERS OF THE COMMISSION

SEC. 604.<sup>9</sup> (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpenas may be issued under the signature of the Chairman of the Commission, of any such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office,

<sup>8</sup>Sec. 4 of Public Law 93-126 (87 Stat. 452), changed the date to June 30, 1975, from June 30, 1974.

<sup>9</sup>22 U.S.C. 2824.

independent establishment, or instrumentality information, suggestions, estimates and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent authorized by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

#### STAFF OF THE COMMISSION

SEC. 605.<sup>10</sup> (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS-18.

#### EXPENSES OF THE COMMISSION

SEC. 606.<sup>11</sup> There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

<sup>10</sup> 22 U.S.C. 2825.

<sup>11</sup> 22 U.S.C. 2826.



**cc. Department of State Appropriations**

**(1) Department of State and Related Agency Appropriations Act, 2006**

**Partial text of Public Law 109-108 [Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006; H.R. 2862], 119 Stat. 2290, approved November 22, 2005**

AN ACT Making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

\* \* \* \* \*

**TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY**

**DEPARTMENT OF STATE**

**ADMINISTRATION OF FOREIGN AFFAIRS**

**DIPLOMATIC AND CONSULAR PROGRAMS**

**(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of the United States Information and Educational Exchange Act of 1948; representation to certain international organizations in which the United States participates pursuant to treaties ratified pursuant to the advice and consent of the Senate or specific Acts of Congress; arms control, nonproliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$3,680,019,000: *Provided*, That not to exceed 71 permanent positions and \$9,804,000 shall be for the Bureau of Legislative Affairs: *Provided further*, That of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, not less than \$334,000,000 shall be

available only for public diplomacy international information programs: *Provided further*, That of the amount made available under this heading, not less than \$2,000,000 shall be for a contribution to the Scholar Rescue Fund endowment: *Provided further*, That of the amount made available under this heading, \$3,000,000 shall be available only for the operations of the Office on Right-Sizing the United States Government Overseas Presence: *Provided further*, That funds available under this heading may be available for a United States Government interagency task force to examine, coordinate and oversee United States participation in the United Nations headquarters renovation project: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People's Republic of China unless, at least 15 days in advance, the Committees on Appropriations of the House of Representatives and the Senate are notified of such proposed action: *Provided further*, That funds appropriated under this heading are available, pursuant to 31 U.S.C. 1108(g), for the field examination of programs and activities in the United States funded from any account contained in this title.

In addition, not to exceed \$1,469,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs and from fees from educational advising and counseling and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

In addition, for the costs of worldwide security upgrades, \$689,523,000, to remain available until expended.

#### CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, \$58,895,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.

#### CENTRALIZED INFORMATION TECHNOLOGY MODERNIZATION PROGRAM

For expenses relating to the modernization of the information technology systems and networks of the Department of State, \$69,368,000, to remain available until expended.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$30,029,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (Public Law 96-465), as it relates to post inspections.

## EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized, \$431,790,000, to remain available until expended: *Provided*, That not to exceed \$2,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, educational advising and counseling programs, and exchange visitor programs as authorized.

## REPRESENTATION ALLOWANCES

For representation allowances as authorized, \$8,281,000.

## PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, \$9,390,000, to remain available until September 30, 2007.

## EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926 (22 U.S.C. 292-303), preserving, maintaining, repairing, and planning for buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Harry S Truman Building, and carrying out the Diplomatic Security Construction Program as authorized, \$598,800,000, to remain available until expended as authorized, of which not to exceed \$25,000 may be used for domestic and overseas representation as authorized: *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture, furnishings, or generators for other departments and agencies.

In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, \$910,200,000, to remain available until expended.

## EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

## (INCLUDING TRANSFER OF FUNDS)

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, \$10,000,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the "Repatriation Loans Program Account", subject to the same terms and conditions.

## REPATRIATION LOANS PROGRAM ACCOUNT

## (INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$712,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with funds in the “Diplomatic and Consular Programs” account.

## PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act (Public Law 96-8), \$19,751,000.

## PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$131,700,000.

## INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS<sup>1</sup>

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$1,166,212,000: *Provided*, That the Secretary of State shall, at the time of the submission of the President’s budget to Congress under section 1105(a) of title 31, United States Code, transmit to the Committees on Appropriations the most recent biennial budget prepared by the United Nations for the operations of the United Nations: *Provided further*, That the Secretary of State shall notify the Committees on Appropriations at least 15 days in advance (or in an emergency, as far in advance as is practicable) of any United Nations action to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations budget for the biennium 2006-2007 to exceed the revised United Nations budget level for the biennium 2004-2005 of \$3,695,480,000: *Provided further*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

<sup>1</sup> 22 U.S.C. 269a note.

## CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$1,035,500,000, of which 15 percent shall remain available until September 30, 2007: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency as far in advance as is practicable): (1) the Committees on Appropriations and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the national interest that will be served, and the planned exit strategy; (2) the Committees on Appropriations and other appropriate committees of the Congress are notified that the United Nations has taken appropriate measures to prevent United Nations employees, contractor personnel, and peacekeeping forces serving in any United Nations peacekeeping mission from trafficking in persons, exploiting victims of trafficking, or committing acts of illegal sexual exploitation, and to hold accountable individuals who engage in such acts while participating in the peacekeeping mission; and (3) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.

## INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES  
AND MEXICO

For<sup>2</sup> necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

## SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, \$28,000,000.

<sup>2</sup> 22 U.S.C. 269a note.

## CONSTRUCTION

For detailed plan preparation and construction of authorized projects, \$5,300,000, to remain available until expended, as authorized.

## AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided, for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103-182,<sup>3</sup> \$10,039,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

## INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$24,000,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions pursuant to 31 U.S.C. 3324.

## OTHER

## PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by the Asia Foundation Act (22 U.S.C. 4402),<sup>4</sup> \$14,000,000, to remain available until expended, as authorized.

## CENTER FOR MIDDLE EASTERN-WESTERN DIALOGUE TRUST FUND

For a grant to the Center for Middle Eastern-Western Dialogue Trust Fund (22 U.S.C. 2078), \$5,000,000 for operation of the Center for Middle Eastern-Western Dialogue in Istanbul, Turkey.

In addition, for necessary expenses of the Center for Middle Eastern-Western Dialogue Trust Fund, the total amount of the interest and earnings accruing to such Fund on or before September 30, 2006, to remain available until expended.

## EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205),<sup>5</sup> all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2006, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for

<sup>3</sup>For text, see *Legislation on Foreign Relations Through 2005*, vol. III.

<sup>4</sup>For text, see page 1422.

<sup>5</sup>For text, see page 1634.

Non-profit Organizations), including the restrictions on compensation for personal services.

#### ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452),<sup>6</sup> all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2006, to remain available until expended.

#### EAST-WEST CENTER

To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960,<sup>7</sup> by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$19,240,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

#### NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act,<sup>8</sup> \$75,000,000, to remain available until expended.

#### RELATED AGENCY

##### BROADCASTING BOARD OF GOVERNORS

##### INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase, lease, and installation of necessary equipment for radio and television transmission and reception to Cuba, and to make and supervise grants for radio and television broadcasting to the Middle East, \$641,450,000: *Provided*, That of the total amount in this heading, not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts

<sup>6</sup>For text, see page 1493.

<sup>7</sup>For text, see page 1649.

<sup>8</sup>For text, see page 1615.

from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

#### BROADCASTING CAPITAL IMPROVEMENTS

For the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$10,893,000, to remain available until expended, as authorized.

#### GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and for hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this title may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Broadcasting Board of Governors in this title may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. None of the funds made available in this title may be used by the Department of State or the Broadcasting Board of Governors to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

SEC. 404. (a) The Senior Policy Operating Group on Trafficking in Persons, established under section 406 of division B of Public Law 108-7 to coordinate agency activities regarding policies (including grants and grant policies) involving the international trafficking in persons, shall coordinate all such policies related to the activities of traffickers and victims of severe forms of trafficking.

(b) None of the funds provided in this or any other Act shall be expended to perform functions that duplicate coordinating responsibilities of the Operating Group.

(c) The Operating Group shall continue to report only to the authorities that appointed them pursuant to section 406 of division B of Public Law 108-7.

SEC. 405. For the purposes of registration of birth, certification of nationality, or issuance of a passport of a United States citizen



born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

SEC. 406. Notwithstanding any other provision of law, of the funds appropriated by this Act under the heading "Diplomatic and Consular Programs": \$5,000,000 shall be made available for an endowment for the Center for Asian Democracy; \$100,000 shall be made available for a grant to the Center for the Study of the Presidency for a public diplomacy initiative; \$300,000 shall be made available for a grant to Operation Smile for a public diplomacy program; and \$350,000 shall be made available for a grant to MiraMed for programs to combat human trafficking.

SEC. 407. Funds appropriated under this title for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 408.<sup>9</sup> (a) Funds provided in this title for the following accounts shall be made available for programs in the amounts contained in the respective tables included in the report accompanying this Act:

"Educational and Cultural Exchange Programs".

"National Endowment for Democracy".

"International Broadcasting Operations".

"Broadcasting Capital Improvements".

(b) Any proposed increases or decreases to the amounts contained in such tables in the accompanying report shall be subject to the regular notification procedures in section 605 of this Act.

(c)<sup>10</sup> The Secretary of State shall notify the Committees on Appropriations 15 days in advance of recommending the issuance of any license subject to Executive Order No. 13067.

SEC. 409. Notwithstanding any other provision of law, of the funds appropriated or otherwise made available in this title, not more than \$1,035,500,000 shall be available for payment to the United Nations for assessed and other expenses of international peacekeeping activities.

SEC. 410. Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) is amended by striking "October 1, 2005" and inserting "October 1, 2006".

SEC. 411. None of the funds appropriated under this title may be made available to pay any contribution of the United States to the United Nations if the United Nations implements or imposes any taxation on any United States persons.

SEC. 412. It is the sense of the Congress that the amount of any loan for the renovation of the United Nations headquarters building located in New York, New York, should not exceed \$600,000,000: *Provided*, That if any loan exceeds \$600,000,000, the

<sup>9</sup> See H. Conf. Rept. 109-272 of November 7, 2005, to accompany H.R. 2862, for: Educational and Cultural Exchange Programs, p. 188; National Endowment for Democracy, p. 194; International Broadcasting Operations, p. 195; and Broadcasting Capital Improvements, p. 197.

<sup>10</sup> Executive Order 13067, issued November 3, 1997 (50 U.S.C. 1701 note), blocks Sudanese government property and prohibits transactions in Sudan. For text, see *Legislation on Foreign Relations Through 2005*, vol. III.

Secretary of State shall notify the Congress of the current cost of the renovation and cost containment measures.

SEC. 413. None of the funds made available by this title may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds that: (1) the United Nations undertaking is a peacekeeping mission; (2) such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 414. (a) None of the funds appropriated or otherwise made available under this title shall be expended for any purpose for which appropriations are prohibited by section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

(b) The requirements in subparagraphs (A) and (B) of section 609 of that Act shall continue to apply during fiscal year 2006.

SEC. 415. (a) None of the funds appropriated or otherwise made available under this title shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

(b) The requirements in subsections (b) and (c) of section 616 of that Act shall continue to apply during fiscal year 2006.

SEC. 416. (a) Except as provided in subsection (b), a project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal agency or department if the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required by subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-453), as amended by section 629 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005.

(b) Notwithstanding the prohibition in subsection (a), a project to construct a diplomatic facility of the United States may include office space or other accommodations for members of the Marine Corps.

SEC. 417. Ceilings and earmarks contained in this title shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this title.

This title may be cited as the "Department of State and Related Agency Appropriations Act, 2006".

TITLE V—RELATED AGENCIES <sup>11</sup>

\* \* \* \* \*

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE  
ABROAD

## SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, \$499,000, as authorized by section 1303 of Public Law 99-83.<sup>12</sup>

\* \* \* \* \*

## COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

## SALARIES AND EXPENSES

For necessary expenses for the United States Commission on International Religious Freedom, as authorized by title II of the International Religious Freedom Act of 1998 (Public Law 105-292),<sup>13</sup> \$3,300,000, to remain available until September 30, 2007.

## COMMISSION ON SECURITY AND COOPERATION IN EUROPE

## SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304,<sup>14</sup> \$2,030,000, to remain available until September 30, 2007.

CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S  
REPUBLIC OF CHINA

## SALARIES AND EXPENSES

For necessary expenses of the Congressional-Executive Commission on the People's Republic of China, as authorized,<sup>15</sup> \$1,900,000, including not more than \$3,000 for the purpose of official representation, to remain available until September 30, 2007.

\* \* \* \* \*

<sup>11</sup> Titles V and VI are not part of the Department of State and Related Agency Appropriations Act, 2006, but directly follow it in the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (beginning at 119 Stat. 2328). The foreign relations-related paragraphs of those two titles are presented here.

<sup>12</sup> For text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>13</sup> For text, see page 1274.

<sup>14</sup> For text, see page 1755.

<sup>15</sup> For text of the U.S.-China Relations Act of 2000 (Public Law 106-286), see *Legislation on Foreign Relations Through 2005*, vol. III.

UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW  
COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States-China Economic and Security Review Commission,<sup>16</sup> \$3,000,000, including not more than \$5,000 for the purpose of official representation, to remain available until September 30, 2007.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act,<sup>17</sup> \$22,350,000, to remain available until September 30, 2007.

UNITED STATES SENATE-CHINA INTERPARLIAMENTARY GROUP

SALARIES AND EXPENSES

For necessary expenses of the United States Senate-China Interparliamentary Group, as authorized under section 153 of the Consolidated Appropriations Act, 2004 (22 U.S.C. 276n; Public Law 108-99; 118 Stat. 448),<sup>18</sup> \$150,000, to remain available until September 30, 2007.

TITLE VI—GENERAL PROVISIONS<sup>11</sup>

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

\* \* \* \* \*

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes or renames offices; (6) reorganizes, programs or activities; or (7) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

<sup>16</sup> See sec. 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 22 U.S.C. 7002 and notes), in *Legislation on Foreign Relations Through 2005*, vol. I-B.

<sup>17</sup> For text of Public Law 98-525, see beginning at page 1003.

<sup>18</sup> For text, see *Legislation on Foreign Relations Through 2005*, vol. IV.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$750,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

\* \* \* \* \*

SEC. 608. The Departments of Commerce, Justice, and State, the Broadcasting Board of Governors, the National Science Foundation, the National Aeronautics and Space Administration, the Federal Communications Commission, the Securities and Exchange Commission and the Small Business Administration shall provide to the Committees on Appropriations of the Senate and of the House of Representatives a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

SEC. 610. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

\* \* \* \* \*

SEC. 616. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

\* \* \* \* \*

SEC. 618. With the consent of the President, the Secretary of Commerce shall represent the United States Government in negotiating and monitoring international agreements regarding fisheries, marine mammals, or sea turtles: *Provided*, That the Secretary of Commerce shall be responsible for the development and interdepartmental coordination of the policies of the United States with respect to the international negotiations and agreements referred to in this section.

\* \* \* \* \*

SEC. 624. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

SEC. 625. Of the amounts made available in this Act, \$393,616,321 from “Department of State”; \$27,938,072 from “Department of Justice”; \$14,107,754 from “Department of Commerce”; \$426,314 from “United States Trade Representative”; \$575,116 from “Broadcasting Board of Governors”; \$291,855 from “National Aeronautics and Space Administration”; and \$79,754 from “National Science Foundation” shall be available for the purposes of implementing the Capital Security Cost Sharing program.

SEC. 626. None of the funds made available to NASA in this Act may be used for voluntary separation incentive payments as provided for in subchapter II of chapter 35 of title 5, United States Code, unless the Administrator of NASA has first certified to Congress that such payments would not result in the loss of skills related to the safety of the Space Shuttle or the International Space Station or to the conduct of independent safety oversight in the National Aeronautics and Space Administration.

\* \* \* \* \*

SEC. 630. Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States receiving appropriated funds under this Act or any other Act shall obligate or expend in any way such funds to pay administrative expenses or the compensation of any officer or employee of the United States to deny any application submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and qualified pursuant to 27 CFR Sec. 478.112 or .113, for a permit to import United States origin “curios or relics” firearms, parts, or ammunition.

SEC. 631. None of the funds made available in this Act may be used to include in any new bilateral or multilateral trade agreement the text of—

- (1) paragraph 2 of article 16.7 of the United States-Singapore Free Trade Agreement;
- (2) paragraph 4 of article 17.9 of the United States-Australia Free Trade Agreement; or
- (3) paragraph 4 of article 15.9 of the United States-Morocco Free Trade Agreement.

\* \* \* \* \*

SEC. 634. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees of agencies or departments of the United States Government who are stationed in the United States, at any single international conference occurring outside the United States, unless the Secretary of State determines that such attendance is in the national interest: *Provided*, That for purposes of this section the term “international conference” shall mean a conference attended by representatives of the United States Government and representatives of foreign governments, international organizations, or nongovernmental organizations.

SEC. 635. (a) MODIFICATION OF RESPONSIBILITIES.—Notwithstanding any provision of section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002),<sup>19</sup> or any other provision of law, the United States-China

<sup>19</sup>For text, see *Legislation on Foreign Relations Through 2005*, vol. I-B.

Economic and Security Review Commission established by subsection (b) of that section shall investigate and report exclusively on each of the following areas:

(1) **PROLIFERATION PRACTICES.**—The role of the People’s Republic of China in the proliferation of weapons of mass destruction and other weapons (including dual use technologies), including actions the United States might take to encourage the People’s Republic of China to cease such practices.

(2) **ECONOMIC TRANSFERS.**—The qualitative and quantitative nature of the transfer of United States production activities to the People’s Republic of China, including the relocation of high technology, manufacturing, and research and development facilities, the impact of such transfers on United States national security, the adequacy of United States export control laws, and the effect of such transfers on United States economic security and employment.

(3) **ENERGY.**—The effect of the large and growing economy of the People’s Republic of China on world energy supplies and the role the United States can play (including through joint research and development efforts and technological assistance) in influencing the energy policy of the People’s Republic of China.

(4) **ACCESS TO UNITED STATES CAPITAL MARKETS.**—The extent of access to and use of United States capital markets by the People’s Republic of China, including whether or not existing disclosure and transparency rules are adequate to identify People’s Republic of China companies engaged in harmful activities.

(5) **REGIONAL ECONOMIC AND SECURITY IMPACTS.**—The triangular economic and security relationship among the United States, Taipei, and the People’s Republic of China (including the military modernization and force deployments of the People’s Republic of China aimed at Taipei), the national budget of the People’s Republic of China, and the fiscal strength of the People’s Republic of China in relation to internal instability in the People’s Republic of China and the likelihood of the externalization of problems arising from such internal instability.

(6) **UNITED STATES-CHINA BILATERAL PROGRAMS.**—Science and technology programs, the degree of non-compliance by the People’s Republic of China with agreements between the United States and the People’s Republic of China on prison labor imports and intellectual property rights, and United States enforcement policies with respect to such agreements.

(7) **WORLD TRADE ORGANIZATION COMPLIANCE.**—The compliance of the People’s Republic of China with its accession agreement to the World Trade Organization (WTO).

(8) **FREEDOM OF EXPRESSION.**—The implications of restrictions on speech and access to information in the People’s Republic of China for its relations with the United States in the areas of economic and security policy.

(b) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—Subsection (g) of section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 is amended to read as follows:

“(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Commission.”.

\* \* \* \* \*

SEC. 637. None of the funds made available in this Act may be used to pay expenses for any United States delegation to any specialized agency, body, or commission of the United Nations if such commission is chaired or presided over by a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)),<sup>20</sup> has provided support for acts of international terrorism.

(RESCISSION)

SEC. 638. (a) There is hereby rescinded an amount equal to 0.28 percent of the budget authority provided for in fiscal year 2006 for any discretionary account in this Act.

(b) Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

TITLE VII—RESCISSIONS

\* \* \* \* \*

This Act may be cited as the “Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006”.

<sup>20</sup>For text, see *Legislation on Foreign Relations Through 2005*, vol. III.



**(2) Emergency Supplemental Appropriations Act To Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006**

**Partial text of Public Law 109-148 [Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006; H.R. 2863], 119 Stat. 2680, approved December 30, 2005**

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

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

\* \* \* \* \*

DIVISION B

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO AND PANDEMIC INFLUENZA, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to address hurricanes in the Gulf of Mexico and pandemic influenza for the fiscal year ending September 30, 2006, and for other purposes, namely:

\* \* \* \* \*

TITLE II

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS PANDEMIC INFLUENZA

\* \* \* \* \*

CHAPTER 8

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Diplomatic and Consular Programs” to support avian influenza country coordination, development of an avian influenza response plan, diplomatic outreach, and health support of United States Government employees, Peace Corps volunteers, and eligible family members stationed abroad,

\$16,000,000, to remain available until expended, of which \$1,100,000 shall be transferred to and merged with appropriations for the Peace Corps: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

#### EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for “Emergencies in the Diplomatic and Consular Service” for emergency evacuation support of United States Government personnel, Peace Corps volunteers, and dependents in regions affected by the avian influenza, \$15,000,000, to remain available until expended: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956: *Provided further*, That notwithstanding section 402 of Public Law 109-108, upon a determination by the Secretary of State that circumstances related to the avian influenza require additional funding for activities under this heading, the Secretary of State may transfer such amounts to “Emergencies in the Diplomatic and Consular Service” from available appropriations for the current fiscal year for the Department of State as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of Public Law 109-108 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section, except that the Committees on Appropriations shall be notified not less than 5 days in advance of any such reprogramming: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

### TITLE III

#### RESCISSIONS AND OFFSETS

\* \* \* \* \*

#### CHAPTER 6

\* \* \* \* \*

#### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

##### (RESCISSION)

Of the unobligated balances available under this heading, \$10,000,000 are rescinded.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

(RESCISSION)

Of the unobligated balances available under this heading, \$20,000,000 are rescinded.

\* \* \* \* \*

CHAPTER 8

GOVERNMENT-WIDE RESCISSIONS

SEC. 3801. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 1 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2006 for any discretionary account of this Act and in any other fiscal year 2006 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2006 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2006 for any program subject to limitation contained in any fiscal year 2006 appropriation Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

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

(1) to discretionary budget authority that has been designated pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006; or

(2) to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs.

(d) OMB REPORT.—Within 30 days after the date of the enactment of this section the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section.

\* \* \* \* \*

TITLE V

GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

SEC. 5001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 5002. Except as expressly provided otherwise, any reference to “this Act” contained in either division A or division B shall be treated as referring only to the provisions of that division.

SEC. 5003. Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38) shall be transferred to or from the Emergency Response Fund.

\* \* \* \* \*

SEC. 5025. Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107-38) shall be transferred to or from the Emergency Response Fund.

This division may be cited as the “Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006”.

\* \* \* \* \*

This Act may be cited as the “Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006”.

**(3) Department of State and Related Agency Appropriations Act, 2005**

**Partial text of Public Law 108-447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809 at 2895, approved December 8, 2004**

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

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

\* \* \* \* \*

**TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY**

**DEPARTMENT OF STATE**

**ADMINISTRATION OF FOREIGN AFFAIRS**

**DIPLOMATIC AND CONSULAR PROGRAMS**

\* \* \* \* \*

Beginning<sup>1</sup> in fiscal year 2005 and thereafter, the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the passport and immigrant visa fees in effect on January 1, 2004: *Provided*, That funds collected pursuant to this authority shall be credited to this account, and shall be available until expended for the purposes of such account: *Provided further*, That such surcharges shall be \$12 on passport fees, and \$45 on immigrant visa fees.

\* \* \* \* \*

**GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY**

\* \* \* \* \*

SEC. 408.<sup>2</sup> There is established within the Department of State the Office of the Coordinator for Reconstruction and Stabilization: *Provided*, That the head of the Office shall be the Coordinator for Reconstruction and Stabilization, who shall report directly to the Secretary of State: *Provided further*, That the functions of the Office of the Coordinator for Reconstruction and Stabilization shall include—

- (1) cataloguing and monitoring the non-military resources and capabilities of Executive agencies (as that term is defined in section 105 of title 5, United States Code), State and local governments, and entities in the private and non-profit sectors

<sup>1</sup>8 U.S.C. 1714.  
<sup>2</sup>22 U.S.C. 2651a note.

that are available to address crises in countries or regions that are in, or are in transition from, conflict or civil strife;

(2) monitoring political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for countries or regions described in paragraph (1);

(3) assessing crises in countries or regions described in paragraph (1) and determining the appropriate non-military United States, including but not limited to demobilization, policing, human rights monitoring, and public information efforts;

(4) planning for response efforts under paragraph (3);

(5) coordinating with relevant Executive agencies the development of interagency contingency plans for such response efforts; and

(6) coordinating the training of civilian personnel to perform stabilization and reconstruction activities in response to crises in such countries or regions described in paragraph (1).

SEC. 409.<sup>3</sup> (a) The Secretary of State shall require each chief of mission to review, not less than once every 5 years, every staff element under chief of mission authority, including staff from other departments or agencies of the United States, and recommend approval or disapproval of each staff element. Each such review shall be conducted pursuant to a process established by the President for determining appropriate staffing at diplomatic missions and overseas constituent posts (commonly referred to as the "NSDD-38 process").

(b) The Secretary of State, as part of the process established by the President referred to in subsection (a), shall take actions to carry out the recommendations made in each such review.

(c) Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit a report on such reviews that occurred during the previous 12 months, together with the Secretary's recommendations regarding such reviews to the appropriate committees of Congress, the heads of all affected departments or agencies, and the Inspector General of the Department of State.

\* \* \* \* \*

<sup>3</sup> 22 U.S.C. 3927a.

**(4) Department of State and Related Agency Appropriations Act, 2004**

**Partial text of Public Law 108–199 [Consolidated Appropriations Act, 2004; H.R. 2673], 118 Stat. 3, approved January 23, 2004**

AN ACT Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

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

\* \* \* \* \*

**DIVISION B—DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004**

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, and for other purposes, namely:

\* \* \* \* \*

**TITLE VI—GENERAL PROVISIONS <sup>1</sup>**

(INCLUDING RESCISSIONS)

\* \* \* \* \*

SEC. 633.<sup>2</sup> (a) There is established in the Treasury of the United States a trust fund to be known as the International Center for Middle Eastern-Western Dialogue Trust Fund. The income from the fund shall be used for operations of the International Center for Middle Eastern-Western Dialogue to promote dialogue and scholarship in the Middle East. The fund may accept contributions and gifts from public and private sources.

(b) It shall be the duty of the Secretary of the Treasury to invest in full amounts made available to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund and shall remain available without fiscal year limitation.

<sup>1</sup>Title VI is not part of the Department of State and Related Agency Appropriations Act, 2004, but directly follows it in the Consolidated Appropriations Act, 2004 (beginning at 118 Stat. 87). A foreign relations-related paragraph of this title codified into permanent law is presented here.

<sup>2</sup>22 U.S.C. 2078.

(c) For each fiscal year, there is authorized to be appropriated from the fund for the operations of the International Center for Middle Eastern-Western Dialogue the total amount of the interest and earnings credited to the fund under subsection (b).

(d) There are authorized to be appropriated to the International Center for Middle Eastern-Western Dialogue Trust Fund, without fiscal year limitation, such sums as may be necessary to carry out the provisions of this section and to provide for the permanent endowment for the International Center for Middle Eastern-Western Dialogue established under this section.

(e) The United States, through the Department of State, shall retain ownership of the Palazzo Corpi building in Istanbul, Turkey, and the Secretary of State shall be responsible for maintaining the International Center for Middle Eastern-Western Dialogue at such location.

(f) Section 1321(a) of title 31, United States Code, is amended  
\* \* \*

\* \* \* \* \*

SEC. 637.<sup>3</sup> (a) This section may be cited as the "HELP Commission Act". \* \* \*

\* \* \* \* \*

<sup>3</sup> 22 U.S.C. 2394b. For text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.



**(5) Department of State and Related Agency Appropriations Act, 2003**

**Partial text of Public Law 108-7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11 at 86, approved February 20, 2003**

JOINT RESOLUTION Making consolidated appropriations for the fiscal year ending September 30, 2003, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

\* \* \* \* \*

**TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY**

**DEPARTMENT OF STATE**

\* \* \* \* \*

**GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY**

\* \* \* \* \*

SEC. 406.<sup>1</sup> (a) The Interagency Task Force to Monitor and Combat Trafficking shall establish a Senior Policy Operating Group.

(b) The Operating Group shall consist of the senior officials designated as representatives of the appointed members of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (established under Executive Order No. 13257 of February 13, 2002).

(c) The Operating Group shall coordinate agency activities regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of this division.

(d) The Operating Group shall fully share information regarding agency plans, before and after final agency decisions are made, on all matters regarding grants, grant policies, and other significant actions regarding the international trafficking of persons and the implementation of this division.

(e) The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

(f) The Operating Group shall meet on a regular basis at the call of the chair.

This title may be cited as the "Department of State and Related Agency Appropriations Act, 2003".

\* \* \* \* \*

<sup>1</sup> 22 U.S.C. 7103 note.

**(6) Department of State and Related Agencies  
Appropriations Act, 1999**

Partial text of Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; as amended by Public Law 106-31 [Emergency Supplemental Appropriations, 1999; H.R. 1141], 113 Stat. 57, approved May 21, 1999; Public Law 106-113 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000, H.R. 3421 as enacted by reference therein], 113 Stat. 1535, approved November 29, 1999; and Public Law 106-553 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001; H.R. 5548 enacted by reference in H.R. 4942], 114 Stat. 2762, approved December 21, 2000

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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

\* \* \* \* \*

SEC. 101. (a) \* \* \*

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

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

\* \* \* \* \*

**TITLE IV—DEPARTMENT OF STATE AND RELATED  
AGENCIES**

**DEPARTMENT OF STATE**

\* \* \* \* \*

**GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED  
AGENCIES**

\* \* \* \* \*

SEC. 409. During the current fiscal year and hereafter, the Secretary of State shall have discretionary authority to pay tort claims in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with the overseas operations of the Department of State.

SEC. 410. (a)(1)(A) Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall impose, for the processing of any application for the issuance of a machine readable combined border crossing

card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act, a fee of \$13 (for recovery of the costs of manufacturing the combined card and visa) in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2)(A) Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been reduced under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge the non-reduced fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable nonimmigrant visas and machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing such machine readable nonimmigrant visas and machine readable combined border crossing cards and nonimmigrant visas, including the costs of processing the machine readable combined border crossing cards and nonimmigrant visas for which the fee is reduced pursuant to this subsection.

(b) The Secretary of State shall continue, until the date that is 5 years after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note et seq.), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with

the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.

(c) Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended by striking “3 years” and inserting “5 years”.

\* \* \* \* \*

This title may be cited as the “Department of State and Related Agencies Appropriations Act, 1999”.

\* \* \* \* \*

#### TITLE VI—GENERAL PROVISIONS

\* \* \* \* \*

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for: (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995; unless the President certifies within 60 days the following:<sup>1</sup>

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

- (i) Resolving discrepancy cases, live sightings, and field activities.
- (ii) Recovering and repatriating American remains.
- (iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.
- (iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully

<sup>1</sup>The President made such a determination on February 3, 1999, as published in Presidential Determination No. 99-12 (64 F.R. 6779).

Sec. 414 of the Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2327), provided the following:

“SEC. 414. (a) None of the funds appropriated or otherwise made available by this Act shall be expended for any purpose for which appropriations are prohibited by section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

“(b) The requirements in subparagraphs (A) and (B) of section 609 of that Act shall continue to apply during fiscal year 2006.”

documented and available in unclassified and unredacted form to immediate family members.

\* \* \* \* \*

SEC. 616.<sup>2</sup> (a) None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmery, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, Jean-Hubert Feuille, Jean-Yvon Toussaint<sup>3</sup> Jimmy Lalanne, Jean Leopold Dominique, Jean-Claude Louissaint, Legitime Athis and his wife, Christa Joseph Athis, Jean-Michel Olophene, Claudy Myrthil, Merilus Deus, and Ferdinand Dorvil;<sup>3</sup>

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(4) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

<sup>2</sup>Sec. 415 of the Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2327), provided the following:

“SEC. 415. (a) None of the funds appropriated or otherwise made available under this title shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

“(b) the requirements in subsections (b) and (c) of section 616 of that Act shall continue to apply during fiscal year 2006.”

<sup>3</sup>Sec. 618(b) of appendix A of Public Law 106-113 (113 Stat. 1501A-55) struck out “and” after “Gonzalez” and added “Jean-Yvon Toussaint and Jimmy Lalanne”. Sec. 617(a) of Public Law 106-553 (114 Stat. 2762A-106) struck out “and” after “Jean-Yvon Toussaint” (resulting in no punctuation between that name and “Jimmy Lalanne”, and added after “Jimmy Lalanne” the following: “, Jean Leopold Dominique, Jean-Claude Louissaint, Legitime Athis and his wife, Christa Joseph Athis, Jean-Michel Olophene, Claudy Myrthil, Merilus Deus, and Ferdinand Dorvil”. Sec. 618 of Public Law 106-113 also continued the funding prohibition and the terms of subsecs. (b) and (c) for fiscal year 2000. Sec. 617(a) of Public Law 106-553 (114 Stat. 2762A-106) provided that “None of the funds appropriated or otherwise made available by this Act shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as amended.”

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

\* \* \* \* \*

**(7) Department of State Appropriations Act, 1995**

**Partial text of Public Law 103-317 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies 1995 Appropriations and 1994 Supplemental Appropriations; H.R. 4603], 108 Stat. 1724 at 1760, approved August 26, 1994**

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, and for other purposes, namely:

\* \* \* \* \*

**TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES**

**DEPARTMENT OF STATE**

\* \* \* \* \*

**GENERAL PROVISIONS—DEPARTMENT OF STATE**

\* \* \* \* \*

**SEC. 507.<sup>1</sup> (a) DIPLOMATIC TELECOMMUNICATIONS SERVICE FINANCIAL MANAGEMENT.—In fiscal year 1995 and each succeeding fiscal year—**

<sup>1</sup>22 U.S.C. 2669a. Sec. 2218 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-816; 22 U.S.C. 2669b), provided the following:

**“SEC. 2218. REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.**

“(a) **PROCUREMENT POLICY.**—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

“(b) **IMPLEMENTATION.**—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS-PO) shall—

“(1) utilize full and open competition, to the maximum extent practicable, in the procurement of telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

“(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

“(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.”

Sec. 305 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-435), provided the following:

**“SEC. 305. REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.**

“(a) **ADDITIONAL RESOURCES.**—In addition to other amounts authorized to be appropriated for the purposes of the Diplomatic Telecommunications Service Program Office (DTS-PO), of the

Continued

(1) the Secretary of State shall provide funds for the operation of the Diplomatic Telecommunications Service (DTS) in a sufficient amount to sustain the current level of support services being provided by the DTS, and no portion of such amount may be reprogrammed or transferred for any other purpose;

(2) all funds for the operation and enhancement of the DTS shall be directly available for use by the Diplomatic Telecommunications Service Program Office (DTS-PO); and

(3) the DTS-PO financial management officer shall be provided direct access to the Department of State financial management system to independently monitor and control the obligation and expenditure of all funds for the operation and enhancement of the DTS.

(b) DTS POLICY BOARD.—Within 60 days after the date of the enactment of this Act, the Secretary of State and the Director of the DTS-PO shall restructure the DTS Policy Board to provide for representation on the Board, during fiscal year 1995 and each succeeding fiscal year by—

(1) the Director of the DTS-PO;

(2) the senior information management official from each agency currently serving on the Board;

(3) a senior career information management official from each of the Department of Commerce<sup>2</sup> and the Defense Intelligence Agency; and

(4) a senior career information management official from each of 2 other Federal agencies served by the DTS, each of

amounts made available to the Department of State under section 101(2), \$18,000,000 shall be made available only to the DTS-PO for enhancement of Diplomatic Telecommunications Service capabilities.

(b) IMPROVEMENT OF DTS-PO.—In order for the DTS-PO to better manage a fully integrated telecommunications network to service all agencies at diplomatic missions and consular posts, the DTS-PO shall—

“(1) ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization;

“(2) not later than December 31, 1999, terminate all leases for satellite systems located at posts in criteria countries, unless all maintenance and servicing of the satellite system is undertaken by United States citizens who have received appropriate security clearances;

“(3) institute a system of charges for utilization of bandwidth by each agency beginning October 1, 2000, and institute a comprehensive chargeback system to recover all, or substantially all, of the other costs of telecommunications services provided through the Diplomatic Telecommunications Service to each agency beginning October 1, 2001;

“(4) ensure that all DTS-PO policies and procedures comply with applicable policies established by the Overseas Security Policy Board; and

“(5) maintain the allocation of the positions of Director and Deputy Director of DTS-PO as those positions were assigned as of June 1, 1999, which assignments shall pertain through fiscal year 2001, at which time such assignments shall be adjusted in the customary manner.

(c) REPORT ON IMPROVING MANAGEMENT.—Not later than March 31, 2000, the Director and Deputy Director of DTS-PO shall jointly submit to the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate the Director’s plan for improving network architecture, engineering, operations monitoring and control, service metrics reporting, and service provisioning, so as to achieve highly secure, reliable, and robust communications capabilities that meet the needs of both national security agencies and other United States agencies with overseas personnel.

(d) FUNDING OF DTS-PO.—Funds appropriated for allocation to DTS-PO shall be made available only for DTS-PO until a comprehensive chargeback system is in place.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.”

<sup>2</sup>Sec. 1335(m) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “, the United States Information Agency,”.



whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS-PO for a 2-year term.

(c) DTS CONSOLIDATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of State and the Director of the DTS-PO shall carry out a program under which total DTS consolidation will be completed before October 12, 1995, at not less than five embassies of medium to large size.

(2) PILOT PROGRAM REQUIREMENTS.—Under the program required in paragraph (1)—

(A) each participating embassy shall be provided with a full range of integrated information services, including message, data, and voice, without additional charge;

(B) a combined transmission facility shall be established and jointly operated, with open access to all unclassified transmission equipment;

(C) an unclassified packet switch communication system shall be installed and shall serve all foreign affairs agencies associated with the embassy;

(D) separate classified transmission systems (including MERCURY) shall be terminated; and

(E) all foreign affairs agency systems requiring international communications capability shall obtain such capability solely through the DTS.

(3) PILOT PROGRAM REPORT.—Not later than January 15, 1996, the Secretary of State and the Director of the DTS-PO shall submit to the Committees on Appropriations of the House and Senate a report describing the actions taken under the program required by this subsection. The report shall include a cost-benefit analysis for each embassy participating in the program.

(d) DTS PLANNING REPORT.—Not later than January 15, 1995, the Secretary of State and the Director of the DTS-PO shall submit to the Committee on Appropriations a DTS planning report. The report shall include—

(1) a detailed plan for carrying out the pilot program required by subsection (c), including an estimate of the funds required for such purpose; and

(2) a comprehensive DTS strategy plan that contains detailed plans and schedules for—

(A) an overall DTS network configuration and security strategy;

(B) transition of the existing dedicated circuits and classified transmission systems to the unclassified packet switch communications system;

(C) provision of a basic level of voice service for all DTS customers;

(D) funding of new initiatives and of replacement of current systems;

(E) combining existing DTS network control centers, relay facilities, and overseas operations; and

(F) reducing the extensive reliance of DTS-PO on the full-time services of contractors.

\* \* \* \* \*

**(8) Department of State Appropriations Act, 1988**

Partial text of Public Law 100-202 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, Sec. 101(a) of the Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329-1, approved December 22, 1987; as amended by Public Law 100-459 [Department of State Appropriations Act, 1989; H.R. 4782], 102 Stat. 2205, approved October 1, 1988; Public Law 101-515 [Department of State Appropriations Act, 1991; H.R. 5021], 104 Stat. 2101, approved November 5, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998; and Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001

JOINT RESOLUTION Making continuing appropriations for the fiscal year 1988, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—*

\* \* \* \* \*

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

\* \* \* \* \*

**TITLE III—DEPARTMENT OF STATE**

\* \* \* \* \*

**GENERAL PROVISIONS—DEPARTMENT OF STATE**

\* \* \* \* \*

SEC. 303.<sup>1</sup> There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of \$350,000<sup>2</sup> for each fiscal year to carry out (in accordance with the respective authorization amounts) section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, section 2 of Public Law 86-420, and section 109(b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985.<sup>3</sup> These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended \* \* \*

SEC. 304.<sup>4</sup> \* \* \* [Repealed—1991]

SEC. 305.<sup>5</sup> The following sections of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989) are waived during Fiscal Years 1988 and 1989 in the event that H.R. 1777 is enacted into law: Sec. 122, Sec. 151 and Sec. 204.

\* \* \* \* \*

<sup>1</sup> Formerly at 22 U.S.C. 276 note. Sec. 303 provided appropriations for various parliamentary conferences and interparliamentary unions in which the United States participated. For text of legislation cited here, see *Legislation on Foreign Relations Through 2005*, vol. IV, sec. N.

Sec. 2503(a), (d), and (e) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-836; 22 U.S.C. 276 note), provided the following:

“(a) INTERPARLIAMENTARY UNION LIMITATION.—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of Interparliamentary Union during fiscal year 1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

“(b)–(c) \* \* \*

“(d) CONDITIONAL TERMINATION OF AUTHORITY.—Unless Congress receives the certification described in subsection (a) before October 1, 1999, effective on that date the Act entitled ‘An Act to authorize participation by the United States in the Inter-parliamentary Union’, approved June 28, 1935 (22 U.S.C. 276-276a-4) is repealed.

“(e) TRANSFER OF FUNDS TO THE TREASURY.—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100-202) that are available as the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.”

Sec. 502(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 462), provided the following:

“(b) DEPOSIT OF FUNDS IN INTEREST-BEARING ACCOUNTS.—Funds appropriated and disbursed pursuant to section 303 of Title III of Public Law 100-202 (101 Stat. 1329-23; 22 U.S.C. 276 note) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury.”

<sup>2</sup> Sec. 408(a) of the Department of State and Related Agency Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790) sought to raise the appropriations available under this section to \$620,000, by striking out “\$440,000” and inserting in lieu thereof “\$620,000”. The amendment is not executable, however, taking into consideration the amendment enacted in sec. 2503(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

Previously, sec. 2503(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-837), struck out “\$440,000” and inserted in lieu thereof “\$350,000”. Previously, sec. 304(a)(1) of the Department of State Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2128) struck out “\$340,000” and inserted in lieu thereof “\$440,000”; sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207), struck out “\$290,000” and inserted “\$340,000”.

<sup>3</sup> Sec. 2503(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-837), struck out reference to “paragraph (2) of the first section of Public Law 74-170”. Previously, sec. 303 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207), added the reference to sec. 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164). Sec. 304(a)(2) of the Department of State Appropriations Act, 1991 amended this by adding reference to subsec. (b).

<sup>4</sup> Sec. 132(h)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 665), repealed sec. 304, relating to occupancy of the Soviet Union’s new chancery building in Washington, D.C., and occupancy of the U.S. Embassy in Moscow.

<sup>5</sup> 22 U.S.C. 1461 note, 2656 note. H.R. 1777 was enacted into law as Public Law 100-204, on December 22, 1987.

## 2. Organization and Administration

### a. Foreign Service Act of 1980

Partial text of Public Law 96-465 [H.R. 6790], 94 Stat. 2071, approved October 17, 1980, as amended by Executive Order 12289, February 14, 1981, 46 F.R. 12693; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273, approved August 24, 1982; Executive Order 12446, October 17, 1983, 48 F.R. 48443; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985, H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99-335 [Federal Employees' Retirement System Act of 1986, H.R. 2672], 100 Stat. 514, approved June 6, 1986; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986, H.R. 2151], 100 Stat. 853, approved August 27, 1986; Public Law 99-514 [Tax Reform Act of 1986, H.R. 3838], 100 Stat. 2085, approved October 22, 1986; Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3610, approved October 24, 1986; Public Law 99-556 [Federal Employee's Retirement System Technical Corrections Act of 1986, H.R. 5626], 100 Stat. 3131, approved October 27, 1986; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-238 [Federal Employees' Retirement System, Technical Corrections; H.R. 3395], 101 Stat. 1744, approved January 8, 1988; Public Law 101-12 [Whistleblower Protection Act, S. 20], approved April 10, 1989; Public Law 101-167 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; H.R. 3743], 103 Stat. 1195, approved November 21, 1989; Public Law 101-194 [Ethics Reform Act of 1989, H.R. 3660], 103 Stat. 1716, approved November 30, 1989; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 101-509 [Treasury, Postal Service and General Government Appropriations Act, 1991; H.R. 5241], 104 Stat. 1389, approved November 5, 1990; Public Law 101-513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-496 [Intelligence Authorization Act for Fiscal Year 1993, H.R. 5095], 106 Stat. 3180, approved October 24, 1992; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 103-66 [Omnibus Budget Reconciliation Act of 1993, H.R. 2264], 107 Stat. 312, approved August 10, 1993; Public Law 103-178 [Intelligence Authorization Act for Fiscal Year 1994, H.R. 2330], 107 Stat. 2024, approved December 3, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-65 [Lobbying Disclosure Act of 1995; S. 1060], 109 Stat. 691, approved December 19, 1995; Public Law 105-33 [Balanced Budget Act of 1997; H.R. 2015], 111 Stat. 251, approved August 5, 1997; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105-277 [Foreign Affairs Reform and Restructuring Act of 1998; division G of H.R. 4328], 112 Stat. 2681-761, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; subdivision B of division G of H.R. 4328], 112 Stat. 2681-801, approved October 21, 1998; Public Law 105-292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October

27, 1998; Public Law 105-382 [Department of State Special Agents Retirement Act of 1998 [Public Law 105-382; H.R. 633], approved November 13, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427 enacted by reference in sec. 1000(a)(7) of the Consolidated Appropriations Act, Fiscal Year 2000; H.R. 3194], 113 Stat. 1501A-405, approved November 29, 1999; Public Law 106-346 [Department of Transportation and Related Agencies Appropriations Act, 2001, H.R. 5394 enacted by reference in sec. 101(a) of H.R. 4475], 114 Stat. 1356, approved October 23, 2000; Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; Public Law 108-447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004; Public Law 109-140 [H.R. 4436], 119 Stat. 2650, approved December 22, 2005; and Public Law 109-164 [Trafficking Victims Protection Reauthorization Act of 2005; H.R. 972], 119 Stat. 3558, approved January 10, 2006

AN ACT To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

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

SECTION 1. SHORT TITLE.—This Act may be cited as the “Foreign Service Act of 1980”.

SEC. 2. TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

SEC. 101.<sup>1</sup> FINDINGS AND OBJECTIVES.—(a) The Congress finds that—

<sup>1</sup> 22 U.S.C. 3901.



(1) a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) the scope and complexity of the foreign affairs of the Nation have heightened the need for a professional foreign service that will serve the foreign affairs interests of the United States in an integrated fashion and that can provide a resource of qualified personnel for the President, the Secretary of State, and the agencies concerned with foreign affairs;

(3) the Foreign Service of the United States, established under the Act of May 24, 1924 (commonly known as the Rogers Act) and continued by the Foreign Service Act of 1946, must be preserved, strengthened, and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations;

(4) the members of the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of the affairs, cultures, and languages of other countries, and available to serve in assignments throughout the world; and

(5) the Foreign Service should be operated on the basis of merit principles.

(b) The objective of this Act is to strengthen and improve the Foreign Service of the United States by—

(1) assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) fostering the development and vigorous implementation of policies and procedures, including affirmative action programs, which will facilitate and encourage (A) entry into and advancement in the Foreign Service by persons from all segments of American society, and (B) equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition;

(3) providing for more efficient, economical, and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) establishing a statutory basis for participation by the members of the Foreign Service, through their elected representatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and maintaining a fair and effective system for the resolution of individual grievances that will ensure the fullest measure of due process for the members of the Foreign Service;

(5) minimizing the impact of the hardships, disruptions, and other unusual conditions of service abroad upon the members

of the Foreign Service, and mitigating the special impact of such conditions upon their families;

(6) providing salaries, allowances, and benefits that will permit the Foreign Service to attract and retain qualified personnel as well as a system of incentive payments and awards to encourage and reward outstanding performance;

(7) establishing a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise;

(8) improving Foreign Service managerial flexibility and effectiveness;

(9) increasing efficiency and economy by promoting maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service personnel system and other personnel systems of the Government; and

(10) otherwise enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

SEC. 102.<sup>2</sup> DEFINITIONS.—As used in this Act, the term—

(1) “abroad” means all areas not included within the United States;

(2) “agency” means an agency as defined in section 552(e) of title 5, United States Code;

(3) “chief of mission” means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) to be temporarily in charge of such a mission or office;

(4) “Department” means the Department of State, except that with reference to the exercise of functions under this Act with respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency;

(5) “employee” (except as provided in section 1002(8)) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) “function” includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) “Government” means the Government of the United States;

<sup>2</sup> 22 U.S.C. 3902. Sec. 130(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027) struck out subsection designation “(a)” following the section title and struck out the text of subsec. (b). Subsec. (b) had read as follows:

“(b) References in this Act or any other law to ‘Foreign Service officers’ shall, with respect to the International Communications Agency, be deemed to refer to Foreign Service information officers.”.

(8) “merit principles” means the principles set out in section 2301(b) of title 5, United States Code;

(9) “principal officer” means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) “Secretary” means the Secretary of State, except that (subject to section 201) with reference to the exercise of functions under this Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) “Service” or “Foreign Service” means the Foreign Service of the United States; and

(12) “United States”, when used in a geographic sense, means the several States and the District of Columbia.

SEC. 103.<sup>3</sup> MEMBERS OF THE SERVICE.—The following are the members of the Service.

(1) Chiefs of mission, appointed under section 302(a)(1) or assigned under section 502(c).

(2) Ambassadors at large, appointed under section 302(a)(1).

(3) Members of the Senior Foreign Service, appointed under section 302(a)(1) or 303, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 302(a)(1), who have general responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 303, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 303, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 303 by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

SEC. 104.<sup>4</sup> FUNCTIONS OF THE SERVICE.—Members of the Service shall, under the direction of the Secretary—

(1) represent the interest of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

<sup>3</sup> 22 U.S.C. 3903.

<sup>4</sup> 22 U.S.C. 3904.

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

SEC. 105.<sup>5</sup> MERIT PRINCIPLES; PROTECTIONS FOR MEMBERS OF THE SERVICE; AND MINORITY RECRUITMENT.—(a)(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

(2) For purposes of paragraph (1), the term “personnel action” means—

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this Act which relates to any action referred to in subparagraph (A).

(b) The Secretary shall administer the provisions of this Act and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, geographic or educational affiliation within the United States,<sup>6</sup> or political affiliation, as prohibited under section 2302(b)(1) of title 5, United States Code;

(2) are free from reprisal for—

(A) a disclosure of information by a member of applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

<sup>5</sup>22 U.S.C. 3905.

<sup>6</sup>Sec. 153(d) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 43), inserted “geographic or educational affiliation within the United States,” after “marital status”.

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommendation through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5, United States Code.

(c) This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any action against a member of the Service who discloses information to the Congress.

(d)(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5, United States Code.

(2)<sup>7</sup> The Secretary shall transmit, to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, the Department's reports on its equal employment opportunity and affirmative action programs and its minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM). Each such report shall be transmitted to the Congress at least once annually, and shall be received by the Congress not later than 30 days after its original submission to the Equal Employment Opportunity Commission or the Office of Personnel Management.

(e) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), prohibiting discrimination on the basis of handicapping condition; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

<sup>7</sup>Sec. 185(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1365) amended and restated para. (2).

## CHAPTER 2—MANAGEMENT OF THE SERVICE

SEC. 201.<sup>8</sup> THE SECRETARY OF STATE.—(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this Act.

SEC. 202.<sup>9</sup> OTHER AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a)(1) The Broadcasting Board of Governors and the Administrator of the Agency for International Development<sup>10</sup> may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this Act.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to personnel of the Foreign Agricultural Service, and

(B) with respect to other personnel of the Department of Agriculture to the extent the President determines to be necessary in order to enable the Department of Agriculture to carry out functions which require service abroad.

(3) The Secretary of Commerce may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and

(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

(4)<sup>11</sup> (A) Whenever (and to the extent) the Secretary of State considers it in the best interests of the United States Government, the Secretary of State may authorize the head of any agency or other Government establishment (including any establishment in the legislative or judicial branch) to appoint under section 303 individuals described in subparagraph (B) as members of the Service and to utilize the Foreign Service personnel system with respect to such individuals under such regulations as the Secretary of State may prescribe.

(B) The individuals referred to in subparagraph (A) are individuals eligible for employment abroad under section 311(a).

(b) Subject to section 201(b)—

(1) the agency heads referred to in subsection (a), and

<sup>8</sup> 22 U.S.C. 3921.

<sup>9</sup> 22 U.S.C. 3922.

<sup>10</sup> Sec. 1335(k)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “Director of the United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(A) of that Act (112 Stat. 2681-793) struck out “Director of the United States International Development Cooperation Agency” and inserted in lieu thereof “Administrator of the Agency for International Development”.

<sup>11</sup> Sec. 332 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-439), added para. (4).

(2) the head of any other agency (to the extent authority to utilize the Foreign Service personnel system is granted to such agency head under any other Act), shall in the case of their respective agencies exercise the functions vested in the Secretary by this Act.

SEC. 203.<sup>12</sup> COMPATIBILITY AMONG AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. To this end, the other heads of such agencies shall consult regularly with the Secretary of State.

(b) Nothing in this chapter shall be construed as diminishing the authority of the head of any agency authorized by law to utilize the Foreign Service personnel system.

SEC. 204.<sup>13</sup> CONSOLIDATED AND UNIFORM ADMINISTRATION OF THE SERVICE.—The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and for consolidation (in accordance with section 23 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695)) of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary of State shall encourage (in consultation with the other heads of such agencies) the development of uniform policies and procedures and consolidated personnel functions.

SEC. 205.<sup>14</sup> COMPATIBILITY BETWEEN THE FOREIGN SERVICE AND OTHER GOVERNMENT PERSONNEL SYSTEMS.—The Service shall be administered to the extent practicable in conformity with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and the heads of such other agencies as the President shall determine, in order to assure compatibility of the Foreign Service personnel system with other Government personnel systems to the extent practicable.

SEC. 206.<sup>15</sup> REGULATIONS; DELEGATION OF FUNCTIONS.—(a) The Secretary may prescribe such regulations as the Secretary deems appropriate to carry out functions under this Act.

(b) The Secretary may delegate functions under this Act which are vested in the Secretary to any employee of the Department or any member of the Service.

SEC. 207.<sup>16</sup> CHIEF OF MISSION.—(a) Under the direction of the President, the chief of mission to a foreign country—

(1) shall have full responsibility for the direction, coordination, and supervision of all Government executive branch<sup>17</sup>

<sup>12</sup> 22 U.S.C. 3923.

<sup>13</sup> 22 U.S.C. 3924.

<sup>14</sup> 22 U.S.C. 3925.

<sup>15</sup> 22 U.S.C. 3926.

<sup>16</sup> 22 U.S.C. 3927.

<sup>17</sup> Sec. 136 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1345), inserted "executive branch" in subssecs. (a)(1), (a)(2), and (b).

employees in that country (except for Voice of America correspondents on official assignment and<sup>18</sup> employees under the command of a United States area military commander); and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government executive branch<sup>17</sup> employees in that country (except for Voice of America correspondents on official assignment and<sup>18</sup> employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Any executive branch<sup>17</sup> agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for Voice of America correspondents on official assignment and<sup>18</sup> employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(c)<sup>19</sup> Each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.

**SEC. 208.<sup>20</sup> DIRECTOR GENERAL OF THE FOREIGN SERVICE.**

The President shall appoint, by and with the advice and consent of the Senate, a Director General of the Foreign Service, who shall be a current or former career member of the Foreign Service. The Director General should assist the Secretary of State in the management of the Service and perform such functions as the Secretary of State may prescribe.

**SEC. 209.<sup>21</sup> INSPECTOR GENERAL.**—(a)(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foreign affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.<sup>22</sup> The Inspector General shall periodically (at least

<sup>18</sup>Sec. 505(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1393) inserted “Voice of America correspondents on official assignment and” after “except for”.

<sup>19</sup>Sec. 123 of Public Law 97-241 (96 Stat. 281) added subsec. (c).

<sup>20</sup>22 U.S.C. 3928. Sec. 163 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 411), amended and restated sec. 208. It formerly read:

“SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe.”

<sup>21</sup>22 U.S.C. 3929.

<sup>22</sup>The sentence following this note was repealed by sec. 413 of Public Law 99-399 (100 Stat. 868) and was restored by sec. 405 of Public Law 99-529 (100 Stat. 3010).



every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(b) Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Service posts and bureaus and other operating units of the Department of State, including an examination of—

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and, specifically, whether such administration is consistent with the requirements of section 105;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination and cooperation.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(4)<sup>23</sup> The Inspector General shall develop and provide to employees—

(A) information detailing their rights to counsel; and

<sup>23</sup>Sec. 2208(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810), added para. (4).

(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.

(5)<sup>24</sup> INVESTIGATIONS.—

(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

(i) abide by professional standards applicable to Federal law enforcement agencies; and

(ii) make every reasonable effort to permit each subject of an investigation an opportunity to provide exculpatory information.

(B) FINAL REPORTS OF INVESTIGATIONS.—In order to ensure that final reports of investigations are thorough and accurate, the Inspector General shall—

(i) make every reasonable effort to ensure that any person named in a final report of investigation has been afforded an opportunity to refute any allegation of wrongdoing or assertion with respect to a material fact made regarding that person's actions;

(ii) include in every final report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

<sup>24</sup> Sec. 339(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-443), added para. (5).

Sec. 339(c), (d), and (e) of that Act further provided the following pertaining to this amendment and that made at sec. 209(d)(2):

“(c) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section may be construed to modify—

“(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

“(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

“(3) the Privacy Act of 1974 (5 U.S.C. 552a);

“(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection);

“(5) rule 6(e) of the Federal Rules of Criminal Procedure (relating to the protection of grand jury information); or

“(6) any statute or executive order pertaining to the protection of classified information.

“(d) NO GRIEVANCE OR RIGHT OF ACTION.—A failure to comply with the amendments made by this section shall not give rise to any private right of action in any court or to an administrative complaint or grievance under any law.

“(e) EFFECTIVE DATE.—The amendments made by this section shall apply to cases opened on or after the date of the enactment of this Act.”

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;<sup>25</sup>

(E) a listing of each audit report completed by the Inspector General during the reporting period; and

(F)<sup>25</sup> a notification, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation and the rationale for denying such individual that opportunity.

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>26</sup> of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>26</sup> of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

<sup>25</sup>Sec. 339(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-443), struck out “and” at the end of subpara. (D), struck out a period and inserted in lieu thereof “; and” at the end of subpara. (E), and added a new subpara. (F).

<sup>26</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e)(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6 (b) and (c) of such Act.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

(3)<sup>27</sup> The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.

(f)(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(g) Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

<sup>27</sup>Sec. 2208(b) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-810), added para. (3).

SEC. 210.<sup>28</sup> BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by an individual appointed by the President<sup>29</sup> and shall include one or more representatives of the Department of State, the Broadcasting Board of Governors, the Agency for International Development,<sup>30</sup> the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

SEC. 211.<sup>31</sup> BOARD OF EXAMINERS FOR THE FOREIGN SERVICE.—(a) The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 301(b) to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

(b) The Board of Examiners shall periodically review the examinations prescribed under section 301(b) in order to determine—

- (1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;
- (2) methods of minimizing any such adverse impact;
- (3) alternatives to any examinations which have such an adverse impact; and
- (4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 301(b).

<sup>28</sup> 22 U.S.C. 3930.

<sup>29</sup> Sec. 153 of Public Law 99-93 (99 Stat. 405) struck out “shall be chaired by a career member of the Senior Foreign Service designated by the Secretary of State” and inserted in lieu thereof “shall be chaired by an individual appointed by the President”.

<sup>30</sup> Sec. 1335(k)(2) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(B) of that Act (112 Stat. 2681-793) struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “Agency for International Development”.

<sup>31</sup> 22 U.S.C. 3931.

(c) Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

#### CHAPTER 3—APPOINTMENTS

SEC. 301.<sup>32</sup> GENERAL PROVISIONS RELATING TO APPOINTMENTS.—  
(a) Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(c) The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term “veteran or disabled veteran” means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(d)(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or non-career members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.<sup>33</sup>

SEC. 302.<sup>34</sup> APPOINTMENTS BY THE PRESIDENT.—(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as an ambassador,<sup>35</sup> as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

<sup>32</sup> 22 U.S.C. 3941. See also sec. 153(g) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 44).

<sup>33</sup> Sec. 179(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331), added the last sentence, to be effective with respect to tax years beginning after December 31, 1987, pursuant to sec. 179(b) of that Act.

<sup>34</sup> 22 U.S.C. 3942.

<sup>35</sup> Sec. 141 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 667), inserted “as an ambassador.”

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under chapter 5 and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under chapter 4, and to receive the leave to which such member is entitled under subchapter I of chapter 63, title 5, United States Code, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President.<sup>36</sup>

SEC. 303.<sup>37</sup> APPOINTMENTS BY THE SECRETARY.—The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 302(a)) in accordance with this Act and such regulations as the Secretary may prescribe.

SEC. 304.<sup>38</sup> APPOINTMENT OF CHIEFS OF MISSION.—(a)(1) An individual appointed or assigned to be a chief of mission should possess

<sup>36</sup>Sec. 142(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 667), struck out text in the second sentence of subsec. (b) following “assignment”, and inserted in lieu thereof text beginning with “may elect to continue \* \* \*”. The same sentence had been amended by sec. 177(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1362).

<sup>37</sup>22 U.S.C. 3943.

<sup>38</sup>22 U.S.C. 3944. Sec. 208(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-422), repealed subsec. (c), which had read as follows:

clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve.

(b)(1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term "contribution" has the same meaning given such term by section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), and the term "immediate family" means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them.

**SEC. 305.<sup>39</sup> APPOINTMENT TO THE SENIOR FOREIGN SERVICE.—(a)** Appointment to the Senior Foreign Service shall be to a salary class established under section 402, and not to a position.

<sup>38</sup>(c) Within 6 months after assuming the position, the chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country."

<sup>39</sup>22 U.S.C. 3945. Sec. 324 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-437), provided the following:

**"SEC. 324. PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.**

"The Director General of the Foreign Service shall submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the following:

"(1) The number of members of the Senior Foreign Service.



(b) An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

(c)<sup>40</sup> (1) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in subsection (b).

(2) Except as provided in paragraph (3), no more than one individual (other than an individual with reemployment rights under section 310 as a career appointee in the Senior Executive Service) may serve under a limited appointment in the Senior Foreign Service in the Department of Commerce at any time.

(3) The Secretary of Commerce may appoint an individual to a limited appointment in the Senior Foreign Service for a specific position abroad if—

(A) no career member of the Service who has the necessary qualifications is available to serve in the position; and

(B) the individual appointed has unique qualifications for the specific position.

(d)<sup>41</sup> The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3993a of title 5, United States Code.

SEC. 306.<sup>42</sup> CAREER APPOINTMENTS.—(a) Before receiving a career appointment in the Service an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 303, or

<sup>40</sup>(2) The number of vacant positions designated for members of the Senior Foreign Service.

<sup>41</sup>(3) The number of members of the Senior Foreign Service who are not assigned to positions.”

Sec. 175 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 413), provided the following:

**“SEC. 175. REPORT ON CLASSIFICATION OF SENIOR FOREIGN SERVICE POSITIONS.**

“(a) **AUDIT AND REVIEW.**—Not later than December 31, 1994, the Comptroller General of the United States shall conduct a classification audit of all Senior Foreign Service positions in Washington, District of Columbia, assigned to the Department of State, the Agency for International Development, and the United States Information Agency and shall review the methods for classification of such positions.

“(b) **REPORT.**—Not later than March 1, 1995, the Comptroller General shall submit a report of such audit and review to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.”

<sup>40</sup>Sec. 119(a) of Public Law 99-93 (99 Stat. 412) added subsection (c).

<sup>41</sup>Sec. 506(c)(1) of the Ethics Reform Act (Public Law 101-194; 103 Stat. 1759) inserted a second subsection (c) to sec. 305. Sec. 6(d)(3) of Public Law 101-280 (104 Stat. 160) amended the Ethics Reform Act of 1989 to designate the new subsection as “(d)”.

<sup>42</sup>22 U.S.C. 3946.

(2) to recommend to the President that the candidate be given a career appointment under section 302.

(b) Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

(c)<sup>43</sup> Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 1107 of this Act.

SEC. 307.<sup>44</sup> ENTRY LEVELS FOR FOREIGN SERVICE OFFICER CANDIDATES.—A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 404 to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

SEC. 308.<sup>45</sup> RECALL AND REEMPLOYMENT OF CAREER MEMBERS.—

(a) Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members of the Service may be reappointed under section 302(a)(1) or 303, without regard to section 306, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

SEC. 309.<sup>46</sup> LIMITED APPOINTMENTS.—(a)<sup>47</sup> A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in subsection (b),<sup>47</sup> may not be extended or renewed. A limited appointment in the Service which is limited

<sup>43</sup> Sec. 181(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1363), added subsec. (c). Sec. 181(e) of Public Law 100-204 provided that the amendment not apply with respect to any grievance in which the Board had issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 before the date of its enactment.

<sup>44</sup> 22 U.S.C. 3947.

<sup>45</sup> 22 U.S.C. 3948.

<sup>46</sup> 22 U.S.C. 3949.

<sup>47</sup> Sec. 176 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1361) added subsec. designation (a); replaced the words "section 311(a)" with "subsection (b)" in subsec. (a); and added a new subsec. (b).

by its terms to a period of one year or less is a temporary appointment.

(b)<sup>47</sup> A limited appointment may be extended for continued service—

(1) as a consular agent;

(2) in accordance with section 311(a);

(3) as a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11;<sup>48</sup>

(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency; and<sup>48</sup>

(5)<sup>48</sup> as a foreign national employee.

SEC. 310.<sup>49</sup> REEMPLOYMENT RIGHTS FOLLOWING LIMITED APPOINTMENT.—Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5, United States Code.

SEC. 311.<sup>50</sup> UNITED STATES CITIZENS HIRED ABROAD—

(a) The Secretary, under section 303, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.

(b) The fact that an applicant for employment in a position referred to in subsection (a) is a family member of a Government employee assigned abroad shall be considered an affirmative factor in employing such person.

(c)(1) Non-family members employed under this section for service at their post of residence shall be paid in accordance with local compensation plans established under section 408.

(2) Family members employed under this section shall be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407.

(3) In exceptional circumstances, non-family members may be paid in accordance with the Foreign Service Schedule or the salary

<sup>48</sup>Sec. 180(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out “and” at the end of para. (3); replaced the period at the end of para. (4) with “; and”; and inserted “; and (5) as a foreign national employee.”. Sec. 1(hh) of Public Law 103-415 (108 Stat. 4303) amended clause (5) to conform with indentation of other paragraphs in the subsection.

<sup>49</sup>22 U.S.C. 3950.

<sup>50</sup>22 U.S.C. 3951. Sec. 180(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), amended and restated sec. 311. As worded, the amendment struck out the section designation and catchline, which read “SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—”. Sec. 1(h)(A) of Public Law 103-415 (108 Stat. 4300) inserted the section heading as shown.

Sec. 311 formerly read as follows:

“SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 408.

“(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions.”.

rates established under section 407, if the Secretary determines that the national interest would be served by such payments.

(d) Nonfamily member United States citizens employed under this section shall not be eligible by reason of such employment<sup>51</sup> for benefits under chapter 8 of this Act, or under chapters 83 or 84 of title 5, United States Code.

SEC. 312.<sup>52</sup> DIPLOMATIC AND CONSULAR COMMISSIONS.—(a) The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

(b) Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

(c) The Secretary of State shall define the limits of consular districts.

#### CHAPTER 4—COMPENSATION

SEC. 401.<sup>53</sup> SALARIES OF CHIEFS OF MISSION.—(a) Except as provided in section 302(b), each<sup>54</sup> chief of mission shall receive a salary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, United States Code, except that the total compensation, exclusive of danger pay, for any chief of mission shall be subject to the limitation on certain payments under section 5307 of title 5, United States Code, or the limitation under section 402(a)(3), whichever is higher.<sup>55</sup>

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed

<sup>51</sup>Sec. 1(h)(B) of Public Law 103-415 (108 Stat. 4300) inserted “by reason of such employment” after “eligible”.

<sup>52</sup>22 U.S.C. 3952.

<sup>53</sup>22 U.S.C. 3961. For 2006 rates of pay under the Executive Schedule, see Executive Order 13393 of December 22, 2005 (70 F.R. 76655).

<sup>54</sup>Sec. 142(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), struck out “Each”, and inserted in lieu thereof “Except as provided in section 302(b), each”.

Previously, sec. 177 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1362), had struck out the opening exception to sec. 302(b), and inserted language after “United States Code”. Sec. 177 also stated that these amendments would not apply to the salary of any individual serving under a Presidential appointment under sec. 302 of the Foreign Service Act of 1980 immediately before the date of their enactment during the period such individual continues to serve in such position.

<sup>55</sup>Sec. 412(c) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2905) struck out “shall not exceed the annual rate of pay payable for level I of such Executive Schedule” and inserted in lieu thereof “shall be subject to the limitation on certain payments under section 5307 of title 5, United States Code, or the limitation under section 402(a)(3), whichever is higher”. Previously, sec. 142(b)(2) of Public Law 102-138 struck out “level II of such”, and inserted in lieu thereof “level I of such”.

50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

SEC. 402.<sup>56</sup> SALARIES OF THE SENIOR FOREIGN SERVICE.—(a)(1)<sup>57</sup> The President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. The President shall also prescribe ranges of basic salary rates for each class. Except as provided in paragraph (3), basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code.<sup>58</sup>

(2)<sup>57</sup> The Secretary shall determine which basic salary rate within the ranges prescribed by the President under paragraph (1) shall be paid to each member of the Senior Foreign Service based on individual performance, contribution to the mission of the Department, or both, as determined under a rigorous performance management system. Except as provided in regulations prescribed by the Secretary and, to the extent possible, consistent with regulations governing the Senior Executive Service, the Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period.

(3) Upon a determination by the Secretary that the Senior Foreign Service performance appraisal system, as designed and applied, makes meaningful distinctions based on relative performance—

(A) the maximum rate of basic pay payable for the Senior Foreign Service shall be level II of the Executive Schedule;<sup>59</sup> and

(B) the applicable aggregate pay cap shall be equivalent to the aggregate pay cap set forth in section 5307(d)(1) of title 5, United States Code, for members of the Senior Executive Service.

(b)(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under

<sup>56</sup>22 U.S.C. 3962. Sec. 2403(d)(2) of this Act stated that “For the purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.” (October 17, 1980).

<sup>57</sup>Sec. 412(a)(2) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2905) struck out para. (2) and inserted in lieu thereof new paras. (2) and (3). Previously, sec. 124 of Public Law 97-241 (96 Stat. 281) inserted the paragraph designation “(1)”, added the second sentence in para. (1), and inserted a new para. (2).

<sup>58</sup>Sec. 412(a)(1) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2905), struck out “The President shall also prescribe one or more basic salary rates for each class. Basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.” and inserted in lieu thereof “The President shall also prescribe ranges of basic salary rates for each class. Except as provided in paragraph (3), basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code.”

<sup>59</sup>The current rate of compensation at level II of the Executive Schedule is \$165,200 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

section 5382 of title 5, United States Code, and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid under section 5382 of title 5, United States Code, immediately prior to such appointment.

SEC. 403.<sup>60</sup> FOREIGN SERVICE SCHEDULE.—The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of title 5, United States Code. Salary rates established under this section shall be adjusted in accordance with section 5303<sup>61</sup> of title 5, United States Code.

NOTE.—Executive Order 13393, December 22, 2005, 70 F.R. 76655, states:

FOREIGN SERVICE SCHEDULE									
Step	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9
1	\$91,507	\$74,148	\$60,081	\$48,684	\$39,448	\$35,265	\$31,526	\$28,183	\$25,195
2	94,252	76,372	61,883	50,145	40,631	36,323	32,472	29,028	25,951
3	97,080	78,664	63,740	51,649	41,850	37,413	33,446	29,899	26,729
4	99,992	81,024	65,652	53,198	43,106	38,535	34,449	30,796	27,531
5	102,992	83,454	67,622	54,794	44,399	39,691	35,483	31,720	28,357
6	106,082	85,958	69,650	56,438	45,731	40,882	36,547	32,672	29,208
7	109,264	88,537	71,740	58,131	47,103	42,108	37,644	33,652	30,084
8	112,542	91,193	73,892	59,875	48,516	43,372	38,773	34,662	30,987
9	115,918	93,928	76,109	61,671	49,972	44,673	39,936	35,701	31,916
10	118,957	96,746	78,392	63,522	51,471	46,013	41,134	36,772	32,874
11	118,957	99,649	80,744	65,427	53,015	47,393	42,368	37,876	33,860
12	118,957	102,638	83,166	67,390	54,605	48,815	43,639	39,012	34,876
13	118,957	105,717	85,661	69,412	56,243	50,279	44,949	40,182	35,922
14	118,957	108,889	88,231	71,494	57,931	51,788	46,297	41,388	37,000

<sup>60</sup>22 U.S.C. 3963. Sec. 2403(d)(2) of this Act stated that "For the purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act." (October 17, 1980).

<sup>61</sup>Sec. 101(b)(1) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1439), struck out "subchapter I of chapter 53" and inserted in lieu thereof "section 5303".

SEC. 404.<sup>62</sup> ASSIGNMENT TO A SALARY CLASS.—(a) The Secretary shall assign all Foreign Service officers and Foreign Service personnel (other than Foreign Service personnel who are paid in accordance with section 407 or<sup>63</sup> section 408) to appropriate salary classes in the Foreign Service Schedule.

(b)(1) The salary class to which a member of the Service is assigned under this section shall not be affected by the assignment of the member to a position classified under chapter 5.

(2) Except as authorized by subchapter I of chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance with chapter 6. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5, United States Code, and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

SEC. 405.<sup>64</sup> PERFORMANCE PAY.—(a) Subject to subsection (e), members<sup>65</sup> of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments, or

(2) under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 402 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compensation of any other member of the Service shall not preclude the award or its payment.

<sup>62</sup> 22 U.S.C. 3964.

<sup>63</sup> Sec. 180(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out “who are family members of Government employees paid in accordance with a local compensation plan established under” after “section 407 or”.

<sup>64</sup> 22 U.S.C. 3965. Sec. 173 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 412), provided the following:

**“SEC. 173. SENIOR FOREIGN SERVICE PERFORMANCE PAY.**

“(a) PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

“(b) AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

“(c) APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.

“(d) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—\* \* \*”

<sup>65</sup> Sec. 2311(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826), struck out “Members” and inserted in lieu thereof “Subject to subsection (e), members”.

(b) Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under section 5384 of title 5, United States Code, and rank awards under section 4507 of title 5, United States Code. Awards of performance pay under this section shall be subject to the following limitations:

(1) Not more than 33<sup>66</sup> percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year.

(2) Except as provided in paragraph (3), performance pay for a member of the Senior Foreign Service may not exceed 20 percent of the annual rate of basic salary for that member.

(3) Not more than 6 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year in an amount which exceeds the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed, in any fiscal year, the percentage of basic pay established under section 4507(e)(1) of title 5, United States Code, for a Meritorious Executive, except that payments of the percentage of the basic pay established under section 4507(e)(2) of such title for Distinguished Executives may be made in any fiscal year to up to 1 percent of the members of the Senior Foreign Service.<sup>67</sup>

(4)<sup>68</sup> Any award under this section shall be subject to the limitation on certain payments under section 5307 of title 5, United States Code, or the limitation under section 402(a)(3), whichever is higher.<sup>69</sup>

(5)<sup>70</sup> The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.

<sup>66</sup>Sec. 323 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-437), struck out "50" and inserted in lieu thereof "33".

<sup>67</sup>Sec. 312(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1378), struck out "Payments under this paragraph to a member of the Senior Foreign Service may not exceed \$10,000 in any fiscal year, except that payments of up to \$20,000 in any fiscal year may be made under this paragraph to up to 1 percent of the members of the Senior Foreign Service." and inserted in lieu thereof "Payments under this paragraph to a member of the Senior Foreign Service may not exceed, in any fiscal year, the percentage of basic pay established under section 4507(e)(1) of title 5, United States Code, for a Meritorious Executive, except that payments of the percentage of the basic pay established under section 4507(e)(2) of such title for Distinguished Executives may be made in any fiscal year to up to 1 percent of the members of the Senior Foreign Service."

<sup>68</sup>Sec. 173(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 412), amended and restated para. (b)(4). It previously read as follows:

"(4) The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect at the end of that fiscal year. Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year."

<sup>69</sup>Sec. 412(b) of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108-447; 118 Stat. 2905) inserted ", or the limitation under section 402(a)(3), whichever is higher".

<sup>70</sup>Sec. 175(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1361), added para. (5).



(c) The Secretary shall determine the amount of performance pay available under subsection (b)(2) each year for distribution among the members of the Senior Foreign Service and shall distribute performance pay to particular individuals on the basis of recommendations by selection boards established under section 602.

(d) The President may grant awards of performance pay under subsection (b)(3) on the basis of annual recommendations by the Secretary of State of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.<sup>71</sup> Recommendations by the Secretary of State under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary of State for the purpose of reviewing and evaluating the nominations of agencies.

(e)<sup>72</sup> Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.

SEC. 406.<sup>73</sup> WITHIN-CLASS SALARY INCREASES.—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 602 to fall below the standards of performance for his or her salary class.

(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

SEC. 407.<sup>74</sup> SALARIES FOR FOREIGN SERVICE PERSONNEL ABROAD WHO PERFORM ROUTINE DUTIES.—(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

<sup>71</sup> Sec. 504(a) of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) inserted "Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section."

<sup>72</sup> Sec. 2311(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-826), added subsec. (e).

<sup>73</sup> 22 U.S.C. 3966.

<sup>74</sup> 22 U.S.C. 3967.

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are generally performed by Foreign Service personnel assigned to class 9 in the Foreign Service Schedule, in accordance with the salary rates established under subsection (a).

SEC. 408.<sup>75</sup> LOCAL COMPENSATION PLANS.—(a)(1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service and United States citizens employed under section 311(c)(1).<sup>76</sup> To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment, except that such compensation plans shall provide for payment of wages to United States citizens<sup>77</sup> at a rate which is no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)). Any compensation plan established under this section may include provision for (A) leaves of absence with pay for employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, United States Code, (B) programs for voluntary transfers of such leave and voluntary leave banks, which shall, to the extent practicable, be established in a manner consistent with the provisions of subchapters III and IV, respectively, of chapter 63 of title 5, United States Code, and (C)<sup>78</sup> payments by the Government and employees to (i) a trust or other fund in a financial institution in order to finance future benefits for employees, including

<sup>75</sup> 22 U.S.C. 3968.

<sup>76</sup> Sec. 180(a)(4)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), replaced the first sentence in subsec. (a)(1), which had provided: "The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, United States citizens employed in the Service abroad who were hired while residing abroad, and for United States citizens employed in the Service abroad who are family members of Government employees."

<sup>77</sup> Sec. 180(a)(4)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out "employed in the Service abroad who were hired while residing abroad and to those family members of Government employees who are paid in accordance with such plans" at this point.

<sup>78</sup> Sec. 313 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1378), struck out "(C) payments by the Government and employees to a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest for the benefit of covered employees." and inserted in lieu thereof "(C) payments by the Government and employees to (i) a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest and dividends for the benefit of covered employees; or (ii) a Foreign Service National Savings Fund established in the Treasury of the United States, which (I) shall be administered by the Secretary, at whose direction the Secretary of the Treasury shall invest amounts not required for the current needs of the Fund; and (II) shall be public monies, which are authorized to be appropriated and remain available without fiscal year limitation to pay benefits, to be invested in public debt obligations bearing interest at rates determined by the Secretary of the Treasury taking into consideration current average market yields on outstanding marketable obligations of the United States of comparable maturity, and to pay administrative expenses."

Previously, sec. 180(a)(4)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), struck out "foreign national" before "employees" at four points in the third sentence of subsec. (a)(1); and sec. 127(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1026), added the clause designation "(A)" and the text of clause (B). Subsequently, sec. 148 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 670), redesignated clause (B) as clause (C), and inserted a new clause (B).

provision for retention in the fund of accumulated interest and dividends for the benefit of covered employees; or (ii) a Foreign Service National Savings Fund established in the Treasury of the United States, which (I) shall be administered by the Secretary, at whose direction the Secretary of the Treasury shall invest amounts not required for the current needs of the Fund; and (II) shall be public monies, which are authorized to be appropriated and remain available without fiscal year limitation to pay benefits, to be invested in public debt obligations bearing interest at rates determined by the Secretary of the Treasury taking into consideration current average market yields on outstanding marketable obligations of the United States of comparable maturity, and to pay administrative expenses. For United States citizens under a compensation plan, the Secretary shall<sup>79</sup> define those allowances and benefits provided under United States law which shall be included as part of the total compensation package,<sup>80</sup> notwithstanding any other provision of law, except that this section shall not be used to override United States minimum wage requirements, or any provision of the Social Security Act or the Internal Revenue Code.<sup>81</sup>

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retire from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government.

(3)<sup>82</sup> (A) Whenever a foreign national employee so elects during a one-year period established by the Secretary of State with respect to each post abroad, the Secretary of the treasury (at the direction of the Secretary of State) shall transfer such employee's interest in the Civil Service Retirement and Disability Fund to a trust or other local retirement plan certified by the United State Government under a local compensation plan established for foreign na-

<sup>79</sup>Sec. 322(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-436), struck out "(A) provide such citizens with a total compensation package (including wages, allowances, benefits, and other employer payments, such as for social security) that has the equivalent cost to that received by foreign national employees occupying a similar position at that post and (B)" at this point.

<sup>80</sup>Sec. 322(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-437), struck out "this total compensation package" and inserted in lieu thereof "the total compensation package".

<sup>81</sup>Sec. 180(a)(4)(D) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), added the last sentence to subsec. (a)(1).

<sup>82</sup>Sec. 141(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 35), added para. (3).

tional employees pursuant to this section (excluding local social security plans).

(B) For purposes of subparagraph (A), the phrase “employee’s interest in the Civil Service Retirement and Disability Fund” means the total contributions of the employee and the employing agency with respect to such employee, pursuant to sections 8331(8) and 8334(a)(1) of title 5, United States Code, respectively, plus interest at the rate provided in section 8334(e)(3) of such title.

(C) Any such transfer shall void any annuity rights or entitlement to lump-sum credit under subchapter III of chapter 83 of such title.

(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals, are United States citizens employed in the Service abroad who were hired while residing abroad,<sup>83</sup> or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this Act.

(c) The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments.

SEC. 409.<sup>84</sup> SALARIES OF CONSULAR AGENTS.—The Secretary of State shall establish the salary rate for each consular agent. Such salary rate shall be established after taking into account the workload of the consular agency and the prevailing wage rates in the locality where the agency is located, except that, in the case of a consular agent who is a citizen of the United States, the salary rate may not be less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

SEC. 410.<sup>85</sup> COMPENSATION FOR IMPRISONED FOREIGN NATIONAL EMPLOYEES.—(a) The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, or any foreign national who is or was employed under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of a foreign national employed by the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the employment of the foreign national by the United States. Such compensation may not exceed the amount that the agency head determines approximates the salary and other benefits to which the foreign national would have been entitled had he or she been employed during the period of such imprisonment. Such compensation may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of this section, an agency head shall have the same powers with respect to impris-

<sup>83</sup> Sec. 152(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 672), inserted “, are United States citizens employed in the Service abroad who were hired while residing abroad,” after “foreign nationals”.

<sup>84</sup> 22 U.S.C. 3969.

<sup>85</sup> 22 U.S.C. 3970.

oned foreign nationals who are or were employed by the agency as an agency head has under subchapter VII of chapter 55 of title 5, United States Code, to the extent that such powers are consistent with this section.

(b) Any period of imprisonment of a current or former foreign national employee which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, except that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, United States Code, unless it is expressly creditable under that subchapter; or

(2) for purposes of subchapter I of chapter 81 of title 5, United States Code, unless the individual was employed by the Government at the time of his or her imprisonment.

(c) No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within 3 years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) The Secretary of State may prescribe regulations governing payments under this section by all agencies and other Government establishments.

SEC. 411.<sup>86</sup> TEMPORARY SERVICE AS PRINCIPAL OFFICER.—For such time (in excess of such minimum period as the Secretary of State may establish) as any member of the Service is temporarily in charge of a Foreign Service post during the absence or incapacity of the principal officer, that member shall receive, in addition to the basic salary paid to the member and notwithstanding sections 5535 and 5536 of title 5, United States Code, an amount equal to that portion (which the Secretary of State may determine to be appropriate) of the difference between such salary and the basic salary provided for the principal officer, or, if there is no principal officer, for the former principal officer.

SEC. 412.<sup>87</sup> SPECIAL DIFFERENTIALS.—(a) The Secretary may pay special differentials, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

(b)<sup>88</sup> \* \* \* [Repealed—1994]

(c) Nothing in this Act, or in subchapter V of chapter 55 of title 5, United States Code, shall preclude the granting of compensatory time off for Foreign Service officers.

<sup>86</sup> 22 U.S.C. 3971.

<sup>87</sup> 22 U.S.C. 3972.

<sup>88</sup> Sec. 139(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (b), which had required:

“(b) Before implementing any proposal to limit either the number of Foreign Service officers who may receive a special differential under subsection (a) or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.”

**SEC. 413.<sup>89</sup> DEATH GRATUITY.**—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(c) A death gratuity payment under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

(d) As used in this section—

(1) the term “Foreign Service employee” means any member of the Service or United States representative to an international organization or commission; and

(2) each of the terms “widow”, “widower”, “child”, and “parent” shall have the same meaning given each such term by section 8101 of title 5, United States Code.

**SEC. 414.<sup>90</sup> BORDER EQUALIZATION PAY ADJUSTMENT.**

(a) **IN GENERAL.**—An employee who regularly commutes from the employee's place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization pay adjustment equal to the amount of comparability payments under section 5304 of title 5, United States Code, that the employee would receive if the employee were assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

(b) **EMPLOYEE DEFINED.**—For purposes of this section, the term “employee” means a person who—

(1) is an “employee” as defined under section 2105 of title 5, United States Code; and

(2) is employed by the Department of State, the United States Agency for International Development, or the International Joint Commission of the United States and Canada (established under Article VII of the treaty signed January 11, 1909) (36 Stat. 2448), except that the term shall not include members of the Service (as specified in section 103).

<sup>89</sup> 22 U.S.C. 3973.

<sup>90</sup> 22 U.S.C. 3974. Added by sec. 333(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-439).

(c) TREATMENT AS BASIC PAY.—An equalization pay adjustment paid under this section shall be considered to be part of basic pay for the same purposes for which comparability payments are considered to be part of basic pay under section 5304 of title 5, United States Code.

(d) REGULATIONS.—The heads of the agencies referred to in subsection (b)(2) may prescribe regulations to carry out this section.

#### CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

SEC. 501.<sup>91</sup> CLASSIFICATION OF POSITIONS.—The Secretary shall designate and classify positions in the Department and at Foreign Service posts which are to be occupied by members of the Service (other than by chiefs of mission and ambassadors at large). Positions designated under this section are excepted from the competitive service. Position classifications under this section shall be established, without regard to chapter 51 of title 5, United States Code, in relation to the salaries established under chapter 4. In classifying positions at Foreign Service posts abroad, the Secretary shall give appropriate weight to job factors relating to service abroad and to the compensation practices applicable to United States citizens employed abroad by United States corporations.

SEC. 502.<sup>92</sup> ASSIGNMENTS TO FOREIGN SERVICE POSITIONS.—(a)(1) The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 501 in which that member is eligible to serve (other than as chief of mission or ambassador at large), and may assign a member from one such position to another such position as the needs of the Service may require.

(2) In making assignments under paragraph (1), the Secretary shall assure that a member of the Service is not assigned to a position at a post in a particular geographic area exclusively on the basis of the race, ethnicity, or religion of that member.

(b) Positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by the assignment for specified tours of duty of employees of the Department and, under interagency agreements, employees of other agencies; and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) The President may assign a career member of the Service to serve as *chargé d'affaires* or otherwise as the head of a mission (or as the head of a United States office abroad which is designated under section 102(a)(3) by the Secretary of State as diplomatic in nature) for such period as the public interest may require.

(d)<sup>93</sup> The Secretary of State, in conjunction with the heads of the other agencies utilizing the Foreign Service personnel system, shall implement policies and procedures to insure that Foreign Service

<sup>91</sup> 22 U.S.C. 3981.

<sup>92</sup> 22 U.S.C. 3982.

<sup>93</sup> Sec. 130(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027), added subsec. (d).

officers and members of the Senior Foreign Service of all agencies are able to compete for chief of mission positions and have opportunities on an equal basis to compete for assignments outside their areas of specialization.

SEC. 503.<sup>94</sup> ASSIGNMENTS TO AGENCIES, INTERNATIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The Secretary may (with the concurrence of the agency, organization, or other body concerned) assign a member of the Service for duty—

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or with an international organization, international commission, or other international body;

(2) with a domestic or international trade, labor, agricultural, scientific, or other conference, congress, or gathering;

(3) for special instruction, training, or orientation at or with a public or private organization; and

(4) in the United States (or in any territory or possession of the United States or in the Commonwealth of Puerto Rico), with a State or local government, a public or private nonprofit organization (including an educational institution), or a Member or office of the Congress.

(b)(1) The salary of a member of the Service assigned under this section shall be the higher of the salary which that member would receive but for the assignment under this section or the salary of the position to which that member is assigned.

(2) The salary of a member of the Service assigned under this section shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the costs of salaries and other benefits for members assigned under this section.

(3) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

(c) Except as otherwise provided in subsection (d)(5), assignments<sup>95</sup> under this section may not exceed four years of continuous service for any member of the Service unless the Secretary approves an extension of such period for that member because of special circumstances.

(d)<sup>96</sup> (1) The Secretary may assign a member of the Service, or otherwise detail an employee of the Department, for duty at the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

(2) The head of any other department or agency of the United States may, with the concurrence of the Secretary, detail an employee of that department or agency to the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

<sup>94</sup>22 U.S.C. 3983.

<sup>95</sup>Sec. 326(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1387), struck out "Assignments" and inserted in lieu thereof "Except as otherwise provided in subsection (d)(5), assignments".

<sup>96</sup>Sec. 326(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1386), added subsec. (d).



(3) In this subsection, the term “employee” does not include—

(A) a noncareer appointee, limited term appointee, or limited emergency appointee (as such terms are defined in section 3132(a) of title 5, United States Code) in the Senior Executive Service; or

(B) an employee in a position that has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(4) An assignment or detail under this subsection may be made with or without reimbursement from the American Institute in Taiwan.

(5) The period of an assignment or detail under this subsection shall not exceed a total of 6 years, except that the Secretary (or any other head of a department or agency of the United States, with the concurrence of the Secretary) may extend the period of an assignment or detail for an additional period of not more than 6 years.

SEC. 504.<sup>97</sup> SERVICE IN THE UNITED STATES AND ABROAD.—(a) Career members of the Service shall be obligated to serve abroad and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. A member of the Service may not be assigned to duty within the United States for any period of continuous service exceeding eight years unless the Secretary approves an extension of such period for that member because of special circumstances.

(b) Consistent with the needs of the Service, the Secretary shall seek to assign each career member of the Service who is a citizen of the United States (other than those employed in accordance with section 311)<sup>98</sup> to duty within the United States at least once during each period of fifteen years that the member is in the Service.

(c) The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the development and effectiveness of the member. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of section 3396(c) of title 5, United States Code, which apply to sabbaticals granted to members of the Senior Executive Service.

SEC. 505.<sup>99</sup> TEMPORARY DETAILS.—A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail and shall not be considered an assignment within the meaning of this chapter.

<sup>97</sup> 22 U.S.C. 3984.

<sup>98</sup> Sec. 180(a)(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “(other than those employed in accordance with section 311)” after “citizen of the United States”.

<sup>99</sup> 22 U.S.C. 3985.

## CHAPTER 6—PROMOTION AND RETENTION

SEC. 601.<sup>100</sup> PROMOTIONS.—(a) Career members of the Senior Foreign Service are promoted by appointment under section 302(a) to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 303 to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 302(a) as career members of the Senior Foreign Service or by assignment under section 404 to a higher salary class in the Foreign Service Schedule.

(b) Except as provided in section 606(a), promotions of—

(1) members of the Senior Foreign Service, and

(2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service).

shall be based upon the recommendations and rankings of selection boards established under section 602, except that the Secretary may by regulation specify categories of career members,<sup>101</sup> categories of career candidates, and other members of the Service<sup>101</sup> assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

(c)(1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 607(a)) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

(A) a regular, predictable flow of recruitment in the Service;

(B) effective career development patterns to meet the needs of the Service; and

(C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5, United States Code, shall not apply with respect to a mem-

<sup>100</sup> 22 U.S.C. 4001. See also sec. 163 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 47); and sec. 155 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 675), relating to foreign language training and promotions in the Foreign Service.

<sup>101</sup> Sec. 180(a)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), struck out “and” after “career members,” and inserted “and other members of the Service” after “career candidates”.

ber of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

(4)<sup>102</sup> Not later than March 1, 2001, and every four years thereafter, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall include the following:

(A) A description of the steps taken and planned in furtherance of—

(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204.

(B) A workforce plan for the subsequent five years, including projected personnel needs, by grade and by skill. Each such plan shall include for each category the needs for foreign language proficiency, geographic and functional expertise, and specialist technical skills. Each workforce plan shall specifically account for the training needs of Foreign Service personnel and shall delineate an intake program of generalist and specialist Foreign Service personnel to meet projected future requirements.

(5)<sup>103</sup> If there are substantial modifications to any workforce plan under paragraph (4)(B) during any year in which a report under paragraph (4) is not required, a supplemental annual notification shall be submitted in the same manner as reports are required to be submitted under paragraph (4).

SEC. 602.<sup>104</sup> SELECTION BOARDS.—(a) The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the

<sup>102</sup>Sec. 326 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-437), amended and restated para. (4). As added by sec. 185(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366), the para. formerly read as follows:

“(4) Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall—

“(A) describe the steps taken and planned in furtherance of—

“(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

“(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

“(B) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including, with respect to each of the relevant promotion competition groups, the projected ranges of rates of appointment, promotion, and attrition over each of the next 5 fiscal years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

“(C) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.”

<sup>103</sup>Added by sec. 326 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-437).

<sup>104</sup>22 U.S.C. 4002.

members of a salary class on the basis of relative performance and may make recommendations for—

- (1) promotions in accordance with section 601;
- (2) awards of performance pay under section 405(c);
- (3) denials of within-class step increases under section 406(a);
- (4) offer or renewal of limited career extensions under section 607(b); and
- (5) such other actions as the Secretary may prescribe by regulation.

(b) All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

(c)<sup>105</sup> No public members appointed pursuant to this section may be, at the time of the appointment or during their appointment, an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938) or a lobbyist for a foreign entity (as defined in section 3(6) of the Lobbying Disclosure Act of 1995)<sup>106</sup> or receive income from a government of a foreign country.

SEC. 603.<sup>107</sup> BASIS FOR SELECTION BOARD REVIEW.—(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability, usefulness, and general performance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the Foreign Service Institute,<sup>108</sup> awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective assignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and qualities, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service. The<sup>109</sup> precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—

- (1) a willingness and ability to explain United States policies in person and through the media when occupying positions for

<sup>105</sup>Sec. 142 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), added subsec. (c).

<sup>106</sup>Sec. 12(c) of Public Law 104-65 (109 Stat. 701) added “or a lobbyist for a foreign entity (as defined in section 3(6) of the Lobbying Disclosure Act of 1995)”.

<sup>107</sup>22 U.S.C. 4003.

<sup>108</sup>Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center’.”

<sup>109</sup>Sec. 7110(c) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108-458; 118 Stat. 3794) added this sentence through para. (2).

which such willingness and ability is, to any degree, an element of the member's duties, or

(2) other experience in public diplomacy.

SEC. 604.<sup>110</sup> RECORDS.—(a)<sup>111</sup> The records described in section 603(a) shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

(b)<sup>112</sup> Notwithstanding subsection (a), any record of disciplinary action that includes a suspension of more than five days taken against a member of the Service, including any correction of that record under section 1107(b)(1), shall remain a part of the personnel records until the member is tenured as a career member of the Service or next promoted.

SEC. 605.<sup>113</sup> IMPLEMENTATION OF SELECTION BOARD RECOMMENDATIONS.—(a) Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove the name of an individual from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

SEC. 606.<sup>114</sup> OTHER BASES FOR INCREASING PAY.—(a) The Secretary may pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

(1) recommend to the President a promotion of a member of the Service under section 302(a);

(2) promote a member of the Service under section 303;

(3) grant performance pay to a member of the Senior Foreign Service under section 405(c); or

<sup>110</sup> 22 U.S.C. 4004.

<sup>111</sup> Sec. 327(a)(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501-438), struck out "CONFIDENTIALITY OF RECORDS.—" and inserted in lieu thereof "RECORDS.—(a)".

<sup>112</sup> Sec. 327(a)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-438), added a new subsec. (b), applicable "to all disciplinary actions initiated on or after the date of enactment of this Act" [November 29, 1999], pursuant to sec. 327(b).

<sup>113</sup> 22 U.S.C. 4005.

<sup>114</sup> 22 U.S.C. 4006.

(4) grant a within-class salary increase under section 406 to a member of the Service who is assigned to a salary class in the Foreign Service Schedule.

(b) In implementing subsection (a) of this section and in cases in which the Secretary has exercised the authority of section 605(b), the Secretary may, in special circumstances set forth by regulation, make retroactive promotions, grant performance pay, make retroactive within-class salary increases, and recommend retroactive promotions by the President.

SEC. 607.<sup>115</sup> RETIREMENT FOR EXPIRATION OF TIME IN CLASS.—

(a)(1) The Secretary shall, by regulation, establish maximum time in class limitations for—

(A) career members of the Senior Foreign Service,

(B) Foreign Service officers, and

(C) other career members of the Service who are in such occupational categories as may be designated by the Secretary and who are assigned to salary classes in the Foreign Service Schedule to which Foreign Service officers may also be assigned.

(2) Maximum time in class limitations under this subsection (which may not be less than 3 years for career members of the Senior Foreign Service) may apply with respect to the time a member may remain in a single salary class or in a combination of salary classes.

(3) The Secretary may, by regulation, increase or decrease any maximum time in class established under this subsection as the needs of the Service may require. If maximum time in class is decreased, the Secretary shall provide any member of the Service who is in a category and salary class subject to the new time in class limitation an opportunity to remain in class (notwithstanding the new limitations) for a period which is at least as long as the shorter of—

(A) the period which the member would have been permitted to remain in class but for the decrease in maximum time in class, or

(B) such minimum period as the Secretary determines is necessary to provide members of the Service who are in the same category and salary class as that member a reasonable opportunity to be promoted into the next higher class or combination of classes, as the case may be.

(b) members of the Service whose maximum time in class under subsection (a) expires—

(1) after they have attained the highest salary class for their respective occupational categories, or

(2) in the case of members of the Senior Foreign Service, while they are in salary classes designated by the Secretary, may continue to serve only under limited extensions of their career appointment. Such limited extensions may not exceed 5 years in duration and may be granted and renewed by the Secretary in accordance with the recommendations of selection boards established under section 602. Members of the Service serving under such lim-

<sup>115</sup> 22 U.S.C. 4007.

ited career extensions shall continue to be career members of the Service.

(c) Any member of the Service—

(1) whose maximum time in class under subsection (a) expires and who is not promoted to a higher class or combination of classes, as the case may be, or

(2) whose limited career extension under subsection (b) expires and is not renewed,

shall be retired from the Service and receive benefits in accordance with section 609, subject to any career extension under subsection (d) of this section.

(d) Notwithstanding any other provision of this section—

(1) the career appointment of a member of the Service whose maximum time in class under subsection (a) expires, or whose limited career extension under subsection (b) expires, while that member is occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, shall be extended until the appointment to that position is terminated; and

(2) If the Secretary determines it to be in the public interest, the Secretary may extend temporarily the career appointment of a career member of the Service whose maximum time in class or limited career extension expires, but in no case may any extension under this paragraph exceed one year and such extensions may be granted only in special circumstances.

SEC. 608.<sup>116</sup> RETIREMENT BASED ON RELATIVE PERFORMANCE.—

(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are citizens of the United States. Whenever a selection board review indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the performance of the member. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a career member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 609.

SEC. 609.<sup>117</sup> RETIREMENT BENEFITS.—(a) A member of the Service—

(1) who is retired under section 607(c)(2); or

(2) who is retired under section 607(c)(1) or 608(b) or 611—<sup>118</sup>

(A) after becoming eligible for voluntary retirement under section 811 or any other applicable provision of chapter 84 of title 5, United States Code,<sup>119</sup> or

<sup>116</sup> 22 U.S.C. 4008.

<sup>117</sup> 22 U.S.C. 4009.

<sup>118</sup> Sec. 181(a)(3)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), inserted "or 611".

<sup>119</sup> Sec. 2312(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), inserted "or any other

(B) from the Senior Foreign Service or while assigned to class 1 in the Foreign Service Schedule, shall receive retirement benefits in accordance with section 806 or section 855, as appropriate.<sup>120</sup>

(b) Any member of the Service (other than a member to whom subsection (a) applies) who is retired under section 607(c)(1) or 608(b) or 611<sup>121</sup> shall receive—

(1) one-twelfth of a year's salary at his or her then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund in 3 equal installments, such installments to be paid on January 1 of each of the first 3 calendar years beginning after the retirement of the member (except that in special cases, the Secretary of State may accelerate or combine such installments); and

(2)<sup>122</sup> (A) for those participants in the Foreign Service Retirement and Disability System, a refund as provided in section 815 of the contributions made by the members to the Foreign Service Retirement and Disability Fund, except that in lieu of such refund a member who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect to receive an annuity, computed under section 806, commencing at age 60; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851.<sup>123</sup>

In the event that a member of the Service has elected to receive retirement benefits under paragraph (2) and dies before reaching age 60 (for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System),<sup>124</sup> his or her death shall be considered a death in service within the meaning of section 809.

applicable provision of chapter 84 of title 5, United States Code," after "section 811" (resulting in a double comma).

<sup>120</sup>Sec. 2312(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), added "or section 855, as appropriate" after "section 806". The amendment made by Public Law 105-277 is effective, with respect to any actions taken under sec. 611, on or after January 1, 1996, pursuant to sec. 2312(c)(2) of that Act.

<sup>121</sup>Sec. 181(a)(3)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417) inserted "or 611".

<sup>122</sup>Sec. 2312(a)(3)(A) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), struck out para. designation "(2)", and inserted in lieu thereof "(2)(A) for those participants in the Foreign Service Retirement and Disability System.". The amendment made by Public Law 105-277 is effective, with respect to any actions taken under sec. 611, on or after January 1, 1996, pursuant to sec. 2312(c)(2) of that Act.

<sup>123</sup>Sec. 2312(a)(3)(B) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), inserted "; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851". The amendment made by Public Law 105-277 is effective, with respect to any actions taken under sec. 611, on or after January 1, 1996, pursuant to sec. 2312(c)(2) of that Act.

<sup>124</sup>Sec. 2312(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), inserted "(for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System)" after "age 60".



SEC. 610.<sup>125</sup> SEPARATION FOR CAUSE.—(a)(1) The Secretary may decide to<sup>126</sup> separate any member from the Service for such cause as will promote the efficiency of the Service.

(2)<sup>127</sup> (A) Except as provided in subparagraph (B), whenever the Secretary decides under paragraph (1) to separate, on the basis of misconduct, any member of the Service (other than a United States citizen employed under section 311 of the Foreign Service Act of 1980 who is not a family member) who either—

(i) is serving under a career appointment, or

(ii) is serving under a limited appointment,

the member may not be separated from the Service until the member receives a hearing before the Foreign Service Grievance Board and the Board decides that cause for separation has been established, unless the member waives, in writing, the right to such a hearing, or the member's appointment has expired, whichever is sooner.

(B) The right to a hearing in subparagraph (A) does not apply in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than one year may be imposed.

(3)<sup>127</sup> If the Board decides that cause for separation has not been established, the Board may direct the Department to pay reasonable attorneys' fees to the extent and in the manner provided by section 1107(b)(5). The hearing provided under this paragraph shall be conducted in accordance with the hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other Act. Section 1110 shall apply to proceedings under this paragraph.

(4)<sup>127</sup> Notwithstanding the hearing required by paragraph (2), at the time that the Secretary decides to separate a member of the Service for cause, the member shall be placed on leave without pay. If the member does not waive the right to a hearing, and the Board decides that cause for separation has not been established, the member shall be reinstated with back pay.

(b) Any participant in the Foreign Service Retirement and Disability System who is separated under subsection (a) shall be entitled to receive a refund as provided in section 815 of the contributions made by the participant to the Foreign Service Retirement and Disability Fund. Except in cases where the Secretary determines that separation was based in whole or in part on the ground of disloyalty to the United States, a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect, in lieu of such refund, to an annuity, computed under section 806, commencing at age 60.

<sup>125</sup> 22 U.S.C. 4010.

<sup>126</sup> Sec. 314(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1378), inserted "decide to" after "may".

<sup>127</sup> Sec. 314(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1378), struck out paras. (2) through (6) and sec. 314(a)(3) added new paras. (2) through (4).

SEC. 611.<sup>128</sup> REDUCTIONS IN FORCE.—(a) The Secretary may conduct reductions in force and shall prescribe regulations for the separation of members of the Service holding a career or career candidate appointment under chapter 3 of this Act, under such reductions in force which give due effect to the following:

- (1) Organizational changes.
- (2) Documented employee knowledge, skills, or competencies.
- (3) Tenure of employment.
- (4) Documented employee performance.
- (5) Military preference, subject to section 3501(a)(3) of title 5, United States Code.

(b) The provisions of section 609 shall be applicable to any member of the Service holding a career or career candidate appointment under chapter 3 of this Act, who is separated under the provisions of this section.

(c) An employee against whom action is taken under this section may elect either to file a grievance under chapter 11 or to appeal to the Merit Systems Protection Board under procedures prescribed by the Board. Grievances under chapter 11 shall be limited to cases of reprisal, interference in the conduct of an employee's official duties, or similarly inappropriate use of the authority of this section.

SEC. 612.<sup>129</sup> TERMINATION OF LIMITED APPOINTMENTS.—Except as provided in section 610(a)(2), the Secretary may terminate at any time the appointment of any member of the Service serving under a limited appointment who is in the Senior Foreign Service, who is assigned to a salary class in the Foreign Service Schedule or who is paid in accordance with section 407 or is a United States citizen paid under a compensation plan under section 408.<sup>130</sup>

SEC. 613.<sup>131</sup> TERMINATION OF APPOINTMENTS OF CONSULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—(a) The Secretary of

<sup>128</sup> 22 U.S.C. 4010a. Sec. 181(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), added sec. 611 (with a subsequent technical amendment in sec. 1(ii) of Public Law 103-415 (108 Stat. 4303) to make the section heading conform with the rest of the Act). Former secs. 611, 612, and 613 were redesignated as secs. 612, 613, and 614, respectively, by sec. 181(a)(1) of that Act.

<sup>129</sup> Sec. 179 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 415), provided the following:

**“SEC. 179. EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF THE FOREIGN SERVICE.**

“(a) REFERRAL SYSTEM.—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act.

“(b) CERTAIN MEMBERS OF THE FOREIGN SERVICE.—For purposes of this section, the term ‘members of the Foreign Service’ means any individual holding a career or career candidate appointment under chapter 3 of the Foreign Service Act of 1980.”

Sec. 181(c) of Public Law 103-236 (108 Stat. 418) provided:

“(c) CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system), the head of that agency [sic] shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.”

<sup>129</sup> 22 U.S.C. 4011. Redesignated from sec. 611 by sec. 181(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416).

<sup>130</sup> Sec. 180(a)(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), struck out “, or who is a family member of a Government employee serving under a local compensation plan established under section 408.” after “Foreign Service Schedule” and inserted in lieu thereof “or who is paid in accordance with section 407 or is a United States citizen paid under a compensation plan under section 408.”

<sup>131</sup> 22 U.S.C. 4012. Redesignated from sec. 612 by sec. 181(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416). See also sec.

State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances.

(b) The Secretary may terminate at any time the appointment of any foreign national employee in light of the criteria and procedures normally followed in the locality in similar circumstances.

SEC. 614.<sup>132</sup> FOREIGN SERVICE AWARDS.—The President shall establish a system of awards to confer appropriate recognition of outstanding contributions to the Nation by members of the Service. The awards system established under this section shall provide for presentation by the President and by the Secretary of medals or other suitable commendations for performance in the course of or beyond the call of duty which involves distinguished, meritorious service to the Nation, including extraordinary valor in the face of danger to life or health. Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.<sup>133</sup>

#### CHAPTER 7—CAREER DEVELOPMENT, TRAINING, AND ORIENTATION<sup>134</sup>

SEC. 701.<sup>135</sup> INSTITUTION FOR TRAINING.—(a)<sup>136</sup> INSTITUTION OR CENTER FOR TRAINING.—The Secretary of State shall maintain and operate an institution or center for training (hereinafter in this chapter referred to as the “institution”),<sup>137</sup> originally established under section 701 of the Foreign Service Act of 1946, in order to promote career development within the Service and to provide necessary training and instruction in the field of foreign relations to members of the Service and to employees of the Department and of other agencies. The institution<sup>138</sup> shall be headed by a Director, who shall be appointed by the Secretary of State. The institution

151 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 672; 22 U.S.C. 4012a), relating to separation pay for foreign national employees.

<sup>132</sup> 22 U.S.C. 4013. Redesignated from sec. 614 by sec. 181(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416).

<sup>133</sup> Sec. 504(b) of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) added this sentence.

<sup>134</sup> Sec. 126(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) struck out “FOREIGN SERVICE INSTITUTE,” preceding “CAREER DEVELOPMENT” in the chapter title.

<sup>135</sup> 22 U.S.C. 4021. Sec. 126(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), struck out “FOREIGN SERVICE INSTITUTE” as the section title and inserted in lieu thereof “INSTITUTION FOR TRAINING”. Sec. 1(y) of Public Law 103-415 (108 Stat. 4302) made a similar amendment.

See also secs. 191 and 192 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), relating to foreign language competence and foreign language resources coordinator.

<sup>136</sup> Sec. 126(2)(B)(i) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), amended subsec. (a) “by striking the subsection heading and inserting ‘INSTITUTION OR CENTER FOR TRAINING’”. Subsec. (a), however, did not have a heading to strike.

<sup>137</sup> Sec. 126(2)(B)(ii) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) struck out “the Foreign Service Institute (hereinafter in this chapter referred to as the ‘Institute’),” and inserted in lieu thereof “an institution or center for training (hereinafter in this chapter referred to as the ‘institution’)”.

<sup>138</sup> Sec. 126(2)(B)(iii) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393) struck out “Institute” and inserted in lieu thereof “institution”.

shall be designated the “George P. Shultz National Foreign Affairs Training Center”.<sup>139</sup>

(b) To the extent practicable, the Secretary of State shall provide training under this chapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary of State through the institution<sup>140</sup> and otherwise.

(c)<sup>141</sup> Training and instruction may be provided at the Institute<sup>142</sup> for not to exceed sixty citizens of the Trust Territory of the Pacific Islands in order to prepare them to serve as members of the foreign services of the Federated States of Micronesia, the Marshall Islands, and Palau. The authority of this subsection shall expire when the Compact of Free Association is approved by the Congress.

(d)<sup>143</sup> (1) The Secretary of State is authorized to provide for special professional foreign affairs training and instruction of employees of foreign governments through the institution.

(2) Training and instruction under paragraph (1) shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances to the Department of State may be provided by an agency of the United States Government or by a foreign government and shall be credited to the currently available applicable appropriation account.

(3) In making such training available to employees of foreign governments, priority consideration should be given to officials of newly emerging democratic nations and then to such other countries as the Secretary determines to be in the national interest of the United States.

(e)<sup>144</sup> (1) The Secretary may provide appropriate training or related services, except foreign language training, through the institution to any United States person (or any employee or family member thereof) that is engaged in business abroad.

(2) The Secretary may provide job-related training or related services, including foreign language training, through the institution to a United States person under contract to provide services to the United States Government or to any employee thereof that is performing such services.

<sup>139</sup>Sec. 1(a) of Public Law 107-132 (115 Stat. 2412) added the last sentence to subsec. (a), designating the Center as the “George P. Shultz National Foreign Affairs Training Center”.

<sup>140</sup>Sec. 126(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 394), struck out “Foreign Service Institute” and “Institute” each place such terms appeared and inserted “institution” in secs. 701(b), 702, 704, 705, and 707.

<sup>141</sup>Sec. 126 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1026), added subsec. (c).

<sup>142</sup>As enrolled. Should probably read “institution”.

<sup>143</sup>Sec. 126(2)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 393), added subsec. (d).

<sup>144</sup>Sec. 2205(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-808), redesignated para. (4) of subsec. (d) as subsec. (g) and added new subssecs. (e) and (f). Sec. 2205(a)(2) and (3) of that Act, however, further provided the following:

“(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 1998.

“(3) TERMINATION OF PILOT PROGRAM.—Effective October 1, 2002, section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021), as amended by this subsection, is further amended—

“(A) by striking subsections (e) and (f); and

“(B) by redesignating subsection (g) as paragraph (4) of subsection (d).”.

Sec. 318(2) of Public Law 107-228 (116 Stat. 1379) subsequently struck out sec. 2205(a)(3) of Public Law 105-277, thus retaining subssecs. (d)(4), (e), and (f), as amended.

(3) Training under this subsection may be provided only to the extent that space is available and only on a reimbursable or advance-of-funds basis. Reimbursements and advances shall be credited to the currently available applicable appropriation account.

(4) Training and related services under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

(5) In this subsection, the term "United States person" means—

(A) any individual who is a citizen or national of the United States; or

(B) any corporation, company, partnership, association, or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States.

(f)(1) The Secretary is authorized to provide, on a reimbursable basis, training programs to Members of Congress or the Judiciary.

(2) Employees of the legislative branch and employees of the judicial branch may participate, on a reimbursable basis, in training programs offered by the institution.

(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

(g)<sup>144</sup> The authorities of section 704 shall apply to training and instruction provided under this section.

SEC. 702.<sup>145</sup> FOREIGN LANGUAGE REQUIREMENTS.—(a) The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that Foreign Service posts abroad will be staffed by individuals having a useful knowledge of the language or dialect common to the country in which the post is located.

(b) The Secretary of State shall arrange for appropriate language training of members of the Service by the institution<sup>140</sup> or otherwise in order to assist in meeting the requirements established under subsection (a).

(c)<sup>146</sup> Not later than January 31<sup>147</sup> of each year, the Director General of the Foreign Service shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives summarizing the number of positions in each overseas mission requiring foreign language competence that—

(1) became vacant during the previous fiscal year;<sup>148</sup> and

(2) were filled by individuals having the required foreign language competence.

<sup>145</sup> 22 U.S.C. 4022.

<sup>146</sup> Sec. 208(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-422), added subsec. (c).

<sup>147</sup> Sec. 327(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1387), struck out "March 31" and inserted in lieu thereof "January 31".

<sup>148</sup> Sec. 327(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1387), struck out "calendar year" and inserted in lieu thereof "fiscal year".

SEC. 703.<sup>149</sup> CAREER DEVELOPMENT.—(a) The Secretary shall establish a professional development program to assure that members of the Service obtain the skills and knowledge required at the various stages of their careers. With regard to Foreign Service officers, primary attention shall be given to training for career candidate officers and for midcareer officers, both after achieving tenure and as they approach eligibility for entry to the Senior Foreign Service, to enhance and broaden their qualifications for more senior levels of responsibility in the Service. Training for other members of the Service shall emphasize programs designed to enhance their particular skills and expert knowledge, including development of the management skills appropriate to their occupational categories.

(b) Junior Foreign Service officer training shall be directed primarily toward providing expert knowledge in the basic functions of analysis and reporting as well as in consular, administrative, and linguistic skills relevant to the full range of future job assignments. Midcareer training shall be directed primarily toward development and perfection of management, functional, negotiating, and policy development skills to prepare the officers progressively for more senior levels of responsibility.

(c) At each stage the program of professional development should be designed to provide members of the Service with the opportunity to acquire skills and knowledge relevant to clearly established professional standards of expected performance. Career candidates should satisfactorily complete candidate training prior to attainment of career status. Members of the Service should satisfactorily complete midcareer training before appointment to the Senior Foreign Service.

(d) In formulating programs under this section, the Secretary should establish a system to provide, insofar as possible, credit toward university degrees for successful completion of courses comparable to graduate-level, university courses.

(e) Training provided under this section shall be conducted by the Department and by other governmental and nongovernmental institutions as the Secretary may consider appropriate.

(f) <sup>150</sup> \* \* \* [Repealed—1987]

SEC. 704.<sup>151</sup> TRAINING AUTHORITIES.—(a) In the exercise of functions under this chapter, the Secretary of State may—

(1) provide for the general nature of the training and instruction to be furnished by the institution,<sup>140</sup> including functional and geographic area specializations;

(2) correlate training and instruction furnished by the institution<sup>140</sup> with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those furnished by the institution,<sup>140</sup> including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this chapter;

<sup>149</sup> 22 U.S.C. 4023.

<sup>150</sup> Sec. 185(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366), repealed subsec. (f), which had required the Secretary of State to report annually on the status of the professional development program.

<sup>151</sup> 22 U.S.C. 4024.

(4)(A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this chapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to the availability of appropriations), the services of individuals to serve as language instructors, linguists, and other academic and training specialists (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citizens of the United States); and

(5) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance, and operation of the facilities necessary to carry out the provisions of this chapter without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

(b) In furtherance of the objectives of this Act, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 412)<sup>152</sup> of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

(c) The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 311.

(d)<sup>153</sup> (1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

<sup>152</sup>Sec. 125(1) of Public Law 97-241 (96 Stat. 281) struck out “411” and inserted in lieu thereof “412”.

<sup>153</sup>Sec. 2222(f) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-819), added subsec. (d).

(2) As used in this subsection, the term “consular function” includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.

SEC. 705.<sup>154</sup> TRAINING GRANTS.—(a) To facilitate training provided to members of families of Government employees under this chapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

(b) If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language training furnished by the Government through the institution<sup>140</sup> or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

SEC. 706.<sup>155</sup> CAREER COUNSELING.—(a) In order to facilitate their transition from the Service, the Secretary may provide (by contract or otherwise, subject to the availability of appropriations) professional career counseling, advice, and placement assistance to members of the Service, and to former members of the Service who were assigned to receive counseling and assistance under this subsection before they were separated from the Service, other than those separated for cause. Career counseling and related services provided pursuant to this Act shall not be construed to permit an assignment that consists primarily of paid time to conduct a job search and without other substantive duties for more than one month.<sup>156</sup>

(b)(1) The Secretary may facilitate the employment of spouses of members of the Service by—

(A) providing regular career counseling for such spouses;

(B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them; and

(C) otherwise assisting them in obtaining employment.

(2) The Secretary shall establish a family liaison office to carry out this subsection and such other functions as the Secretary may determine.

SEC. 707.<sup>157</sup> VISITING SCHOLARS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—There is authorized to be established at the institution<sup>140</sup> a program whereby selected scholars would participate fully in the educational and training activities of the institution.<sup>140</sup> This program may be referred to as the “Visiting Scholars Program”.

(b) SELECTION AND APPOINTMENT OF SCHOLARS.—

<sup>154</sup> 22 U.S.C. 4025.

<sup>155</sup> 22 U.S.C. 4026.

<sup>156</sup> Sec. 2314(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), added the sentence that begins “Career counseling and related”.

<sup>157</sup> 22 U.S.C. 4027. Sec. 144 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), added sec. 707.



(1) Scholars participating in the Visiting Scholars Program shall be selected by a five-member board described in subsection (c).

(2) Each visiting scholar shall serve a term of one year, except that such term may be extended for one additional one-year period.

(c) ESTABLISHMENT OF SELECTION BOARD.—The board referred to in subsection (b) shall be composed of the director of the institution,<sup>140</sup> who shall serve as chairperson, and four other members appointed by the Secretary of State.

**SEC. 708.<sup>158</sup> TRAINING FOR FOREIGN SERVICE OFFICERS.**

(a)<sup>159</sup> The Secretary of State, with the assistance of other relevant officials, such as the Ambassador at Large for International Religious Freedom appointed under section 101(b) of the International Religious Freedom Act of 1998, the Director of the Office to Monitor and Combat Trafficking,<sup>160</sup> and the director of the George P. Shultz<sup>161</sup> National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

(1) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission;<sup>162</sup>

(2) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom; and<sup>162</sup>

(3)<sup>162</sup> instruction on international documents and United States policy on trafficking in persons, including provisions of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386; 22 U.S.C. 7101 et seq.) which may affect the United States bilateral relationships.

(b)<sup>159</sup> The Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer. The Secretary shall also ensure that any member of the Service who is assigned to a position that may be called upon to assess requests for consideration for refugee admissions, including any consular officer, has completed training on refugee law and refugee adjudications in addition to the training required in this section.

<sup>158</sup> 22 U.S.C. 4028. Sec. 104 of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2795) added sec. 708.

<sup>159</sup> Sec. 602(b) of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2812) inserted "(a)" before "The Secretary", and added subsec. (b).

<sup>160</sup> Sec. 104(d)(1) of the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164; 119 Stat. 3565) inserted "the Director of the Office to Monitor and Combat Trafficking," after "the International Religious Freedom Act of 1998".

<sup>161</sup> Sec. 2(b) of Public Law 107-132 (115 Stat. 2412) inserted "George P. Shultz" after "director of the".

<sup>162</sup> Sec. 104(d) of the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164; 119 Stat. 3565) struck out "and" at the end of para. (1); struck out a period at the end of para. (2) and inserted in lieu thereof "and"; and added para. (3).

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY<sup>163</sup>SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM<sup>164</sup>

SEC. 801.<sup>165</sup> ADMINISTRATION OF THE SYSTEM.—In accordance with such regulations as the President may prescribe, the Secretary of State shall administer the Foreign Service Retirement and Disability System (hereinafter in this subchapter<sup>166</sup> referred to as the “System”), originally established pursuant to section 18 of the Act of May 24, 1924 (43 Stat. 144).

SEC. 802.<sup>167</sup> MAINTENANCE OF THE FUND.—The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this sub-

<sup>163</sup>The Department of State Special Agents Retirement Act of 1998 (Public Law 105-382; 112 Stat. 3406) made numerous amendments to this chapter. Sec. 4 of that Act (22 U.S.C. 4044 note), as amended, provides:

“SEC. 4. EFFECTIVE DATE; APPLICABILITY.

“(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act—

“(1) shall take effect on the date of the enactment of this Act; and

“(2) shall apply with respect to—

“(A) any individual first appointed on or after that date as a special agent who will have any portion of such individual’s annuity computed in conformance with section 806(a)(6) of the Foreign Service Act; and

“(B) any individual making an election under subsection (b), subject to the provisions of such subsection.

“(b) ELECTION FOR CURRENT PARTICIPANTS.—

“(1) ELIGIBILITY.—An election under this subsection may be made by any currently employed participant or participant who was serving as of January 1, 1997 under chapter 8 of the Foreign Service Act of 1980 who is serving or has served as a special agent, or by a survivor of a special agent who was eligible to make an election under this section.

“(2) EFFECT OF AN ELECTION.—

“(A) IN GENERAL.—If an individual makes an election under this subsection, the amendments made by this Act shall become applicable with respect to such individual, subject to subparagraph (B).

“(B) TREATMENT OF PRIOR SERVICE.—

“(i) SPECIAL CONTRIBUTION.—An individual may, after making the election under this subsection, make a special contribution up to the full amount of the difference between the contributions actually deducted from pay for prior service and the deductions that would have been required if the amendments made by this Act had then been in effect. Any special contributions under this clause shall be computed under regulations based on section 805(d) of the Foreign Service Act of 1980 (as amended by section 2), including provisions relating to the computation of interest.

“(ii) ACTUARIAL REDUCTION.—

“(I) RULE IF THE SPECIAL CONTRIBUTION IS PAID.—If the full amount of the special contribution under clause (i) is paid, no reduction under this clause shall apply.

“(II) RULE IF LESS THAN THE ENTIRE AMOUNT IS PAID.—If no special contribution under clause (i) is paid, or if less than the entire amount of such special contribution is paid, the recomputed annuity shall be reduced by an amount sufficient to make up the actuarial present value of the shortfall.

“(c) REGULATIONS AND NOTICE.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State—

“(1) shall promulgate such regulations as may be necessary to carry out this Act; and

“(2) shall take measures reasonably designed to provide notice to participants as to any rights they might have under this Act.

“(d) ELECTION DEADLINE.—An election under subsection (b) must be made not later than 90 days after the date on which the relevant notice under subsection (c)(2) is provided.

“(e) DEFINITION.—For purposes of this section, the term ‘special agent’ has the meaning given such term under section 804(15) of the Foreign Service Act of 1980 (22 U.S.C. 4044(15)), as amended by section 2(a).”

<sup>164</sup>See also the retained provisions of the Foreign Service Retirement Amendments of 1976. Sec. 402(a)(1) of Public Law 99-335 (100 Stat. 609) added the heading for subchapter I.

<sup>165</sup>22 U.S.C. 4041.

<sup>166</sup>Sec. 402(a) of Public Law 99-335 (100 Stat. 609), substituted the words “this subchapter” in lieu of “this chapter” throughout chapter 8, and inserted the words “under this subchapter” after “payable from the Fund” each time it appears.

<sup>167</sup>22 U.S.C. 4042.

chapter<sup>166</sup> referred to as the “Fund”), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

SEC. 803.<sup>168</sup> PARTICIPANTS.—(a) Except as provided in subsection (d),<sup>169</sup> the following members of the Service (hereinafter in this subchapter<sup>166</sup> referred to as “participants”) shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 306—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 805.

(b) Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

(c) In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 805(d) or (f).

(d)<sup>170</sup> An individual subject to the Foreign Service Pension System (described in subchapter II) is not a participant in this System.

SEC. 804.<sup>171</sup> DEFINITIONS.—As used in this subchapter,<sup>166</sup> unless otherwise specified, the term—

(1) “annuitant” means any individual, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this or any other Act and who has filed a claim for such annuity;

(2) “child” means an individual—

(A) who—

(i) is an offspring or adopted child of the participant,

(ii) is a stepchild or recognized natural child of the participant and who received more than one-half support from the participant, or

(iii) lived with the participant, for whom a petition of adoption was filed by the participant, and who is adopted by the surviving spouse of the participant after the death of the participant;

(B) who is unmarried; and

(C) who—

<sup>168</sup> 22 U.S.C. 4043.

<sup>169</sup> Sec. 414(1) of Public Law 99-335 (100 Stat. 614) added the text of subsec. (a) to this point.

<sup>170</sup> Sec. 414(2) of Public Law 99-335 (100 Stat. 614) added subsec. (d).

<sup>171</sup> 22 U.S.C. 4044.

- (i) is under the age of 18 years,
  - (ii) is a student under the age of 22 years (for purposes of this clause, an individual whose 22d birthday occurs before July 1 or after August 31 of the calendar year in which that birthday occurs, and while the individual is a student, is deemed to become 22 years of age on the first July 1 which occurs after that birthday), or
  - (iii) is incapable of self-support because of a physical or mental disability which was incurred before the individual reached the age of 18 years;
- (3) “court” means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 201(3) of the Act entitled “An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes”, approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77);<sup>172</sup>
- (4) “court order” means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment;
- (5) “Foreign Service normal cost” means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military and naval service;
- (6) “former spouse” means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under section 816;
- (7) “Fund balance” means the sum of—
- (A) the investments of the Fund calculated at par value, plus
  - (B) the cash balance of the Fund on the books of the Treasury;
- (8) “lump-sum credit” means the compulsory and special contributions to the credit of a participant or former participant in the Fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for re-

<sup>172</sup>Sec. 403 of Public Law 99-335 (100 Stat. 609) struck out “or of the District of Columbia” and inserted in lieu thereof “, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 201(3) of the Act entitled ‘An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes’, approved April 11, 1968 (25 U.S.C. 1301(3); 82 Stat. 77)”.

call service or other service performed after the date of separation which forms the basis for annuity);

(9) “military and naval service” means honorable active service—

(A) in the Armed Forces of the United States,

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or

(C) as a commissioned officer of the National Oceanic and Atmospheric Administration, or a predecessor organization, after June 30, 1961.

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(10) “pro rata share”, in the case of any former spouse of any participant or former participant, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the creditable service (creditable under subchapter I or II)<sup>173</sup> of that participant is of (B) the total number of years of such creditable service (creditable under subchapter I or II);<sup>173</sup>

(11) “spousal agreement” means any written agreement between—

(A) a participant or former participant; and

(B) his or her spouse or former spouse;

(12) “student” means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (for purposes of this paragraph, a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters, or terms if the period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Secretary of State that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester, or term immediately following such period);

(13) “surviving spouse” means the surviving wife or husband of a participant or annuitant who<sup>174</sup> was married to the participant or annuitant for at least 9 months<sup>175</sup> immediately preceding his or her death or is a parent of a child born of the marriage,<sup>176</sup> except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

(A) the death of such participant or annuitant was accidental; or

(B) the surviving spouse of such individual had been previously married to the individual and subsequently di-

<sup>173</sup>Sec. 404(a) of Public Law 99-335 (100 Stat. 610) added “(creditable under subchapter I or II)” after “creditable service”.

<sup>174</sup>Sec. 211(1) of Public Law 100-238 (101 Stat. 1773) struck out “, in the case of death in service or marriage after retirement,” at this point.

<sup>175</sup>Sec. 211(2) of Public Law 100-238 (101 Stat. 1773) struck out “one year” and inserted in lieu thereof “9 months”.

<sup>176</sup>Sec. 211(3) of Public Law 100-238 (101 Stat. 1773) added text from this point to para. (14).

- forced and the aggregate time married is at least 9 months;
- (14) “unfunded liability” means the estimated excess of the present value of all benefits payable from the Fund over the sum of—
- (A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made on their behalf, plus
  - (B) the present value of Government payments to the Fund under section 821, plus
  - (C) the Fund balance as of the date the unfunded liability is determined; and
- (15)<sup>177</sup> “special agent” means an employee of the Department of State with a primary skill code of 2501—
- (A) the duties of whose position—
    - (i) are primarily—
      - (I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States; or
      - (II) the protection of persons pursuant to section 2709(a)(3) of title 22, United States Code, against threats to personal safety; and
    - (ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Secretary of State pursuant to section 4823 of title 22, United States Code;
  - (B) performing duties described in subparagraph (A) before, on, or after the date of the enactment of this paragraph; or
  - (C) transferred directly to a position which is supervisory or administrative in nature after performing duties described in subparagraph (A) for at least 3 years.

<sup>177</sup>Sec. 2(a)(1) of Public Law 105-382 (112 Stat. 3406) struck out “and” at the end of para. (13); replaced the period at the end of para. (14) with “; and”; and added a new para. (15).

SEC. 805.<sup>178, 179</sup> CONTRIBUTIONS TO THE FUND.—(a)(1)<sup>180</sup> Except as otherwise provided in this section,<sup>181</sup> 7.25<sup>182</sup> percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105-33; 22 U.S.C. 4045 note), and section 505(h) of the Department<sup>183</sup> of Transportation and Related Agen-

<sup>178</sup>22 U.S.C. 4045.

<sup>179</sup>Sec. 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394, enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-54), provided the following:

“(h) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—Notwithstanding any provision of section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)), during the period beginning on October 1, 2002, through December 31, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

“(1) 7.5 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

“(2) 8 percent of the basic pay of each participant covered under paragraph (2) or (3) of section 805(a) of such Act participating in the Foreign Service Retirement and Disability System, in lieu of the agency contribution otherwise required under section 805(a) of such Act.”

Sec. 7001(d) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 659), as amended by sec. 505(d)(1) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394, enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-53), provided the following increased contributions to Federal Civilian Retirement Systems:

“(d) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

“(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a)(1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1) and (2)), during the period beginning on October 1, 1997, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

“(A) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

“(B) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System;

“in lieu of the agency contribution otherwise required under section 805(a)(1) and (2) of such Act.

“(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

“(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

“7.25 January 1, 1999, to December 31, 1999.

“7.4 January 1, 2000, to December 31, 2000.

“(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

“7.75 January 1, 1999, to December 31, 1999.

“7.9 January 1, 2000, to December 31, 2000.”

<sup>180</sup>Sec. 4(a) of Public Law 102-499 (106 Stat. 3265) added para. designation (1) after (a), and added a new para. (2).

<sup>181</sup>Sec. 2(b)(2) of Public Law 105-382 (112 Stat. 3407) struck out “Except as provided in subsection (h),” and inserted in lieu thereof “Except as otherwise provided in this section.” Previously, sec. 405(a)(1) of Public Law 99-335 (100 Stat. 610) added the opening clause.

<sup>182</sup>Sec. 322(a)(2)(A)(i) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), struck out “7” and inserted in lieu thereof “7.25”. Sec. 322(c)(2) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”

<sup>183</sup>Sec. 322(a)(2)(C) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), struck out “Department” each place it appeared in paras. (1) and (2),

cies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made<sup>184</sup> from the appropriations or fund used for payment of the salary of the participant. The employing agency<sup>183</sup> shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the employing agency.

(2)<sup>180</sup> Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) the employing agency<sup>183</sup> shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5, plus an amount equal to .25 percent of basic pay.<sup>185</sup> The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency<sup>183</sup> from the appropriations or fund used for payment of the salary of the participant. The employing agency<sup>183</sup> shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the employing agency.<sup>183</sup>

(B) The employing agency<sup>183</sup> shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5, plus an amount equal to .25 percent of basic pay.<sup>186</sup> The amounts so deducted

and inserted in lieu thereof “employing agency”. This amendment is not executed here in the instance of the first appearance of “Department” in para. (1). Sec. 322(c)(2) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”.

<sup>184</sup>Sec. 322(a)(2)(A)(ii) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), struck out “An equal amount shall be contributed by the Department” and inserted in lieu thereof “The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105-33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made”. Sec. 322(c)(2) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”.

<sup>185</sup>Sec. 322(a)(1)(B)(i) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), inserted “, plus an amount equal to .25 percent of basic pay”. Sec. 322(c)(1) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”.

<sup>186</sup>Sec. 322(a)(1)(B)(ii) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), inserted “, plus an amount equal to .25 percent of basic pay”. Sec. 322(c)(1) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”.



shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency<sup>183</sup> from the appropriations or fund used for payment of the salary of the participant. The employing agency<sup>183</sup> shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the employing agency.<sup>183</sup>

(3)<sup>187</sup> For service as a special agent, paragraph (1) shall be applied by substituting for “7 percent” the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, United States Code, plus .25 percent.<sup>188</sup>

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c)(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d)(1) Any participant credited with civilian service after July 1, 1924—

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

<sup>187</sup> Sec. 2(b)(1) of Public Law 105-382 (112 Stat. 3407) added para. (3).

<sup>188</sup> Sec. 322(a)(1)(D) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), inserted “plus .25 percent”. Sec. 322(c)(1) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”

may make a special contribution to the Fund. Special contributions for purposes of subparagraph (A) shall equal<sup>189</sup> the following percentages of basic salary received for such service:<sup>190</sup>

	<i>Percent of basic salary</i>
Time of service:	
July 1, 1924, through October 15, 1960, inclusive .....	5
October 16, 1960, through December 31, 1969, inclusive .....	6½
January 1, 1970, through December 31, 1998, inclusive .....	7
January 1, 1999, through December 31, 1999, inclusive .....	7.25
January 1, 2000, through December 31, 2000, inclusive .....	7.4
After December 31, 2000 .....	7

Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.<sup>191</sup>

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 816.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter.<sup>192</sup> No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State.

(4)<sup>193</sup> Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Em-

<sup>189</sup>Sec. 212(1) of Public Law 100-238 (101 Stat. 1773) struck out "equal to" at this point and inserted in lieu thereof "Special contributions for purposes of subparagraph (A) shall equal".

<sup>190</sup>Sec. 7001(d)(2)(C) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 660) struck out "On and after January 1, 1970..... 7" from the time of service table, and inserted in lieu thereof text that addressed time of service dates from January 1, 1970 through (and after) December 31, 2002. Sec. 505(d)(2) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394, enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-53), struck out "January 1, 2001, through December 31, 2002, inclusive..... 7.5" and "After December 31, 2002..... 7" and inserted in lieu thereof text that addresses time of service dates after December 31, 2000.

<sup>191</sup>Sec. 212(2) of Public Law 100-238 (101 Stat. 1773) added text from "Special contributions".

<sup>192</sup>Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) provided the following: "Section 1. Interest Rates, Deposits, Refunds, and Redeposits. (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4054(d)(3)), the first sentence to Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

"(b) \* \* \*

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

<sup>193</sup>Sec. 405(b) of Public Law 99-335 (100 Stat. 610) added para. (4).

ployees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of a participant described in section 853(c) shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.

(5)<sup>194</sup> Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.

(6)<sup>195</sup> Subject to paragraph (4) and subsection (h), for purposes of applying this subsection with respect to prior service as a special agent, the percentages of basic pay set forth in section 8334(c) of title 5, United States Code, with respect to a law enforcement officer, shall apply instead of the percentages set forth in paragraph (1).

(e)<sup>196</sup> (1) Subject to paragraph (5), each<sup>197</sup> participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this chapter is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 of the United States Code, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) the effective date of this Order, or

(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees—

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

<sup>194</sup> Sec. 4(b) of Public Law 102-499 (106 Stat. 3265) added para. (5).

<sup>195</sup> Sec. 2(c) of Public Law 105-382 (112 Stat. 3407) added para. (6).

<sup>196</sup> Sec. 4(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 28443) redesignated existing subsec. (e) as subsec. (g) and added new subsecs. (e) and (f).

<sup>197</sup> Sec. 7001(d)(2)(D)(i) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) struck out "Each" and inserted in lieu thereof "Subject to paragraph (5), each".

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

(5)<sup>198</sup> Effective with respect to any period of military or naval service after December 31, 1998, the percentage of basic pay under section 204 of title 37, United States Code, payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334 (c) of title 5, United States Code, for that same period for service as an employee.

(f)<sup>196</sup> Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under section 805(e) and section 816(a), except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 816 for periods of internment during World War II.

(g)<sup>196</sup> A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

(h)<sup>199</sup> Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to a participant described in section 853(c) whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, contributions to the Fund and interest thereon shall be computed as if section 8334(k) of title 5, United States Code, were applicable.

SEC. 806.<sup>200</sup> COMPUTATION OF ANNUITIES.—(a)<sup>201</sup> (1)<sup>202</sup> The annuity of a participant shall be equal to 2 percent of his or her basic salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 816 and 817, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 302(b), to which the participant was appointed by the President and whose continuity of service in that position is interrupted

<sup>198</sup> Sec. 7001(d)(2)(D)(ii) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) added para. (5).

<sup>199</sup> Sec. 405(a)(2) of Public Law 99-335 (100 Stat. 610) added subsec. (h).

<sup>200</sup> 22 U.S.C. 4046.

<sup>201</sup> Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

“Section 1. Interest Rates, Deposits, Refunds, and Redeposits.

“(a) \* \* \*

“(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contributions have not been made under section 805(d) of the Act unless—

“(1) the participant makes a contribution for such period as provided in such section 805(d); or

“(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

“(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuances of this Order.”

<sup>202</sup> Sec. 587(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2055), inserted “(1)” after “(a)”, and added paragraphs (2) through (6).

prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 805(d) which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) utilizing the definition of average pay contained in section 8331(4) of title 5, United States Code, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of title 5, United States Code, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(d) of that title.

(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 860 of the Foreign Service Act of 1980, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5, United States Code; for the period following election the annuity shall be computed in accordance with section 8415(d) of that title.

(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

(6)<sup>203</sup> (A) The annuity of a special agent under this subchapter shall be computed under paragraph (1) except that, in the case of a special agent described in subparagraph (B), paragraph (1) shall be applied by substituting for “2 percent”—

(i) the percentage under subparagraph (A) of section 8339(d)(1) of title 5, United States Code, for so much of the participant’s total service as is specified thereunder; and

(ii) the percentage under subparagraph (B) of section 8339(d)(1) of title 5, United States Code, for so much of the participant’s total service as is specified thereunder.

(B) A special agent described in this subparagraph is any such agent or former agent who—

(i)(I) retires voluntarily or involuntarily under section 607, 608, 611, 811, 812, or 813, under conditions authorizing an immediate annuity, other than for cause on charges of misconduct or delinquency, or retires for disability under section 808; and

(II) at the time of retirement—

(aa) if voluntary, is at least 50 years of age and has completed at least 20 years of service as a special agent; or

(bb) if involuntary or disability, has completed at least 20 years of service as a special agent; or

(ii) dies in service after completing at least 20 years of service as a special agent, when an annuity is payable under section 809.

(C) For purposes of subparagraph (B), included with the years of service performed by an individual as a special agent shall be any service performed by such individual as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or a member of the Capitol Police.

(7)<sup>203</sup> In the case of a special agent who becomes or became subject to subchapter II—

(A) for purposes of paragraph (6)(B), any service performed by the individual as a special agent (whether under this subchapter or under subchapter II), as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or as a member of the Capitol Police shall be creditable; and

(B) if the individual satisfies paragraph (6)(B), the portion of such individual’s annuity which is attributable to service under the Foreign Service Retirement and Disability System or the Civil Service Retirement System shall be computed in conformance with paragraph (6).

(8)<sup>203</sup> For purposes of paragraphs (2), (3), (4), and (6)<sup>204</sup> of this subsection, the term “basic pay” includes pay as provided in accordance with section 412 of this Act or section 5545(c)(2)<sup>205</sup> of title 5, United States Code.

<sup>203</sup> Sec. 2(d)(1) of Public Law 105-382 (112 Stat. 3407) redesignated former para. (6) as para. (7) and added a new para. (6). Sec. 2(d)(2) of that Act further amended the section by redesignating new para. (7) as para. (8), and adding a new para. (7).

<sup>204</sup> Sec. 2(d)(3)(A) of Public Law 105-382 (112 Stat. 3408) struck out “and (4)” and inserted in lieu thereof “(4), and (6)”.

<sup>205</sup> Sec. 4(d) of Public Law 102-499 (106 Stat. 3266) struck out “section 5545(a)(2)” and inserted in lieu thereof “section 5545(c)(2)”.

(9)<sup>206</sup> For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary or pay that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.

(b)(1)(A) Except to the extent provided, otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 814(b), or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 814(b) if the spouse later qualifies as a former spouse under section 804(6)), or to reduce such survivor annuity under this section (or section 814(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 814(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 820(b)(1) to waive a survivor annuity under section 814(b) for that former spouse if the election is made (i) before the end of the 24-month<sup>207</sup> period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement whichever occurs first.

(D) The Secretary of State may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 814(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the

<sup>206</sup>Sec. 322(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1383), added para. (9). Sec. 322(c)(1) of Public Law 107-228 (116 Stat. 1385) provided the following:

"(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act."

<sup>207</sup>Sec. 213(a) of Public Law 100-238 (101 Stat. 1774) struck out "12-month" and inserted in lieu thereof "24-month".

first \$3,600 plus 10 percent of any amount over \$3,600. The reduction under this paragraph shall be calculated before any reduction under section 814(a)(5).

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 814(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 814(b)(4)(B).

(C) An annuity payable from the Fund under this subchapter<sup>166</sup> to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(c)(1) If an annuitant who was a participant dies and is survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant<sup>208</sup> and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) \$900, or

(B) \$2,700 divided by the number of children.

(2) If an annuitant who was a participant dies and is not survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant<sup>208</sup> but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) \$1,080, or

(B) \$3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost-of-living adjustments as specified under section 826(c)(3), and

(B) the minimum specified in subsection (1)(2) of this section.

(d) On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant.<sup>209</sup> If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall

<sup>208</sup> Sec. 214(a)(1) of Public Law 100-238 (101 Stat. 1774) inserted language beginning with "or a former spouse" here.

<sup>209</sup> Sec. 214(a)(2) of Public Law 100-238 (101 Stat. 1774) amended the first sentence of subsec. (d). It formerly read as follows: "If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant."



be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child becomes eligible. The annuity of a child shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(f) At the time of retirement an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b) may elect to receive a reduced annuity and to provide for an annuity equal to 55 percent of the reduced annuity payable after his or her death to a beneficiary whose name is designated in writing to the Secretary of State. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by 5 percent of an annuity so computed for each full 5 years the designated beneficiary is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant has satisfactorily passed a physical examination as prescribed by the Secretary of State. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the death of the beneficiary. An annuity which is reduced under this subsection (or any similar prior provision of law) shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

(g) A participant or former participant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing to receive a reduced annuity and to provide a survivor annuity for the spouse (if such spouse qualifies as a surviving spouse under section 804(13)). Receipt by the Secretary of State of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined in accordance with subsections (b) (2) and (3). The annuity reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) A surviving spouse or surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.

(i)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 823 shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced

by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Secretary of State shall issue regulations to provide for the application of paragraph (1) of this subsection and of section 823 in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under this subchapter.<sup>210</sup>

(j) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 814 (b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Secretary within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 814(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(k) The Secretary of State shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (g) and (j); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 814.

(l)<sup>211</sup> \* \* \* [Repealed—1988]

(m)<sup>212</sup> The retirement, disability, or survivor annuity payable to any person based on the service of an individual subject to section 805(h) beginning with the first day of the month for which such person first becomes—

(1) eligible for an annuity under this subchapter<sup>166</sup> based on the service of such individual, and

(2) entitled, or would, upon proper application, be entitled to old age, disability, or survivor benefits under title II of the Social Security Act based on the service of such individual under this subchapter,<sup>166</sup>

shall be computed as if section 8349 of title 5, United States Code, were applicable.

<sup>210</sup>Sec. 213(b) of Public Law 100-238 (101 Stat. 1774) struck out “section 814(b)” and inserted in lieu thereof “this subchapter”.

<sup>211</sup>Sec. 217(c)(1) of Public Law 100-238 (101 Stat. 1775) repealed subsec. (l).

<sup>212</sup>Secs. 406 and 407 of Public Law 99-335 (100 Stat. 610, 611) added subsecs. (m) and (n), respectively. Public Law 99-556 (100 Stat. 3136) substantially restated subsec. (m).

(n)<sup>212</sup> (1)(A) A participant—

(i) who, at the time of retirement, is married; and

(ii) who elects at such time (in accordance with subsection

(b)) to waive a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the spouse of such participant.

(B) A participant—

(i) who, at the time of retirement, is married, and

(ii) who at such time designates (in accordance with subsection (b)) that a limited portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the former participant commences and the date of the election) between the amount paid to such former participant under this subchapter and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing the later election; and

(ii) interest on the additional cost determined under clause (i)(I) of this subparagraph computed using the interest rate specified or determined under section 805(d)(3) for the calendar year in which the amount to be deposited is determined.

(3) An election by a participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant whose annuity is so reduced.

(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

SEC. 807.<sup>213</sup> PAYMENT OF ANNUITY.—(a)<sup>214</sup> (1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

- (A) separation from the Service occurs; or
- (B) pay ceases and the service and age requirements for entitlement to annuity are met.

(2) The annuity of—

(A) a participant who is retired and is eligible for benefits under section 609(a) or a participant who is retired under section 813 or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconduct or delinquency,

(B) a participant retiring under section 808 due to a disability, and

(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.

(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Secretary of State may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to his or her estate.

(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State. The waiver may be revoked in writing at any time. Payment of the annuity waiver may not be made for the period during which the waiver was in effect.

(d) Recovery of overpayments under this subchapter<sup>166</sup> may not be made from an individual when, in the judgment of the Secretary of State, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

(e)<sup>215</sup> (1) The Secretary of State shall prescribe regulations under which any participant who has a life-threatening affliction or other critical medical condition may,<sup>216</sup> at the time of retiring under this subchapter (other than under section 808), elect annuity benefits under this section instead of any other benefits under this subchapter (including survivor benefits) based on the service of the participant.

(2) Subject to paragraph (3), the Secretary of State shall by regulation provide for such alternative forms of annuities as the Secretary considers appropriate, except that among the alternatives offered shall be—

- (A) an alternative which provides for—

<sup>213</sup> 22 U.S.C. 4047.

<sup>214</sup> Sec. 3(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) amended and restated subsec. (a).

<sup>215</sup> Sec. 408 of Public Law 99-335 (100 Stat. 612) added subsec. (e).

<sup>216</sup> Sec. 11002(b) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 409) struck out “a participant may” and inserted in lieu thereof “any participant who has a life-threatening affliction or other critical medical condition may”.

- (i) payment of the lump-sum credit (excluding interest) to the participant; and
  - (ii) payment of an annuity to the participant for life; and
- (B) in the case of a participant who is married at the time of retirement, an alternative which provides for—
- (i) payment of the lump-sum credit (excluding interest) to the participant; and
  - (ii) payment of an annuity to the participant for life, with a survivor annuity payable for the life of a surviving spouse.
- (3) Each alternative provided for under paragraph (2) shall, to the extent practicable, be designed such that the total value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the value of the annuity which would otherwise be provided the participant under this subchapter, as computed under section 806(a).
- (4) A participant who, at the time of retiring under this subchapter—
- (A) is married, shall be ineligible to make an election under this section unless a waiver is made under section 806(b)(1)(B); or
  - (B) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this subchapter (based on the service of the participant) unless a waiver has been made under section 806(b)(1)(C).
- (5) A participant who is married at the time of retiring under this subchapter and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 806(n), subject to the deposit requirement thereunder.
- (6) Notwithstanding any other provision of law, any lump-sum credit provided to an election under this subsection shall not preclude an individual from receiving any other benefits under this subsection.

SEC. 808.<sup>217</sup> RETIREMENT FOR DISABILITY OR INCAPACITY.—(a) Any participant who has at least 5 years of service credit toward retirement under the System (excluding military and naval service) and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 806. If the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had 20 years of service, except that the additional service credit that may accrue to a participant under this sentence shall in no case exceed the difference between his or her age at the time of retirement and age 60.<sup>218</sup>

<sup>217</sup> 22 U.S.C. 4048.

<sup>218</sup> Sec. 215(a) of Public Law 100-238 (101 Stat. 1774) struck out "65" and inserted "60".

However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in Section 8332(c) (1) or (2) of title 5 of the United States Code) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under this chapter excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of title 5 of the United States Code, or the Veterans' Administration pension or compensation in lieu of such retired pay or retainer pay, is less than the annuity that would be payable under this chapter in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity computed under this subchapter.<sup>166, 219</sup>

(b) Before being retired under this section, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary of State to conduct examinations. Disability or incapacity shall be determined by the Secretary of State on the basis of the advice of such physicians or surgeons. Unless the disability or incapacity is permanent, like examinations shall be made annually until the annuitant has attained age 60.<sup>218</sup> If the Secretary of State determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within 1 year from the date recovery is determined. Upon application, the Secretary shall reinstate such recovered annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date of 6 months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this subsection, payment of the annuity shall be suspended until continuance of the disability or incapacity is satisfactorily established.

(c) If a recovered annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 810 as of the date of retirement for disability or incapacity and shall, after the discontinuance of the annuity, be entitled to the benefits of that section or of section 815, except that he or she may elect voluntary retirement if eligible under section 811.

<sup>219</sup>The final two sentences of subsec. (a) of sec. 808 were added by sec. 2 of Executive Order 12289 (February 14, 1981; 46 F.R. 12693).

(d) No participant shall be entitled to receive an annuity under this subchapter<sup>220</sup> and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, United States Code, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United States Code. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this subchapter<sup>220</sup> or subchapter I of such chapter 8<sup>221</sup> for any part of the same period of time. Neither this subsection nor any provision of subchapter I of such chapter 8<sup>221</sup> shall be construed to deny the right of any participant to receive an annuity under this subchapter<sup>220</sup> and to receive concurrently any payment under such subchapter I of such chapter 8<sup>221</sup> by reason of the death of any other individual.

(e) Notwithstanding any other law, the right of any individual entitled to an annuity under this subchapter<sup>220</sup> shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, United States Code, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this subchapter<sup>220</sup> which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding.

(f) A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

<sup>220</sup>Sec. 402 of Public Law 99-355 (100 Stat. 609) struck out "Act" and inserted in lieu thereof "subchapter".

<sup>221</sup>Sec. 402(b)(1)(A) of Public Law 99-355 (100 Stat. 609) struck out "such subchapter" and inserted in lieu thereof "subchapter I of such chapter 8". Should probably read "chapter 81".

SEC. 809.<sup>222</sup> DEATH IN SERVICE.—(a) If a participant dies and no claim for annuity is payable under this subchapter,<sup>223</sup> the lump-sum credit shall be paid in accordance with section 815.

(b) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 814(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 806(a) and any surviving former spouse shall be entitled to an annuity under section 814(b) as if the participant died after being entitled to an annuity under this subchapter. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

(c) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant,<sup>224</sup> and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 806.

(d) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is not survived by a spouse, or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant,<sup>225</sup> but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 806.

(e) If, at the time of his or her death, the participant had less than 20 years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 806 on the assumption he or she has had 20 years of service, except that the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age 60.<sup>226</sup> In all cases arising under this subsection or subsection (b), (c), (d), or (g), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) If an annuitant entitled to a reduced annuity dies in service after being recalled under section 308 and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and

<sup>222</sup> 22 U.S.C. 4049.

<sup>223</sup> Sec. 402(b) and (c) of Public Law 99-355 (100 Stat. 609) struck out "Act" and inserted in lieu thereof "subchapter".

<sup>224</sup> Sec. 214(b)(1) of Public Law 100-238 (101 Stat. 1774) inserted language to this point, beginning with "or a former spouse".

<sup>225</sup> Sec. 214(b)(2) of Public Law 100-238 (101 Stat. 1774) inserted language to this point, beginning with "or a former spouse".

<sup>226</sup> Sec. 215(b) of Public Law 100-238 (101 Stat. 1774) struck out "65" and inserted in lieu thereof "60".



the annuity of the deceased had been resumed in accordance with section 823. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 806(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this chapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

(g) Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 814(b), the annuity of the spouse under this section shall be subject to the limitation of section 806(b)(3)(B).

(h) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 806, as appropriate.

SEC. 810.<sup>227</sup> DISCONTINUED SERVICE RETIREMENT.—Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 815, or to leave his or her contributions in the Fund and receive an annuity, computed under section 806, commencing at age 60.

SEC. 811.<sup>228</sup> VOLUNTARY RETIREMENT.—Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 806. The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. Any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, United States Code, if the participant had been covered under the Civil Service Retirement System rather than subject to this chapter while a member of the Service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5, United States Code, if all contributions transferred to the Fund under section 805(c)(1) of this Act, as well as all contributions withheld from the participant's pay or contributed

<sup>227</sup> 22 U.S.C. 4050.

<sup>228</sup> 22 U.S.C. 4051.

by the employer, and deposited into the Fund during the period he or she was subject to this chapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service.<sup>229</sup>

SEC. 812.<sup>230</sup> MANDATORY RETIREMENT.—(a)(1)<sup>231</sup> Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 806.

(2)<sup>232</sup> Notwithstanding paragraph (1)—

(A) an individual described in section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998 who is otherwise eligible for immediate retirement under this chapter; or

(B) a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service,

shall be separated from the Service on the last day of the month in which such individual under subparagraph (A) or such Foreign Service criminal investigator/inspector under subparagraph (B) attains 57 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under

<sup>229</sup>Sec. 216 of Public Law 100-238 (101 Stat. 1774) added language from “The Secretary shall withhold”.

<sup>230</sup>22 U.S.C. 4052.

<sup>231</sup>Sec. 587(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2056) inserted “(1)” after “(a)”, and added a new para. (2).

<sup>232</sup>Sec. 3 of Public Law 105-382 (112 Stat. 3408) amended and restated the first sentence of para. (2). It had formerly read as follows: “Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 57 years of age or completes 20 years of service if then over that age.”

subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completed a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

SEC. 813.<sup>233</sup> REASSIGNMENT AND RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.—

(a) A participant, who completes an assignment under section 302(b) in a position to which the participant was appointed by the President, and is not otherwise eligible for retirement—

(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 806 or 855, as appropriate.

(b) A participant who completes an assignment under section 302(b) in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized leave, shall be retired from the Service and receive retirement benefits in accordance with section 806 or section 855, as appropriate.

(c) A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.

SEC. 814.<sup>234</sup> FORMER SPOUSES.—(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), a former spouse of a participant or former participant is entitled to an annuity<sup>235</sup> if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such

<sup>233</sup> 22 U.S.C. 4053. Sec. 174 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 413), amended and restated sec. 813 after the section caption. It formerly read as follows:

“(a) Except as provided under subsection (b), a participant, who completes an assignment under section 302(b) in a position to which he or she was appointed by the President, shall be offered reassignment within 90 days after the termination of such assignment and any period of authorized leave.

“(b) Subsection (a) shall not apply with respect to a participant, if the Secretary of State determines that reassignment of the participant is not in the interest of the United States and the Foreign Service.

“(c) A participant who is not reassigned under subsection (a) shall be retired from the Service and receive retirement benefits in accordance with section 806 or 855, as appropriate.”

Previously, sec. 813 was amended and restated by sec. 149 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 670). Functions vested in the Secretary of State in this section, prior to amendment, were delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>234</sup> 22 U.S.C. 4054.

<sup>235</sup> Sec. 217(a) of Public Law 100-238 (101 Stat. 1775) added language from this point to “Foreign Service and”.

Sec. 261(b)(2) of Public Law 100-238 (101 Stat. 1776) provided the following exception:  
“(2) The amendment made by section 217(a) shall not apply with respect to the former spouse of a participant or former participant who is subject to subchapter I of chapter 8 of the Foreign Service Act of 1980 if, on the date of enactment of this title, [January 8, 1988] that former spouse—

“(A) was the spouse of that participant or former participant; or

“(B) is entitled to an annuity under section 814 of the Foreign Service Act of 1980 pursuant to the divorce or annulment of the marriage to that participant or former participant.”

years occurring while the participant was a member of the Foreign Service and—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

For the purposes of this paragraph, the term "creditable service" means service which is creditable under subchapter I or II.<sup>236</sup>

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of the annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this subchapter<sup>223</sup> on the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 820(b)(1) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 24<sup>237</sup> months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this subchapter,<sup>223</sup> and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 806(b)(3).

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 308, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 824, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify on the basis of his or her

<sup>236</sup>Sec. 404(b)(1) of Public Law 99-335 (100 Stat. 610) added this sentence.

<sup>237</sup>Sec. 217(b) of Public Law 100-238 (101 Stat. 1775) struck out "12" and inserted in lieu thereof "24".

creditable service for an annuity under this subchapter<sup>223</sup> (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 806(h) or any comparable provision of law.

(b)(1) Subject to any election under section 806(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 806(a); or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity. For the purposes of this paragraph, the term 'creditable service' means service which is creditable under subchapter I or II.<sup>238</sup>

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund under this subchapter<sup>223</sup> to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 806(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 806(a).

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 806(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 820(b)(1) may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the

<sup>238</sup>Sec. 404(b)(2) of Public Law 99-335 (100 Stat. 610) added this sentence.

annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 806(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 820(b)(1) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Secretary of State.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 806, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 806(a).

(3)(A) In accordance with regulations which the Secretary of State shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Secretary of State.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Secretary of State.

(D) Under regulations prescribed by the Secretary of State, an annuity shall be recomputed (or salary allotment terminated or ad-

justed), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this subchapter.<sup>223</sup>

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 826 shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Secretary of State.

(d)<sup>239</sup> \* \* \* [Repealed—1988]

SEC. 815.<sup>240</sup> LUMP-SUM PAYMENTS.—(a)<sup>241</sup> (1) A participant is entitled to be paid a lump-sum credit if the participant—

(A) is separated from the Service for at least 31 consecutive days, or is transferred to a position in which the participant is not subject to this chapter and remains in such a position for at least 31 consecutive days;

(B) files an application with the Secretary of State for payment of the lump-sum credit;

(C) is not reemployed in a position in which the participant is subject to this chapter at the time the participant files the application;

(D) will not become eligible to receive an annuity under this subchapter within 31 days after filing the application; and

(E) has notified any spouse or former spouse the participant may have of the application for payment in accordance with regulations prescribed by the Secretary of State.

Such regulations may provide for waiver of subparagraph (E) under circumstances described in section 806(b)(1)(D).

(2) Such lump-sum credit shall be paid to the participant and to any former spouse of the participant in accordance with subsection (i).

(b) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 823, the compulsory contributions of the annuitant to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned to the annuitant (and any former spouse of the annuitant who was married to the participant during the period of recall service, in accordance with subsection (i)).

(c) If all annuity rights under this subchapter<sup>223</sup> based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit to which the participant or annuitant is entitled, the difference shall be paid in accordance with subsection (f).

<sup>239</sup>Sec. 217(c)(2) of Public Law 100-238 (101 Stat. 1775) repealed subsec. (d).

<sup>240</sup>22 U.S.C. 4055.

<sup>241</sup>Sec. 218(a) of Public Law 100-238 (101 Stat. 1775) amended and restated subsec. (a).

(d) If a participant or former participant dies and is not survived by an individual eligible for an annuity under this subchapter<sup>223</sup> or by such an individual or individuals all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit to which the participant or annuitant is entitled shall be paid in accordance with subsection (f).

(e) If an annuitant who was a former participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (f).

(f) Payments under subsections (c) through (e) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing filed with the Secretary of State prior to the death of the participant, for which purpose a designation, change, or cancellation of beneficiary in a will or other document which is not so executed and filed shall have no force or effect.

(2) If there is no such beneficiary, to the surviving wife or husband of the participant.

(3) If none of the above, to the child (without regard to the definition in section 804(2)) or children of the participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation.

(4) If none of the above, to the parents of the participants or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next of kin of the participant as may be determined in the judgment of the Secretary of State to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days after the death of the participant or annuitant.

(g) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no such executor or administrator, to such person as may be determined by the Secretary of State (after the expiration of 30 days from the date of death of the survivor annuitant) to be entitled under the laws of the domicile of the survivor annuitant at the time of death.

(h)<sup>242</sup> Amounts deducted and withheld from basic salary of a participant under section 805 from the beginning of the first pay

<sup>242</sup>Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended



period after the participant has completed 35 years of service computed under section 816 (excluding service credit for unused sick leave under section 816(b)), together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 805(d), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

(i) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be—

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse. For the purposes of this subsection, the term "creditable service" means service which is creditable under subchapter I or II.<sup>243</sup>

SEC. 816.<sup>244</sup> CREDITABLE SERVICE.—(a)<sup>245</sup> (1)<sup>246</sup> Except as otherwise specified by law, all periods of civilian and military and naval

to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

"(b) \* \* \*

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

<sup>243</sup> Sec. 404(c) of Public Law 99-335 (100 Stat. 610) added this sentence.

<sup>244</sup> 22 U.S.C. 4056.

<sup>245</sup> Sec. 5 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Sec. 5. *Recomputation at Age 62 of Credit for Military Service of Current Annuitants.* (a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act on or before the date of approval of this Order, or who is entitled to an annuity based on a separation from service occurring on or before such date.

"(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

"(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under sec-

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service, and all other periods through the date of final separation of a participant from the Service that the Secretary of State determines would be creditable toward retirement under the Civil Service Retirement and Disability System (as determined in accordance with section 8332 of title 5, United States Code), shall be creditable for purposes of this subchapter.<sup>223</sup> Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this chapter under the same conditions.

(2)<sup>246</sup> The service of an individual who first becomes a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1, 1982, shall include credit for:

(A) each period of military or naval service performed before January 1, 1957, and

(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this subchapter<sup>223</sup> is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 805(e).

(3)<sup>246</sup> The service of an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of separation on which the entitlement to an annuity under this subchapter<sup>223</sup> is based, subject, in the case of military or naval service performed after December 1956, to section 816(j), as deemed to be added by this Order.

(4)<sup>246</sup> The service of an individual who first became a participant before the date of this Order shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this subchapter<sup>223</sup> is based, subject, in the case of military or naval service

tion 280 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

“(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act) for each such year.

“(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

“(d) For purposes of this section, the term (determination month) means—

“(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

“(2) the first day of the month following the month in which this Order is issued in the case of any individual so entitled to such benefits for such month.

“(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act for calendar months beginning after the date of this Order.

“(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section.”

<sup>246</sup>Sec. 4(b) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) inserted the para. designation “(1)” and added new paras. (2), (3), and (4).

performed after December 1976, to section 816(j), as deemed to be added by this Order.

(b) In computing any annuity under this subchapter,<sup>223</sup> the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to an annuity includes (without regard to the 35-year limitation imposed by section 806(a)) the days of unused sick leave to the credit of the participant, except that these days shall not be counted in determining average basic salary or annuity eligibility under this subchapter.<sup>223</sup> A contribution to the Fund shall not be required from a participant for this service credit.

(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within 60 days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for each such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate and shall be computed in accordance with section 805. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to 6 months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d)<sup>247</sup> A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service

<sup>247</sup>Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

"Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) \* \* \*

"(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contribution have not been made under section 805(d) of the Act unless—

"(1) the participant makes a contribution for such period as provided in such section 805(d);

or

"(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

"(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order."

under section 805. Credit may not be allowed for service covered by the refund unless the special contribution is made.

(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless—

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 805 covering such service.

(f) A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this subchapter,<sup>223</sup> as not separated from the Service under section 815. However, the participant is deemed to be separated from the Service after the expiration of 5 years of such military service.

(g)(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under section 8332(1) of title, 5, United States Code, for credit for civilian service for periods of internment during World War II shall, upon application to the Secretary of State, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary of State.

(2) The Secretary of State shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection of their entitlement to such credit or recomputation.

(3) The Secretary of State shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other Government establishment information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other Government establishment shall, upon request, furnish to the Secretary of State any information it possesses with respect to the internment or other detention, as described in section 8332(1) of title 5, United States Code, of any participant.

(h) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter<sup>223</sup> and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(i)(1) Service of a participant shall be considered creditable service for purposes of applying provisions of this subchapter<sup>223</sup> relating to former spouses if such service would be creditable—

(A) under subsection (c) (1) or (2) but for the fact an election was not made under subsection (c)(1) or a special contribution was not made under subsection (c)(2), and

(B) under subsection (d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this subchapter<sup>223</sup> a portion of the lump sum (or a spousal agreement or court order provided otherwise).

(2)<sup>248</sup> A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 808(a) or section 809(e).

(j)<sup>249</sup> (1) Except as otherwise provided by statute or Executive Order, Section 8332(j) of Title 5, United States Code, relating to re-determination of credit for military and naval service, shall be applied to annuities payable under this subchapter.<sup>223</sup> The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in Section 8332(j).

(2) Section 8332(j) of Title 5, United States Code, shall not apply with respect to:

(A) the service of any individual who first became a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1982; or

(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after the date of this Order with credit under section 816 for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e); or

(C) any military or naval service performed prior to 1977 by any individual who first became a participant before the date of this Order or any period of military or naval service performed after 1976 with respect to which the participant had made a contribution (with interest if any is required) under section 805(e).

SEC. 817.<sup>250</sup> EXTRA CREDIT FOR SERVICE AT UNHEALTHFUL POSTS.—The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of

<sup>248</sup>Sec. 145(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 36), restated para. (2). It formerly read as follows:

“(2) A former spouse shall not be considered as married to a participant—

“(A) for periods assumed to be creditable service under section 808(a) or section 809(e),

or

“(B) for any extra period of creditable service provided under section 817 for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period.”

<sup>249</sup>Sec. 4(c) of Executive Order 12466 (October 17, 1983; 48 F.R. 48443) added subsec. (j).

<sup>250</sup>22 U.S.C. 4057.

a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service. Such extra credit may not be used to determine the eligibility of a person to qualify as a former spouse under this subchapter, or to compute the pro rata share under section 804(10). No extra credit for service at unhealthful posts may be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.<sup>251</sup>

SEC. 818.<sup>252</sup> ESTIMATE OF APPROPRIATIONS NEEDED.—The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding \$5,000 per year for the incidental expenses necessary in administering the provisions of this subchapter,<sup>223</sup> including actuarial advice.

SEC. 819.<sup>253</sup> INVESTMENT OF THE FUND.—The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

SEC. 820.<sup>254</sup> ASSIGNMENT AND ATTACHMENT OF MONEYS.—(a)(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3477 of the Revised Statutes of the United States (31 U.S.C. 203) or any other law, a member of the Service who is entitled to receive benefits under section 609(b)(1) may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

(b)(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 814(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 814 (b) or (c), and the amount of any such annuity; and

<sup>251</sup>Sec. 145(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added text beginning with "Such extra credit may".

<sup>252</sup>22 U.S.C. 4058.

<sup>253</sup>22 U.S.C. 4059.

<sup>254</sup>22 U.S.C. 4060.

(iii) any right of the former spouse to any payment of a lump-sum credit under section 815 (a) or (b); shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has not been an annuity reduction (or a salary reduction or payment under section 814(c)(3)); or

(ii) is otherwise inconsistent with the requirements of this subchapter.<sup>223</sup>

(2) Except with respect to obligations between participants and former spouses, payments under this subchapter<sup>223</sup> which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this subchapter<sup>223</sup> for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 804(b)(6), or any other provision of this subchapter,<sup>223</sup> shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this subchapter.<sup>223</sup>

(c) None of the moneys mentioned in this subchapter<sup>223</sup> shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

SEC. 821.<sup>255</sup> PAYMENTS FOR FUTURE BENEFITS.—(a) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund under this subchapter,<sup>223</sup> including annuity increases other than under section 825;

(2) extension of the benefits of the System to new groups of employees; or

(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment

<sup>255</sup> 22 U.S.C. 4061.

thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of benefits, or increase in salary is effective.

(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 805(a).

SEC. 822.<sup>256</sup> UNFUNDED LIABILITY OBLIGATIONS.—(a) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary of State estimates is attributable to credit allowed for military and naval service, less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 805(e).<sup>257</sup>

(b) Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

(c) Requests for appropriations to the Fund under section 821(b) shall include reports to the Congress on the sums credited to the Fund under this section.

SEC. 823.<sup>258</sup> ANNUITY ADJUSTMENT FOR RECALL SERVICE.—(a) Any annuitant recalled to duty in the Service under section 308(a) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 805. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 825 that became effective during the recall period.

(b) If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 815. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 806 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 806 in lieu of any other benefits under this section. Any annuitant who is recalled under section 308 may upon written application count as recall service any prior service that is creditable under section 816 that was performed after the separation upon which his or her annuity is based.

<sup>256</sup> 22 U.S.C. 4062.

<sup>257</sup> Sec. 4(d) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443) added the words to this point beginning with “, less an amount determined \* \* \*”.

<sup>258</sup> 22 U.S.C. 4063.



(c)<sup>259</sup> If an annuitant becomes subject to subchapter II of this chapter by reason of recall service—

(1) subsections (a) and (b) shall not apply to such annuitant; and

(2) section 824 shall apply to the recall service as if such service were reemployment.

SEC. 824.<sup>260</sup> REEMPLOYMENT.—(a)(1)<sup>261</sup> (A) Except in the case of an annuitant who makes an election under subsection (b) or in the case of a waiver under subsection (g),<sup>262</sup> if any former participant, who has retired and is receiving an annuity under this subchapter<sup>223</sup> or subchapter II of this chapter, becomes employed in an appointive or elective position in the Government, payment of any annuity under either subchapter to the annuitant shall terminate effective on the date of the employment and the reemployment service shall be covered service under the rules of the system under which the appointment is made.

(B) If the annuity of an individual is terminated under subparagraph (A) and that individual becomes covered under the same retirement system from which that annuity is terminated, that individual shall be entitled to a redetermination of rights under that system upon termination of the employment.

(C) If the annuity is terminated and the individual becomes covered under another contributory retirement system for Government employees pursuant to paragraph (A), the individual shall be entitled to benefits under the rules of that system. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

(b)(1) A participant who is entitled to an annuity under this subchapter or subchapter II of this chapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent, or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

(2) The total annuity payable under this chapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent, or temporary employment referred to in paragraph (1) as necessary to meet the requirements of paragraph (3).

(3)<sup>263</sup> (A) The sum of—

(i) the total annuity payable under this chapter to an annuitant making an election under paragraph (1), and

(ii) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the amount described in subparagraph (B).

(B) The amount referred to in subparagraph (A) is the greater of—

<sup>259</sup> Sec. 409 of Public Law 99-335 (100 Stat 612) added subsec. (c).

<sup>260</sup> 22 U.S.C. 4064. Sec. 410 of Public Law 99-335 (100 Stat. 613) amended and restated sec. 824.

<sup>261</sup> So in original. There is no para. (2).

<sup>262</sup> Sec. 103(1) of Public Law 105-277 (112 Stat. 2681-585) inserted “or in the case of a waiver under subsection (g)” after “subsection (b)”.

<sup>263</sup> Sec. 403 of Public Law 99-556 (100 Stat. 3136) substantially amended and restated para. (3).

(i) the highest annual rate of basic pay which is payable during such year for full-time employment in the position in which the annuitant is employed, or

(ii) the basic pay the annuitant was entitled to receive under this Act on the date of retirement from the Service.

(C) For purposes of this section, the term “annuity” means the annuity earned by the reemployed member based on his or her service irrespective of whether or not the amount payable is reduced by the amount of an annuity payable under section 814 or 820(b).

(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

(c) The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

(d) The annuity rights of any participant who is reemployed in the Government shall be determined under this section instead of section 8468 of title 5, United States Code.

(e) When any such retired participant is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such participant the salary of the position in which he or she is serving.

(f) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed participant or from any other moneys, including annuity payments, payable under this chapter.<sup>264</sup>

(g)<sup>265</sup> The Secretary of State may waive the application of the paragraphs (a) through (d) of this section, on a case-by-case basis, for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

(h)<sup>265</sup> A reemployed annuitant as to whom a waiver under subsection (g) is in effect shall not be considered a participant for purposes of subchapter I or subchapter II, or an employee for purposes of chapter 83 or 84 of title 5, United States Code.

SEC. 825.<sup>266</sup> VOLUNTARY CONTRIBUTIONS.—(a)<sup>267</sup> The voluntary contribution account shall be the sum of unrefunded amounts vol-

<sup>264</sup> The word “chapter” probably should read “subchapter”.

<sup>265</sup> Sec. 103(2) of Public Law 105-277 (112 Stat. 2681-585) added new subsecs. (g) and (h).

<sup>266</sup> 22 U.S.C. 4065.

<sup>267</sup> Sec. 1 of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) provided the following:

“Section 1. *Interest Rates, Deposits, Refunds, and Redeposits.* (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of sec. 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended

untarily contributed prior to the effective date of this Act by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

- (1) returned in a lump sum;
- (2) used to purchase an additional life annuity;
- (3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or
- (4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) The benefits provided by subsection (a) (2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 815(f).

SEC. 826.<sup>268</sup> COST-OF-LIVING ADJUSTMENTS OF ANNUITIES.—(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Each such increase shall be applied to each annuity payable from the Fund under this sub-

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to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury.

“(b) \* \* \*

“(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civil service performed on or after the first day of the month following issuance of this Order, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) and voluntary contributions under section 825(a) from the first day of the month following issuance of this Order.”.

<sup>268</sup> 22 U.S.C. 4066.

chapter<sup>223</sup> which has a commencing date not later than the effective date of the increase.

(b) Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

(1)<sup>269</sup> The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest  $\frac{1}{10}$  of 1 percent) of—

(A)  $\frac{1}{12}$  of the applicable percent change computed under subsection (b) of this Section, multiplied by

(B) the number of months (counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase, or

(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity under this subchapter<sup>223</sup> payable from the Fund to the survivor of an annuitant, except a child entitled to an annuity under section 806(c) or 809 (c) or (d), shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 806 (c) or (d) or 809 (c) or (d), the items \$900, \$1,080, \$2,700, and \$3,240 appearing in section 806(c) shall be increased by the total percentage increases by which correspondence amounts are being increased under section 8340 of title 5, United States Code, on the date the annuity of the child becomes effective.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be rounded to the next lowest dollar,<sup>270</sup> except such installment shall after adjustment reflect an increase of at least \$1.

(f) Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior

<sup>269</sup> Sec. 219 of Public Law 100-238 (101 Stat. 1775) restated para. (1).

<sup>270</sup> Sec. 2(a) of Executive Order 12446 (October 17, 1983; 38 F.R. 48443; 22 U.S.C. 4067 note) substituted the words "rounded to the next lowest" in lieu of the words "fixed at the nearest". Sec. 2(b) of Executive Order 12446 further stated that this amendment "shall be effective with respect to any adjustment or redetermination of any annuity made on or after the date of this Order."

to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

(g)<sup>271</sup> (1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

(A) the maximum pay rate payable for class FS-1 under section 403, 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 403 during the period—

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the date the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

(2) For the purposes of paragraph (1) of this subsection, "pay" means the rate of salary or basic pay as payable under any provision of law, including any provisions of law limiting the expenditure of appropriated funds.

SEC. 827.<sup>272</sup> COMPATIBILITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a)<sup>273</sup> In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

(b) The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System.

<sup>271</sup> Sec. 6(a) of Executive Order 12446 (October 17, 1983; 48 F.R. 48443; 22 U.S.C. 4067 note) added subsec. (g). Sec. 6(b) of Executive Order 12446 provided the following:

"(b) The amendment made by subsection (a) of this Section shall not cause any annuity to be reduced below the rate that is payable on the date of approval of this Order, but shall apply to any adjustment occurring on or after April 1, 1983 under Section 826 of the Act to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of this Order."

<sup>272</sup> 22 U.S.C. 4067.

<sup>273</sup> Sec. 13(h)(2) of Public Law 102-54 (105 Stat. 275) provided that "Any reference to the Veterans' Administration in any regulation prescribed or Executive order issued pursuant to section 827(a) of the Foreign Service Act of 1980 (22 U.S.C. 4067(a)) shall be deemed to be a reference to the Department of Veterans Affairs."

Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

(2) any prior provision of an Executive order issued under this section.

(c)<sup>274</sup> The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, and the Foreign Service Pension System provided in subchapter II of this chapter.

SEC. 828.<sup>275</sup> REMARRIAGE.—Notwithstanding any other provision of this subchapter, any benefit payable under this subchapter to a surviving spouse, former spouse, or surviving former spouse that would otherwise terminate or be lost if the individual remarried before 60 years of age, shall not terminate or be lost if the remarriage occurred on or after November 8, 1984, and the individual was 55 years of age or over on the date of the remarriage.

SEC. 829.<sup>276</sup> THRIFT SAVINGS FUND PARTICIPATION.—Participants in this System shall be deemed to be employees for the purposes of section 8351 of Title 5. Any reference in such section 8351 or in subchapter III of chapter 84 of such Title 5 to retirement or separation under subchapter III of chapter 83 or chapter 84 of such Title 5 shall be deemed to be references to retirement or separation under part I or II of this subchapter with similar benefits or entitlements with respect to participants under such part I or II of this subchapter, respectively.

SEC. 830.<sup>277</sup> QUALIFIED FORMER WIVES AND HUSBANDS.—(a) Notwithstanding section 4(h) of the Civil Service Retirement Spouse Equity Act of 1984, section 827 of this Act shall apply with respect to section 8339(j), section 8341(e), and section 8341(h) of title 5, United States Code, and section 4 (except for subsection (b)) of the Civil Service Retirement Spouse Equity Act of 1984 to the extent that those sections apply to a qualified former wife or husband. For the purposes of this section any reference in the Civil Service Retirement Spouse Equity Act of 1984 to the effective date of that Act shall be deemed to be a reference to the effective date of this section.

(b)(1) Payments pursuant to this section which would otherwise be made to a participant or former participant based upon his service shall be paid (in whole or in part) by the Secretary of State to another person if and to the extent expressly provided for in the terms of any court order or spousal agreement. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall only apply to payments made by the Secretary of State under this chapter after the date of receipt by the Secretary of State of written notice of such court order or spousal

<sup>274</sup> Sec. 411 of Public Law 99-335 (100 Stat. 614) added subsec. (c).

<sup>275</sup> 22 U.S.C. 4068. Sec. 412 of Public Law 99-335 (100 Stat. 614) added sec. 828.

<sup>276</sup> 22 U.S.C. 4069. Sec. 404(a) of Public Law 99-556 (100 Stat. 3137) added sec. 829.

<sup>277</sup> 22 U.S.C. 4069-1. Sec. 202 of Public Law 100-238 (101 Stat. 1768) added this sec. 830.

agreement and such additional information and documentation as the Secretary of State may prescribe.

(c) For the purposes of this section, the term “qualified former wife or husband” means a former wife or husband of an individual if—

(1) such individual performed at least 18 months of civilian service creditable under this chapter; and

(2) the former wife or husband was married to such individual for at least 9 months but not more than 10 years.

(d) Regulations issued pursuant to section 827 to implement this section shall be submitted to the Committee on Post Office and Civil Service and the Committee on Foreign Affairs of the House of Representatives<sup>278</sup> and the Committee on Governmental Affairs and the Committee on Foreign Relations of the Senate. Such regulations shall not take effect until 60 days after the date on which such regulations are submitted to the Congress.

**SEC. 830.**<sup>279</sup> **RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.**—(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c)(1) The entitlement of a former spouse to benefits under this section—

<sup>278</sup> Sec. 1(b)(2) of Public Law 104-14 (109 Stat. 187) provided that references to the Committee on Post Office and Civil Service of the House of Representatives shall be treated as a reference to the House Committee on Government Reform and Oversight. Sec. 1(a)(5) of that Act (109 Stat. 186) provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

<sup>279</sup> 22 U.S.C. 4069a. Sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1369), added this sec. 830. Sec. 1331 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-785) provided the following:

**“SEC. 1331. REFERENCES.**

“(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

“(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

“(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

“(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).”

Subsec. (b) of sec. 1331, as it refers to sec. 146(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, refers to subsec. (f) of this section.

- (A) shall commence on the later of—
- (i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or
  - (ii) the first day of the month in which the divorce or annulment involved becomes final; and
- (B) shall terminate on the earlier of—
- (i) the last day of the month before the former spouse dies or remarries before 55 years of age; or
  - (ii) the date the benefits of the participant terminates.
- (2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—
- (A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and
- (B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.
- (3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.
- (4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.
- (B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.
- (d) For the purposes of this section, the term 'benefits' means—
- (1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and
  - (2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.
- (e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.
- (f)<sup>280</sup> Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

<sup>280</sup>Sec. 146(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added subsec. (f).



(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

SEC. 831.<sup>281</sup> RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c)(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

(ii) the date of the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete

<sup>281</sup> 22 U.S.C. 4069a-1. Added by sec. 204(a) of Public Law 100-238 (101 Stat. 1770).

with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

(d) For the purpose of this section, the term “benefits” means—

(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

SEC. 831.<sup>282</sup> SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant’s or former participant’s annuity, as computed under this chapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant’s or former participant’s annuity referred to in subsection (a) less the amount of such election.

<sup>282</sup> 22 U.S.C. 4069b. Sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1369), added sec. 831. Sec. 1331 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-785) provided the following:

“SEC. 1331. REFERENCES.

“(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

“(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

“(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

“(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).”

Subsec. (b) of sec. 1331, as it refers to sec. 146(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, refers to subsec. (g) of this section.

(c) A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) the effective date of this section; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(e) The Secretary shall—

(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

(g)<sup>283</sup> Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

<sup>283</sup>Sec. 146(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added subsec. (g).

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

SEC. 832.<sup>284</sup> SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.

(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) the effective date of this section; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

<sup>284</sup> 22 U.S.C. 4069b-1. Added by sec. 204(a) of Public Law 100-238 (101 Stat. 1770).

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(e) The Secretary shall—

(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

SEC. 832.<sup>285</sup> HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.—

(a) Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States

<sup>285</sup> 22 U.S.C. 4069c. Sec. 188 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1369), added sec. 832. Sec. 1331 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-785) provided the following:

“SEC. 1331. REFERENCES.

“(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

“(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

“(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

“(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).”

Subsec. (b) of sec. 1331, as it refers to sec. 146(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, refers to subsec. (f) of this section.

Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5, United States Code.

(f)<sup>286</sup> Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

**SEC. 833.<sup>287</sup> HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.**

(a) Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

<sup>286</sup> Sec. 146(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 37), added subsec. (f).

<sup>287</sup> 22 U.S.C. 4069c-1. Added by sec. 204(a) of Public Law 100-238 (101 Stat. 1770).

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5, United States Code.

#### SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM<sup>288</sup>

SEC. 851.<sup>288, 289</sup> ESTABLISHMENT.—(a) There is hereby established a Foreign Service Pension System.

(b) Except as otherwise specifically provided in this subchapter or any other provision of law, the provisions of chapter 84 of title 5, United States Code, shall apply to all participants in the Foreign

<sup>288</sup>Sec. 415 of Public Law 99-335 (100 Stat. 615) added subchapter II and the sections contained therein.

<sup>289</sup>22 U.S.C. 4071.

Service Pension System and such participants shall be treated in all respects similar to persons whose participation in the Federal Employees' Retirement System provided in that chapter is required.

SEC. 852.<sup>288, 290</sup> DEFINITIONS.—As used in this subchapter, unless otherwise specified—

(1) the term “court order” has the same meaning given in section 804(4);

(2) the term “Fund” means the Foreign Service Retirement and Disability Fund maintained by the Secretary of the Treasury pursuant to section 802;

(3)<sup>291</sup> the term “lump-sum credit” means the unrefunded amount consisting of—

(A) retirement deductions made from the basis pay of a participant under section 856 of this chapter (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);

(B) amounts deposited by a participant under section 854 to obtain credit under this System for prior civilian or military service; and

(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury (compounded annually); but does not include interest—

(i) if the service covered thereby aggregates 1 year or less; or

(ii) for a fractional part of a month in the total service;

(4) the term “normal cost” means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;

(5) the term “participant” means a person who participates in the Foreign Service Pension System;

(6) the term “pro rata share” in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this chapter is of (B) the total number of years of such service, disregarding extra credit under section 817;

(7) the term “supplemental liability” means the estimated excess of—

(A) the actuarial present value of all future benefits payable from the Fund under this subchapter based on the service of participants or former participants, over

<sup>290</sup> 22 U.S.C. 4071a.

<sup>291</sup> Sec. 241 of the Federal Employees' Retirement System, Technical Corrections (Public Law 100-238; 101 Stat. 1776), redesignated paras. (3), (4), (5), (6), and (7), as paras. (4), (5), (6), (7), and (8), respectively, and added a new para. (3).



(B) the sum of—

(i) the actuarial present value of (I) deductions to be withheld from the future basic pay of participants pursuant to section 856 and (II) contributions for past civilian and military service;

(ii) the actuarial present value of future contributions to be made pursuant to section 857;

(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

(I) to the System, or

(II) to the contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (5 U.S.C. 8331 note); and

(iv) any other appropriate amount, as determined by the Secretary of State in accordance with generally accepted actuarial practices and principles;

(8) the term "System" means the Foreign Service Pension System; and

(9)<sup>292</sup> the term "special agent" has the same meaning given in section 804(15).

SEC. 853.<sup>288, 293</sup> PARTICIPANTS.—(a) Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986,<sup>294</sup> who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 803 shall instead be participants in the Foreign Service Pension System.

(b) Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act.

(c) Individuals who become members of the Service after having completed at least 5 years of civilian service creditable under subchapter I, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)<sup>295</sup> (determined without regard to any deposit or redeposit requirement under any such subchapter or title, any requirement that the individual become subject to such subchapter or title after performing

<sup>292</sup>Sec. 2(a)(2) of Public Law 105-382 (112 Stat. 3406) struck out "and" at the end of para. (7); replaced the period at the end of para. (8) with "; and"; and added a new para. (9).

<sup>293</sup>22 U.S.C. 4071b.

<sup>294</sup>Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

<sup>295</sup>Sec. 204(b)(1) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees", and inserted in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)".

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title) are not participants in the System, except to the extent provided for under title III of the Federal Employees' Retirement System Act of 1986 pursuant to an election under such title to become subject to this subchapter (under regulations issued by the Secretary of State pursuant to section 860).

(d) The Secretary may exclude from the operation of this subchapter any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career appointment or career candidate appointment under section 306.

SEC. 854.<sup>288, 296</sup> CREDITABLE SERVICE.—(a) For purposes of this subchapter, creditable service of a participant includes—

(1) service as a participant after December 31, 1986;

(2) service with respect to which deductions and withholdings under section 204(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 have been made; and

(3) except as provided in subsection (b), any civilian service performed before January 1, 1989 (other than service under paragraph (1) or (2)), which, but for the amendment made by section 414 of the Federal Employees' Retirement System Act of 1986, would be creditable under subchapter I (determined without regard to any deposit or redeposit requirement under such subchapter, subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.))<sup>297</sup> any requirement that the individual become subject to such subchapter or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such subchapter or title).

(b)(1) A participant who has received a refund of retirement deductions under subchapter I with respect to any service described in subsection (a)(3) may not be allowed credit for such service under this subchapter unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(2) A participant may not be allowed credit under this subchapter for any service described in subsection (a)(3) for which retirement deductions under subchapter I have not been made, unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

<sup>296</sup> 22 U.S.C. 4071c.

<sup>297</sup> Sec. 204(b)(2)(A) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserted in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)."

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

(3) Interest under paragraph (1) or (2) shall be computed in accordance with section 805(d) and regulations issued by the Secretary of State.

(c)<sup>298</sup> (1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

(C) a full-time volunteer for a period of service of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2000,<sup>299</sup> shall be as follows:

3.25 ..... January 1, 1999, to December 31, 1999.

3.4 ..... January 1, 2000, to December 31, 2000.

(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, United States Code, together with interest determined under regulations issued by the Secretary of State.

(d) Credit shall be given under this System to a participant for a period of prior service under the Federal Employees' Retirement System (described in chapter 84 of title 5, United States Code) or under title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)<sup>300</sup> if the participant waives credit under the other retirement system and makes a payment to the Fund equal to the amount which was deducted and withheld from the individual's basic pay under the other retirement system<sup>301</sup> during the prior creditable service under the other retirement system together with interest on such amount computed in accordance with regulations issued by the Secretary of State.

(e)<sup>302</sup> A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing Mem-

<sup>298</sup>Sec. 7001(e)(1)(B) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) amended and restated subsec. (c).

<sup>299</sup>Sec. 505(e)(2) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394 enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-54), struck out "December 31, 2002" and inserted in lieu thereof "December 31, 2000". In the matter after the colon, that sec. struck out "3.5..... January 1, 2001, to December 31, 2002" after "December 31, 2000".

<sup>300</sup>Sec. 204(b)(2)(B) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "title III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserted in lieu thereof "title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)".

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

<sup>301</sup>Sec. 405(a) of Public Law 99-556 (100 Stat. 3137) struck out "which would have been deducted from pay under section 856(a) had the individual been a participant" and inserted in lieu thereof "which was deducted and withheld from the individual's basic pay under the other retirement system".

<sup>302</sup>Sec. 405(b) of Public Law 99-556 (100 Stat. 3137) added subsec. (e).

ber or office in the Congress shall make a contribution<sup>303</sup> (from the appropriation or fund which is used for payment of the salary of the participant) determined under section 857(a)<sup>304</sup> to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this subchapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

SEC. 855.<sup>289, 305</sup> ENTITLEMENT TO ANNUITY.—(a)(1) Any participant may be retired under the conditions specified in section 811 and shall be retired under the conditions specified in sections 812 and 813 and receive benefits under this subchapter.

(2) For the purposes of this subsection—

(A) the term “participant”, as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

(B) the term “System”, as used in those sections, means the Foreign Service Pension System.

(3)<sup>306</sup> For purposes of any annuity computation under this subsection, the average pay (as used in section 8414 of title 5, United States Code) of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary that would have been paid to the member had the member’s official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member’s official duty station had been Washington, D.C.

(b)(1) Any participant who retires voluntarily or mandatorily under section 607, 608, 611,<sup>307</sup> 811, 812, or 813 under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System or for participants in the Foreign Service Pension System,<sup>308</sup> and who has completed at least 5 years as a member of the Foreign Service,<sup>309</sup> shall be entitled to an immediate annuity computed under paragraph (2).

(2) An annuity under paragraph (1) shall be computed—

<sup>303</sup> Sec. 242(1) of Public Law 100-238 (101 Stat. 1776) struck out “matching” here.

<sup>304</sup> Sec. 242(2) of Public Law 100-238 (101 Stat. 1776) inserted “determined under section 857(a)”.

<sup>305</sup> 22 U.S.C. 4071d.

<sup>306</sup> Sec. 322(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), added para. (3). Sec. 322(c)(1) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”

<sup>307</sup> Sec. 2(d)(3)(B) of Public Law 105-382 (112 Stat. 3408) inserted the reference to sec. 611. Sec. 2312(b)(1)(A) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), made the same amendment. The amendment made by Public Law 105-277 is effective, with respect to any actions taken under sec. 611, on or after January 1, 1996, pursuant to sec. 2312(c)(3) of that Act.

<sup>308</sup> Sec. 2312(b)(1)(B) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), inserted “or for participants in the Foreign Service Pension System.”

<sup>309</sup> Sec. 406(a) of Public Law 99-556 (100 Stat. 3138) struck out “of service subject to this chapter” at this point and inserted “as a member of the Foreign Service”. Sec. 2312(b)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), inserted a comma after “Service”.

(A)<sup>310</sup> in accordance with section 8416(d)(1) of title 5, United States Code, for all service while a participant in this System and for prior service creditable under this subchapter not otherwise counted as—

(i) a member of the Service,

(ii) an employee of the Central Intelligence Agency entitled to retirement credit under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))<sup>311</sup> or

(iii) a participant as a Member of Congress, a congressional employee, law enforcement officer, firefighter, or air traffic controller in the Civil Service Retirement System under subchapter III of chapter 83, title 5, United States Code, or in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code; and

(B) at the rate stated in section 8415(a) of title 5, United States Code, for all other service creditable under this System including service in excess of 20 years otherwise creditable under paragraph (A).

(3)<sup>312</sup> any participant who is involuntarily retired or separated under section 607, 608, 611, 610, or 611<sup>313</sup> and who would if a participant under subchapter I, become eligible for a refund of contributions or a deferred annuity under subchapter I, shall, in lieu thereof, receive benefits for an involuntary separation under this subchapter.

(4)<sup>312</sup> A disability annuity under this subchapter required to be redetermined under section 8452(b) of title 5, United States Code, or computed under section 8452 (c) or (d) of such title 5, shall be recomputed or computed using the formula in subsection (b)(2)(A) of this section rather than section 8415 of such title 5 (as stated in section 8452(b)(2)(A) and 8452 (c) and(d) of such title). Such annuity shall also be computed in accordance with the preceding sentence if, as of the day on which such annuity commences or is restored, the annuitant satisfies the age and service requirements for entitlement to an immediate annuity under section 811 of this Act.

(5)<sup>312</sup> A former participant entitled to a deferred annuity under section 8413(b) of title 5, United States Code, shall not be subject to section 8415(f)(1) of such title 5 if the former participant has 20

<sup>310</sup> Sec. 406(b) of Public Law 99-556 (100 Stat. 3138) substantially amended and restated all subparagraphs under sec. 855(b).

<sup>311</sup> Sec. 204(b)(3) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2033) struck out "under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act" and inserted in lieu thereof "under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))".

Previously, sec. 804(b) of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102-496; 106 Stat. 3253) provided that any reference in law to the "Central Intelligence Agency Retirement Act of 1964 for Certain Employees" shall be deemed to refer to the "Central Intelligence Agency Retirement Act", as amended and restated by sec. 802 of Public Law 102-496.

<sup>312</sup> Sec. 406(c) of Public Law 99-556 (100 Stat. 3138) added paras. (3), (4), (5), and (6).

<sup>313</sup> Sec. 2(d)(3)(B) of Public Law 105-382 (112 Stat. 3408) inserted the reference to sec. 611. Sec. 2312(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-827), struck out "or 610" and inserted in lieu thereof "610, or 611", resulting in the redundant reference to sec. 611. The amendment made by Public Law 105-277 is effective, with respect to any actions taken under sec. 611, on or after January 1, 1996, pursuant to sec. 2312(c)(3) of that Act.

years of service creditable under this subchapter and is at least 50 years of age as of the date on which the annuity is to commence.

(6)<sup>312</sup> (A) The amount of a survivor annuity for a widow or widower of a participant or former participant shall be 50 percent of an annuity computed for the deceased under this subchapter rather than under section 8415 of such title 5 (as stated in sections 8442(a)(1), (b)(1)(B), and (c)(2) of such title).

(B) Any calculation for a widow or widower of a participant or former participant under section 8442(f)(2)(A)<sup>314</sup> shall be based on an “assumed FSRDS annuity” rather than an “assumed CSRS annuity” as stated in such section. For the purpose of this subparagraph, the term “assumed FSRDS annuity” means the amount of the survivor annuity to which the widow or widower would be entitled under subchapter I based on the service of the deceased annuitant determined under section 8442(f)(5) of such title 5.

(c) A participant who is entitled to an immediate annuity under subsection (b) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with sections 8421(b) and 8421a of title 5, United States Code, as if the participant were a law enforcement officer retired under section 8412(d) of such title.

(d) Any participant who is separated for cause under section 610 shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

**SEC. 856.<sup>289, 315</sup> DEDUCTIONS AND WITHHOLDINGS FROM PAY.—**

(a)<sup>316</sup> The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3101(a)) (relating to the rate of tax for old age, survivors, and disability insurance).

(2) The applicable percentage under this subsection shall be as follows:<sup>317</sup>

7.5 .....	Before January 1, 1999.
7.75 .....	January 1, 1999, to December 31, 1999.
7.9 .....	January 1, 2000, to December 31, 2000.
7.55 .....	After January 11, 2003.

(b) Each participant is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of a participant, payment less such deductions is

<sup>314</sup> Refers to 5 U.S.C. 8442(f)(2)(A).

<sup>315</sup> 22 U.S.C. 4071e.

<sup>316</sup> Sec. 7001(e)(1)(A) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 661) amended and restated subsec. (a).

<sup>317</sup> Sec. 322(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1384), struck out “7.5..... After December 31, 2000” and inserted in lieu thereof “7.55..... After January 11, 2003”. Previously, sec. 505(e)(1) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (H.R. 5394 enacted by reference in sec. 101(a) of Public Law 106-346; 114 Stat. 1356A-128), struck out “8..... January 1, 2001, to December 31, 2002” and “7.5..... After December 31, 2002” from the chart in para. (2), and inserted in lieu thereof “7.5..... After December 31, 2000”.

Sec. 322(c)(2) of Public Law 107-228 (116 Stat. 1385) provided the following:

“(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act.”

a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this subchapter based on the service of the participant.

(c) Amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe.

(d) Under such regulations as the Secretary of State may issue, amounts deducted under subsection (a) shall be entered on individual retirement records.

SEC. 857.<sup>289, 318, 319</sup> GOVERNMENT CONTRIBUTIONS.—(a) Each agency employing any participant shall contribute to the Fund the amount computed in a manner similar to that used under section 8423(a) of title 5, United States Code, pursuant to determinations of the normal cost percentage for the Foreign Service Pension System by the Secretary of State.

(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year beginning after September 30, 1987. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection for such year.

(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

SEC. 858.<sup>289, 320</sup> COST-OF-LIVING ADJUSTMENTS.—Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5, United States Code, in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section.

SEC. 859.<sup>289, 321</sup> GENERAL AND ADMINISTRATIVE PROVISIONS.—(a) The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapter III and VI of chapter 84 of title 5, United States Code. The Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes.

<sup>318</sup> 22 U.S.C. 4071f.

<sup>319</sup> Sec. 7001(e)(2) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 662) provided the following:

“(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.”

See related amendments at secs. 856(a) and 854(c) of this Act.

<sup>320</sup> 22 U.S.C. 4071g.

<sup>321</sup> 22 U.S.C. 4071h.

(b) Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 title 5, United States Code, or the Director of such Office, would be appealable to the Merit Systems Protection Board, except that determinations of disability for participants shall be based upon the standards in section 808 (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

(c) At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

SEC. 860.<sup>289, 322</sup> TRANSITION PROVISIONS.—The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), to the Federal Employees' Retirement System. For this and related purposes, references made to participation in subchapter III of chapter 83 of title 5, United States Code (the Civil Service Retirement System), the Social Security Act, and the Internal Revenue Code of 1986<sup>323</sup> shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate.

SEC. 861.<sup>289, 324</sup> FORMER SPOUSES.—(a)(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this subchapter, a former spouse of a participant or former participant is entitled, during the period described in subchapter (B), to a share (determined under paragraph (2)) of all benefits otherwise payable to such participant under this subchapter if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service.

(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

(2) The share referred to in paragraph (1) equals—

(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this chapter; or

<sup>322</sup> 22 U.S.C. 4071i.

<sup>323</sup> Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

<sup>324</sup> 22 U.S.C. 4071j.



(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(4)(A) For purposes of the Internal Revenue Code of 1986,<sup>325</sup> payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

(B) Any reduction in payments to a participant or former participant as a result of payments to a former spouse under this subsection shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse, or other survivor under this subchapter, and

(ii) any reduction in the annuity of the participant to provide survivor benefits under this subchapter.

(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her creditable service, for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this subchapter which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this subchapter.

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, United States Code, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this subchapter, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

(b)(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this subchapter to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be pay-

<sup>325</sup>Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

able under this subchapter to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this chapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

(3)<sup>326</sup> A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(c) A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5, United States Code, or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

(d) If a member becomes a participant under this subchapter after qualifying for benefits under subchapter I and, at the time of transfer, has a former spouse entitled to benefits under subchapter I which are determined under section 814 or 815 (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 814 or 815 and the service of the member as a participant under this subchapter is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply.

(e) If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, United States Code, to a former spouse, such survivor annuity shall be paid under the terms of this subchapter as if the survivor annuity had been ordered by a court.

SEC. 862.<sup>289, 327</sup> SPOUSAL AGREEMENTS.—A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this Act and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this subchapter to a spouse or former spouse.

<sup>326</sup> Sec. 407 of Public Law 99-556 (100 Stat. 3139) added para. (3).

<sup>327</sup> 22 U.S.C. 4071k.

## CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

SEC. 901.<sup>328</sup> TRAVEL AND RELATED EXPENSES.—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

- (1) proceeding to and returning from assigned posts of duty;
- (2) authorized or required home leave;
- (3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;
- (4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;
- (5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

- (6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour unbroken by home leave and of 2 round trips during any continuous 3-year tour unbroken by home leave;

- (7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

<sup>328</sup> 22 U.S.C. 4081.

(8) trips by a member of the Service, and members of his or her family,<sup>329</sup> for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

(9)<sup>330</sup> round-trip travel to or from an employee's post of assignment for purposes of family visitation in emergency situations involving personal hardship, except that payment for travel by family members to an employee's post of assignment may be authorized under this paragraph only where the family of the member is prevented by official order from residing at such post;

(10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status or, if death occurs in the United States, transport of the remains to the designated home in the United States or to a place not more distant;<sup>331</sup>

(11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Serv-

<sup>329</sup>Sec. 315(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out "Service" and inserted in lieu thereof "Service, and members of his or her family." Sec. 315(b) and (c) of that Act provided the following:

"(b) PROMULGATION OF GUIDANCE.—The Secretary shall promulgate guidance for the implementation of the amendments made by subsection (a) to ensure its implementation in a manner which does not substantially increase the total amount of travel expenses paid or reimbursed by the Department for travel under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

"(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which guidance for implementation of such amendment is issued by the Secretary."

<sup>330</sup>Sec. 148 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 38), restated para. (9). It formerly read as follows:

"(9) round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;"

<sup>331</sup>Sec. 146 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 669), inserted text to this point beginning with "or, if death occurs in the United States,".

ice post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days;<sup>332</sup> and

(C) in connection with separation of the member from the Service, except that costs or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days;<sup>332</sup>

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, but transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the members and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of chapter 33 of title 5, United States Code (notwithstanding section 3375(a) of such title, if an agree-

<sup>332</sup>Sec. 145(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), inserted “, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days”.

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

<sup>333</sup>Sec. 145(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), inserted “, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days”.

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

ment similar to that required by section 3375(b) of such title is executed by the member of the Service); and

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5, United States Code; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent.<sup>334</sup>

SEC. 902.<sup>335</sup> LOAN OF HOUSEHOLD EFFECTS.—The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences.

SEC. 903.<sup>336</sup> REQUIRED LEAVE IN THE UNITED STATES.—(a) The Secretary may order a member of the Service (other than a member employed under section 311)<sup>337</sup> who is a citizen of the United States to take a leave of absence under section 6305 of title 5, United States Code (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of 18 months of continuous service abroad. The Secretary shall order on such a leave of absence a member of the Service (other than a member employed under section 311)<sup>337</sup> who is a citizen of the United States as soon as possible after completion by that member of 3 years of continuous service abroad.

(b) Leave ordered under this section may be taken in the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

(c) While on a leave of absence ordered under this section, the services of any member of the Service shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave.

SEC. 904.<sup>338</sup> HEALTH CARE.—(a) The Secretary of State shall establish a health care program to promote and maintain the phys-

<sup>334</sup> Sec. 328 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1387), struck out “port of entry in the contiguous 48 States which is nearest to that post” and inserted in lieu thereof “residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent”.

<sup>335</sup> 22 U.S.C. 4082.

<sup>336</sup> 22 U.S.C. 4083.

<sup>337</sup> Sec. 180(a)(8) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “(other than a member employed under section 311)” after “member of the Service” at each point it appears in sec. 903(a).

<sup>338</sup> 22 U.S.C. 4084. Sec. 122 of Public Law 99-93 (99 Stat. 405) amended subsec. (a), by striking out “may” and inserting in lieu thereof “shall”; and subsec. (b), by inserting “, and other

ical and mental health of members of the Service, and (when incident to service abroad) other designated eligible Government employees, and members of the families of such members and employees.

(b) Any such health care program may include (1) medical examinations for applicants for employment, (2) medical examinations and inoculations or vaccinations, and other preventive and remedial care and services as necessary, for members of the Service and employees of the Department who are citizens of the United States and for members of their families, (3) health education and disease prevention programs for all employees, and (4)<sup>339</sup> examinations necessary in order to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System or Foreign Service Pension System<sup>340</sup> or to provide survivor benefits under chapter 8.

(c) The Secretary of State may establish health care facilities and provide for the services of physicians, nurses, or other health care personnel at Foreign Service posts abroad at which, in the opinion of the Secretary of State, a sufficient number of Government employees are assigned to warrant such facilities or services.

(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition which requires treatment while assigned to a post abroad located overseas pursuant to Government authorization, the Secretary may pay the cost of such treatment.

(e) Health care may be provided under this section to a member of the Service or other designated eligible Government employee after the separation of such member or employee from Government service. Health care may be provided under this section to a member of the family of a member of the Service or of a designated eligible Government employee after the separation from Government service or the death of such member of the Service or employee or after dissolution of the marriage.

(f) The Secretary of State shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary of State determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary may, for such individuals, locations, and conditions as the Secretary of State deems appropriate, contract for health care pursuant to such arrangements as the Secretary deems appropriate.

(g)<sup>341</sup> Reimbursements paid to the Department of State for funding the costs of medical care abroad for employees and eligible fam-

preventive and remedial care and services as necessary," after "inoculations or vaccinations"; and by amending subsec. (d) which previously read as follows:

"(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury, or medical condition clearly was caused or materially aggravated by the fact that the individual concerned is or has been located abroad."

<sup>339</sup>Sec. 316 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out "families, and (3)" and inserted in lieu thereof "families, (3) health education and disease prevention programs for all employees, and (4)".

<sup>340</sup>Sec. 243 of Public Law 100-238 (101 Stat. 1776) inserted "or Foreign Service Pension System".

<sup>341</sup>Sec. 2 of Public Law 109-140 (119 Stat. 2650) added subsec. (g).

ily members shall be credited to the currently available applicable appropriation account. Such reimbursements shall be available for obligation and expenditure during the fiscal year in which they are received or for such longer period of time as may be provided in law.

SEC. 905.<sup>342</sup> REPRESENTATION EXPENSES.—Notwithstanding section 5536 of title 5, United States Code, the Secretary may provide for official receptions and may pay entertainment and representational expenses (including expenses of family members) to enable the Department and the Service to provide for the proper representation of the United States and its interests. In carrying out this section, the Secretary shall, to the maximum extent practicable, provide for the use of United States products, including American wine.

SEC. 906.<sup>343</sup> ENTITLEMENT TO VOTE IN A STATE IN A FEDERAL ELECTION.—(a) Except as provided in subsection (b) and in such manner as shall be otherwise authorized by a State or other jurisdiction within the territory of the United States, a member of the Service residing outside the United States shall, in addition to any entitlement to vote in a State in a Federal election under section 3 of the Overseas Citizens Voting Rights Act (42 U.S.C. 1973dd-1), be entitled to vote in a Federal election in the State in which such member was last domiciled immediately before entering the Service if such member—

(1) makes an election of that State;

(2) notifies that State of such election and notifies any other States in which he or she is entitled to vote of such election; and

(3) otherwise meets the requirements of such Act.

(b) The provisions of subsection (a) shall apply only to an individual who becomes a member of the Service on or after the date of enactment of this section and shall not apply to an individual who registers to vote in a State in which he is entitled to vote under section 3 of Overseas Citizens Voting Rights Act.

#### CHAPTER 10—LABOR-MANAGEMENT RELATIONS

SEC. 1001.<sup>344</sup> LABOR-MANAGEMENT POLICY.—The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of workers to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlement of disputes between workers and their employers involving conditions of employment;

<sup>342</sup> 22 U.S.C. 4085.

<sup>343</sup> 22 U.S.C. 4086. Sec. 129(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027) added sec. 906.

<sup>344</sup> 22 U.S.C. 4101.



(2) the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work practices to facilitate improved performance and efficiency; and

(3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

SEC. 1002.<sup>345</sup> DEFINITIONS.—As used in this chapter, the term—

(1) “Authority” means the Federal Labor Relations Authority, described in section 7104(a) of title 5, United States Code;

(2) “Board” means the Foreign Service Labor Relations Board, established by section 1006(a);

(3) “collective bargaining” means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) “collective bargaining agreement” means an agreement entered into as a result of collective bargaining under the provisions of this chapter;

(5) “conditions of employment” means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practices, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5, United States Code;

(B) relating to the designation or classification of any position under section 501;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multiagency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

(6) “confidential employee” means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

<sup>345</sup> 22 U.S.C. 4102.

(7) “dues” means dues, fees, and assessments;

(8) “employee” means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, a member of the Service who is a United States citizen (other than a family member) employed under section 311,<sup>346</sup> or any individual who participates in a strike in violation of section 7311 of title 5, United States Code; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 1015 and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(9) “exclusive representative” means any labor organization which is certified as the exclusive representative of employees under section 1011;

(10) “General Counsel” means the General Counsel of the Authority;

(11) “labor organization” means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 1101) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) “management official” means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

<sup>346</sup>Sec. 180(a)(9) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “a member of the Service who is a United States citizen (other than a family member) employed under section 311,” after “a consular agent.”

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 209; or

(F) is engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department;

(13) “Panel” means the Foreign Service Impasse Disputes Panel, established by section 1010(a); and

(14) “person” means an individual, a labor organization, or an agency to which this chapter applies.

SEC. 1003.<sup>347</sup> APPLICATION.—(a) This chapter applies only with respect to the Department of State, the Broadcasting Board of Governors, the Agency for International Development,<sup>348</sup> the Department of Agriculture, and the Department of Commerce.

(b) The President may by Executive order exclude any subdivision of the Department from coverage under this chapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(c) The President may by Executive order suspend any provision of this chapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

SEC. 1004.<sup>349</sup> EMPLOYEE RIGHTS.—(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

SEC. 1005.<sup>350</sup> MANAGEMENT RIGHTS.—(a) Subject to subsection (b), nothing in this chapter shall affect the authority of any management official of the Department, in accordance with applicable law—

<sup>347</sup> 22 U.S.C. 4103.

<sup>348</sup> Sec. 1335(k)(3) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(C) of that Act (112 Stat. 2681-793) struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “Agency for International Development”.

<sup>349</sup> 22 U.S.C. 4104.

<sup>350</sup> 22 U.S.C. 4105.

(1) to determine the mission, budget, organization, and internal security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any member in accordance with regulations prescribed under section 605(b);

(3)<sup>351</sup> to conduct reductions in force, and to prescribe regulations for the separation of employees pursuant to such reductions in force conducted under section 611;

(4)<sup>351</sup> to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(5)<sup>351</sup> to fill positions from any appropriate source;

(6)<sup>351</sup> to determine the need for uniform personnel policies and procedures between or among the agencies to which this chapter applies; and

(7)<sup>351</sup> to take whatever actions may be necessary to carry out the mission of the Department during emergencies.

(b) Nothing in this section shall preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the Department will observe in exercising any function under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section by such management officials.

SEC. 1006.<sup>352</sup> FOREIGN SERVICE LABOR RELATIONS BOARD.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Labor Relations Board. The Board shall be composed of 3 members, 1 of whom shall be the Chairman of the Authority, who shall be the Chairperson of the Board. The remaining 2 members shall be appointed by the Chairperson of the Board from nominees approved in writing by the agencies to which this chapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, the Chairperson shall appoint the remaining 2 members from among individuals the Chairperson considers

<sup>351</sup> Sec. 181(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), as amended, redesignated paras. (3) through (6) as paras. (4) through (7), respectively; and added a new para. (3). Sec. 181(c) of that Act, furthermore, provided the following:

“(c) CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system), the head of that agency [sic] shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.”

<sup>352</sup> 22 U.S.C. 4106.

knowledgeable in labor-management relations and the conduct of foreign affairs.

(b) The Chairperson shall serve on the Board while serving as Chairman of the Authority. Of the 2 original members of the Board other than the Chairperson, one shall be appointed for a 2-year term and one shall be appointed for a 3-year term. Thereafter, each member of the Board other than the Chairperson shall be appointed for a term of 3 years, except that an individual appointed to fill a vacancy occurring before the end of a term shall be appointed for the unexpired term of the member replaced. The Chairperson may at any time designate an alternate Chairperson from among the members of the Authority.

(c) A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(d) The members of the Board, other than the Chairperson, may not hold another office or position in the Government except as authorized by law, and shall receive compensation at the daily equivalent of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code,<sup>353</sup> for each day they are performing their duties (including traveltime).

(e) The Chairperson may remove any other Board member, upon written notice, for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

SEC. 1007.<sup>354</sup> FUNCTIONS OF THE BOARD.—(a) The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this chapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 1014; and

(5) take any action considered necessary to administer effectively the provisions of this chapter.

(b) Decisions of the Board under this chapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, United States Code, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this chapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5, United States Code.

(c) In order to carry out its functions under this chapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this chapter; and

(2) the Board may—

<sup>353</sup>The current rate of compensation at level V of the Executive Schedule is \$133,900 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

<sup>354</sup>22 U.S.C. 4107.

(A) adopt other regulations concerning its functions under this chapter;

(B) conduct appropriate inquiries wherever persons subject to this chapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpoenas;

(E) require the Department or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action the Board considers appropriate to carry out this chapter; and

(F) consistent with the provisions of this chapter, exercise the functions the Authority has under chapter 71 of title 5, United States Code, to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

SEC. 1008.<sup>355</sup> FUNCTIONS OF THE GENERAL COUNSEL.—The General Counsel may—

(1) investigate alleged unfair labor practices under this chapter,

(2) file and prosecute complaints under this chapter, and

(3) exercise such other powers of the Board as the Board may prescribe.

SEC. 1009.<sup>356</sup> JUDICIAL REVIEW AND ENFORCEMENT.—(a) Except as provided in section 1014(d), any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia.

(b) The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this chapter and for any appropriate temporary relief or restraining order.

(c) Subsection (c) of section 7123 of title 5, United States Code, shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5, United States Code.

(d) The Board may, upon issuance of a complaint as provided in section 1016 charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed.

<sup>355</sup> 22 U.S.C. 4108.

<sup>356</sup> 22 U.S.C. 4109.

SEC. 1010.<sup>357</sup> FOREIGN SERVICE IMPASSE DISPUTES PANEL.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this chapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows:

- (1) 2 members of the Service (other than a management official, a confidential employee or a labor organization official);
- (2) one individual employed by the Department of Labor;
- (3) one member of the Federal Service Impasses Panel; and
- (4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Panel members referred to in subsection (a) (3) and (4) shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, except that the member who is also a member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) of title 5, United States Code. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5, United States Code.

(c)(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impasse and shall either—

- (A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or
- (B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

- (A) hold hearings;
- (B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpoenas as provided in section 7132 of title 5, United States Code; and
- (C) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

SEC. 1011.<sup>358</sup> EXCLUSIVE RECOGNITION.—(a) The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret bal-

<sup>357</sup> 22 U.S.C. 4110.

<sup>358</sup> 22 U.S.C. 4111.

lot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

(c) A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved; may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d)(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose—

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the regulations of the Board shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and



representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influences or influence opposed to democratic principles; or

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at least 30 percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Board.

SEC. 1012.<sup>359</sup> EMPLOYEES REPRESENTED.—The employees of the Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded—

(1) employees engaged in personnel work in other than a purely clerical capacity; and

(2) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

SEC. 1013.<sup>360</sup> REPRESENTATION RIGHTS AND DUTIES.—(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 1012. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(b)(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning any grievance (as defined in section 1101) or any personnel policy or practice or other general condition of employment; and

(B) any examination of an employee by a Department representative in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may

<sup>359</sup> 22 U.S.C. 4112.

<sup>360</sup> 22 U.S.C. 4113.

determine appropriate techniques, consistent with the provisions of section 1010, to assist in any negotiation.

(d) The rights of an exclusive representative under this section shall not preclude an employee from—

- (1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any grievance proceeding under chapter 11; or
- (2) exercising grievance or appeal rights established by law, rule, or regulation.

(e) The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

- (1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;
- (2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;
- (3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;
- (4) for the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data—
  - (A) which is normally maintained by the Department in the regular course of business;
  - (B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and
  - (C) which does not constitute guidance, advice, counsel, or training provided for management officials or confidential employees, relating to collective bargaining;
- (5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and
- (6) if agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

(f)(1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within 30 days after the date of the agreement unless the Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after 30 days from its execution and shall be binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

(g) The Department shall consult with the exclusive representative with respect to Government-wide or multiagency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system. The exclusive representative shall be informed of any change proposed by the Department with respect to such matters,

and shall be permitted reasonable time to present its views and recommendations regarding such change. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

SEC. 1014.<sup>361</sup> RESOLUTION OF IMPLEMENTATION DISPUTES.—(a) Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall—

- (1) be fair and simple,
- (2) provide for expeditious processing, and
- (3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled.

(b) Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board in resolving the implementation dispute. If, upon review, the Board finds that the action is deficient—

- (1) because it is contrary to any law, rule, or regulation; or
- (2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Board may take such action and make such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

(c) If no exception to a Foreign Service Grievance Board action is filed under subsection (b) within 30 days after such action is communicated to the parties, such action shall become final and binding and shall be implemented by the parties.

(d) Resolutions of disputes under this section shall not be subject to judicial review.

SEC. 1015.<sup>362</sup> UNFAIR LABOR PRACTICES.—(a) It shall be an unfair labor practice for the Department—

- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
- (2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;
- (3) to sponsor, control, or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;
- (4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit, or testimony under this chapter;
- (5) to refuse to consult or negotiate in good faith with a labor organization, as required under this chapter;

<sup>361</sup> 22 U.S.C. 4114.

<sup>362</sup> 22 U.S.C. 4115.

- (6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;
  - (7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of title 5, United States Code) which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or
  - (8) to fail or refuse otherwise to comply with any provision of this chapter.
- (b) It shall be an unfair labor practice for a labor organization—
- (1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;
  - (2) to cause or attempt to cause the Department to discriminate against any employee in the exercise by the employee of any right under this chapter;
  - (3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;
  - (4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;
  - (5) to refuse to consult or negotiate in good faith with the Department, as required under this chapter;
  - (6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;
  - (7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department in a labor-management dispute (except that any such picketing in the United States which does not interfere with the Department's operations shall not be an unfair labor practice); or
  - (B) to condone any unfair labor practice described in subparagraph (A) by failing to take action to prevent or stop such activity;
  - (8) to deny membership to any employee in the unit represented by the labor organization except—
    - (A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or
    - (B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this chapter; or
  - (9) to fail or refuse otherwise to comply with any provision of this chapter.
- (c) The expression of any personal view, argument, or opinion, or the making of any statement, which—
- (1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;
  - (2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation, if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

(A) constitute an unfair labor practice under this chapter, or

(B) constitute grounds for the setting aside of any election conducted under this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 1109(a)(2),<sup>363</sup> an employee has an option of using the grievance procedure under chapter 11 or an appeals procedure, issues which can be raised under section 1014 or chapter 11 may, in the discretion of the aggrieved party, be raised either under section or chapter or else raised as an unfair labor practice under this section, but may not be raised both under this section and under section 1014 or chapter 11.

SEC. 1016.<sup>364</sup> PREVENTION OF UNFAIR LABOR PRACTICES.—(a) If the Department or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the Department or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

(b) Any complaint under subsection (a) shall contain a notice—

(1) of the charge;

(2) that a hearing will be held before the Board (or any member thereof or before an individual employed by the Board and designated for such purpose); and

(3) of the time and place fixed for the hearing.

(c) The labor organization or Department involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(d)(1) Except as provided in paragraph (2), no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Board.

(2) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in paragraph (1) by reason of—

(A) any failure of the Department or labor organization against which the charge is made to perform a duty owed to the person, or

(B) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

<sup>363</sup> Sec. 153(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 674), struck out "section 1109(b)" and inserted in lieu thereof "section 1109(a)(2)".

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

<sup>364</sup> 22 U.S.C. 4116.

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(e) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(f) The Board (or any member thereof or any individual employed by the Board and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Board, in its discretion, may upon notice receive further evidence or hear argument.

(g) If the Board (or any member thereof or any individual employed by the Board and designated for such purpose) determines after any hearing on a complaint under subsection (f) that the preponderance of the evidence received demonstrates that the Department or labor organization named in the complaint has engaged in or is engaged in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the Department or labor organization an order—

(1) to cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) requiring reinstatement of an employee with backpay in accordance with section 5596 of title 5, United States Code; or

(4) including any combination of the actions described in paragraphs (1) through (3) or such other action as will carry out the purpose of this chapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the Department (as provided in section 5596 of title 5, United States Code) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(h) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the Department or labor organization named in the complaint has engaged in or is engaged in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

SEC. 1017.<sup>365</sup> STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS.—(a) The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and others employed by the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor or-

<sup>365</sup> 22 U.S.C. 4117.

ganization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e)<sup>366</sup> (1) Notwithstanding any other provision of this chapter—

(A) participation in the management of a labor organization for purposes of collective bargaining or acting as a representative of a labor organization for such purposes is prohibited under this chapter—

(i) on the part of any management official or confidential employee;

(ii) on the part of any individual who has served as a management official or confidential employee during the preceding two years; or

(iii) on the part of any other employee if the participation or activity would result in a conflict of interest or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such employee; and

(B) service as a management official or confidential employee is prohibited on the part of any individual having participated in the management of a labor organization for purposes of collective bargaining or having acted as a representative of a labor organization during the preceding two years.

(2)<sup>367</sup> For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term “management official” does not include—

(A) any chief of mission;

(B) any principal officer or deputy principal officer;

(C) any administrative or personnel officer abroad; or

(D) any individual described in section 1002(12) (B), (C), or (D) who is not involved in the administration of this chapter or in the formulation of the personnel policies and programs of the Department.

(f) If the Board finds that any labor organization has willfully and intentionally violated section 1015(b)(7) by omission or commission with regard to any strike, work stoppage, slowdown, the Board shall—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

SEC. 1018.<sup>368</sup> ADMINISTRATIVE PROVISIONS.—(a) If the Department has received from any individual a written assignment which authorizes the Department to deduct from the salary of that indi-

<sup>366</sup>Sec. 171 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 411), amended and restated subsec. (e). It formerly read as follows:

“(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such management official or such employee.”

<sup>367</sup>Sec. 2315 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-828), amended and restated para. (2). It formerly read as follows:

“(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term ‘management official’ shall not include chiefs of mission, principal officers and their deputies, and administrative and personnel officers abroad.”

<sup>368</sup>22 U.S.C. 4118.



vidual amounts for the payment of regular and periodic dues of the exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) An assignment for deduction of dues shall terminate when—

(1) the labor organization ceases to be the exclusive representative;

(2) the individual ceases to receive a salary from the Department as a member of the Service; or

(3) the individual is suspended or expelled from membership in the exclusive representative.

(c) During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 1011(b)(1)(A) alleging that 10 percent of the employees in the Department have membership in the organization if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the salary of the individuals who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

(d) The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials, and collection of dues, shall be performed during the time the employee is in a nonduty status.

(3) Except as provided in paragraph (1), the Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2), and (3), any employee representing an exclusive representative, or engaged in any other matter covered by this chapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary, and in the public interest.

## CHAPTER 11—GRIEVANCES

SEC. 1101.<sup>369</sup> DEFINITION OF GRIEVANCE.—(a)(1) Except as provided in subsection (b), for purposes of this chapter, the term “grievance” means any act, omission, or condition subject to the control of the Secretary which is alleged to deprive a member of the Service who is a citizen of the United States (other than a United States citizen employed under section 311 who is not a family member)<sup>370</sup> of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including—

(A) separation of the member allegedly contrary to laws or regulations, or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial character of information in any part of the official personnel record of the member;

(B) other alleged violation, misinterpretation, or misapplication of applicable laws, regulations, or published policy affecting the terms and conditions of the employment or career status of the member;

(C) allegedly wrongful disciplinary action against the member;

(D) dissatisfaction with respect to the working environment of the member;

(E) alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(F) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by the member in procedures under this chapter;<sup>371</sup>

(G) alleged denial of an allowance, premium pay, or other financial benefit to which the member claims entitlement under applicable laws or regulations; and<sup>371</sup>

(H)<sup>371</sup> any discrimination prohibited by—

(i) section 717 of the Civil Rights Act of 1964,

(ii) section 6(d) of the Fair Labor Standards Act of 1938,

(iii) section 501 of the Rehabilitation Act of 1973,

(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967, or

(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (iv).

(2) The scope of grievances described in paragraph (1) may be modified by written agreement between the Department and the labor organization accorded recognition as the exclusive representa-

<sup>369</sup> 22 U.S.C. 4131.

<sup>370</sup> Sec. 180(a)(10) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 416), inserted “(other than a United States citizen employed under section 311 who is not a family member)” after “citizen of the United States”.

<sup>371</sup> Sec. 153(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), struck out “and” from subpara. (F); replaced the period at the end of subpara. (G) with “; and”; and added a new subpara. (H).

Sec. 153(f) of that Act further provided the following:

“(f) APPLICABILITY.—The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

tive under chapter 10 (hereinafter in this chapter referred to as the “exclusive representative”).

(b) For purposes of this chapter, the term “grievance” does not include—

(1) an individual assignment of a member under chapter 5, other than an assignment alleged to be contrary to law or regulation;

(2) the judgment of a selection board established under section 602, a tenure board established under section 306(b), or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis;

(3) the expiration of a limited appointment, the termination of a limited appointment under section 612,<sup>372</sup> or the denial of a limited career extension or of a renewal of a limited career extension under section 607(b); or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1109(a)(2).<sup>373</sup>

Nothing in this subsection shall exclude any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in subsection (a)(1)(H) from such term.<sup>373</sup>

(c) This chapter applies only with respect to the Department of State, the Broadcasting Board of Governors, the Agency for International Development,<sup>374</sup> the Department of Agriculture, and the Department of Commerce.

SEC. 1102.<sup>375</sup> GRIEVANCES CONCERNING FORMER MEMBERS.—Within the time limitations of section 1104, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this chapter only with respect to allegations described in section 1101(a)(1)(G).

SEC. 1103.<sup>376</sup> FREEDOM OF ACTION.—(a) Any individual filing a grievance under this chapter (hereinafter in this chapter referred to as the “grievant”), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them.

(b)(1) The grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this chapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not rep-

<sup>372</sup> Sec. 181(a)(4)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417), struck out “611” and inserted in lieu thereof “612”.

<sup>373</sup> Sec. 153(a)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), struck out “section 1109(b)” and inserted in lieu thereof “section 1109(a)(2)”. Subpara. (B) of that section further added the closing sentence to para. 4.

Subsec. (f) of sec. 153 further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”.

<sup>374</sup> Sec. 1335(k)(4) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-789) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. Sec. 1422(b)(4)(D) of that Act (112 Stat. 2681-793) struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “Agency for International Development”.

<sup>375</sup> 22 U.S.C. 4132.

<sup>376</sup> 22 U.S.C. 4133.

resented in the grievance by that exclusive representative, the exclusive representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this chapter.

(c) Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this chapter.

(d)(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant, or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance. Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline.<sup>377</sup>

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

(e) The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

SEC. 1104.<sup>378</sup> TIME LIMITATIONS.—(a) A grievance is forever barred under this chapter<sup>379</sup> unless it is filed with the Department not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case more than three years<sup>380</sup> after the occurrence giving rise

<sup>377</sup>Sec. 329 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-438), added "Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline."

<sup>378</sup>22 U.S.C. 4134.

<sup>379</sup>Sec. 153(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), inserted "under this chapter" before "unless".

Subsec. (f) of sec. 153 further provided that "The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act."

<sup>380</sup>Sec. 317 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out "but in no case less than two years" and inserted in lieu thereof "but in no case more than three years".

to the grievance.<sup>381</sup> There shall be excluded from the computation of any such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

(c)<sup>382</sup> (1) In applying subsection (a) with respect to an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), the reference to “2 years”<sup>383</sup> shall be deemed to read “180 days”, subject to paragraph (2).

(2) If the occurrence or occurrences giving rise to the grievance are alleged to have occurred while the grievant was assigned to a post abroad, the 180-day period provided for under paragraph (1) shall not commence until the earlier of—

(A) the date as of which the grievant is no longer assigned to such post; or

(B) the expiration of the 18-month period beginning on the date of the occurrence giving rise to the grievance or the last such occurrence, as the case may be.

SEC. 1105.<sup>384</sup> FOREIGN SERVICE GRIEVANCE BOARD.—(a) There is established the Foreign Service Grievance Board (hereinafter in this chapter referred to as the “Board”). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

(b) The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this chapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be appointed for a term of 2 years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary of State in accordance

<sup>381</sup> Sec. 330(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-438), effective 180 days after enactment, struck out “within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative.” and inserted in lieu thereof “not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant’s rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance.”.

<sup>382</sup> Sec. 153(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), added subsec. (c).

Subsec. (f) of sec. 153 further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”.

<sup>383</sup> Sec. 330(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-438), struck out “3 years” and inserted in lieu thereof “2 years”, effective 180 days after enactment.

<sup>384</sup> 22 U.S.C. 4135.

with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each such agency and exclusive representative shall select 2 nominees and shall, in an order determined by lot, in turn strike a name from a list of such nominees until only one name remains. For purposes of this section, the nominee whose name remains shall be deemed to be approved in writing by each such agency head and exclusive representative.

(c) Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(d) The Secretary of State may, upon written notice, remove a Board member for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing (unless the right to a hearing is waived in writing by the Board member).

(e) The Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the travel and travel-related expenses of a grievant, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The individuals so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such individuals. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department of State under appropriate safeguards to preserve confidentiality.

(f)<sup>385</sup> (1) Not later than March 1 of each year, the Chairman of the Foreign Service Grievance Board shall prepare a report summarizing the activities of the Board during the previous calendar year. The report shall include—

(A) the number of cases filed;

(B) the types of cases filed;

(C) the number of cases on which a final decision was reached, as well as data on the outcome of cases, whether affirmed, reversed, settled, withdrawn, or dismissed;

(D) the number of oral hearings conducted and the length of each such hearing;

(E) the number of instances in which interim relief was granted by the Board; and

(F) data on the average time for consideration of a grievance, from the time of filing to a decision of the Board.

(2) The report required under paragraph (1) shall be submitted to the Director General of the Foreign Service and the Committee

<sup>385</sup>Sec. 331 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-439), added subsec. (f).

on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 1106.<sup>386</sup> BOARD PROCEDURES.—The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following:

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves—

(A) disciplinary action or the retirement of a grievant from the Service under section 607 or 608, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the representatives of the grievant, the exclusive representative (if the grievant is a member of the bargaining unit represented by the exclusive representative), and the representatives of the Department are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given under oath, which any Board member or individual designated by the Board shall have authority to administer.

(3) Each party (including an exclusive representative appearing in the proceedings) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial, or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received, but the Board shall exclude any irrelevant, immaterial, or unduly repetitious evidence, as determined under section 556 of title 5, United States Code.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board does not hold a hearing, the Board shall afford to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to the decision by the Board. The decision of the Board shall be based exclusively on the record of proceedings.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this chapter to the Board shall be considered to be

<sup>386</sup> 22 U.S.C. 4136.

references to a panel or member of the Board where appropriate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant (other than an involuntary separation for cause under section 610(a)),<sup>387</sup> the<sup>388</sup> disciplinary action against the grievant, or<sup>389</sup> recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board and that such action should be suspended, the Department shall suspend such action until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant.<sup>390</sup> Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned.<sup>391</sup>

(9) The Board may reconsider any decision upon presentation of newly discovered or previously unavailable material evidence.

SEC. 1107.<sup>392</sup> BOARD DECISIONS.—(a) Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the

<sup>387</sup> Sec. 5(1) of Public Law 109-140 (119 Stat. 2652) inserted “the involuntary separation of the grievant (other than an involuntary separation for cause under section 610(a)),” after “considering”.

<sup>388</sup> Sec. 314(b)(1)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out “involuntary separation of the grievant,” at this point.

<sup>389</sup> Sec. 5(2) of Public Law 109-140 (119 Stat. 2652), struck out “the grievant or” and inserted in lieu thereof “the grievant, or”. Previously, sec. 314(b)(1)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out “grievant, or” and inserted in lieu thereof “grievant or”.

<sup>390</sup> Sec. 177(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 414), struck out “until the Board has ruled upon the grievance,” and inserted in lieu thereof “until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant.”

<sup>391</sup> Sec. 314(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1379), struck out “Notwithstanding the first sentence of this paragraph, the Board’s authority to suspend such action shall not extend to instances where the Secretary, or his designee, has exercised his authority under subsection (a)(3) of section 610 or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 611.” This sentence was originally added by sec. 586(a) of the Foreign Relations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1252), and amended by sec. 143(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 668), and sec. 181(a)(4)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 417).

<sup>392</sup> 22 U.S.C. 4137.



basis of the record of proceedings. In each case the decision of the Board shall be in writing, and shall include findings of fact and a statement of the reasons for the decision of the Board.

(b) If the Board finds that the grievance is meritorious, the Board shall have the authority to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate or erroneous, to have an omission, or to contain information of a falsely prejudicial character;

(2) to reverse a decision denying the grievant compensation or any other perquisite of employment authorized by laws or regulations when the Board finds that such decision was arbitrary, capricious, or contrary to laws or regulations;

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant, and to grant the grievant back pay in accordance with section 5596(b)(1) of title 5, United States Code;

(5) to pay reasonable attorney fees to the grievant to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under section 7701(g) of title 5, United States Code; and

(6) to take such other remedial action as may be appropriate under procedures agreed to by the Department and the exclusive representative (if any).

(c) Except as provided in subsection (d), decisions of the Board under this chapter shall be final, subject only to judicial review as provided in section 1110.

(d)(1)<sup>393</sup> If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure or assignment of the grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence before it warrants disciplinary action against any employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the recommendation of the Board within 30 days after receiving the recommendation. The Secretary shall implement the recommendation of the Board except to the extent that, in a decision made within that 30-day period, the Secretary rejects the recommendation in whole or in part on the basis of a determination that implementation of the recommendation would be contrary to law or would adversely affect the foreign policy or national security of the United States. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action. Pending the decision of the Secretary, there shall be no ex parte communication concerning the grievance between the Secretary, and any person involved in the proceedings of the Board. The Secretary shall, how-

<sup>393</sup>Sec. 181(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1363), inserted para. designation (1) after (d), and added new paras. (2) and (3). Sec. 181(b) added the word "tenure" in the first sentence. Sec. 181(e) of the same Act provided that these amendments not apply with respect to any grievance in which the Board has issued a final decision pursuant to this section before their enactment.

ever, have access to the entire record of the proceedings of the Board.

(2)<sup>393</sup> A recommendation under paragraph (1) shall, for purposes of section 1110 of this Act, be considered a final action upon the expiration of the 30-day period referred to in such paragraph, except to the extent that it is rejected by the Secretary by an appropriate written decision.

(3)<sup>393</sup> (A) If the Secretary makes a written decision under paragraph (1) rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the Secretary shall, within the 30-day period referred to in such paragraph—

(i) submit a copy of such decision to the Board; and

(ii) request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(B)(i) Within 30 days after receiving a request under subparagraph (A), the Board shall, after reviewing the Secretary's decision, make a recommendation to the Secretary either confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved.

(ii) Reconsideration under this subparagraph shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(C) A recommendation made under subparagraph (B) shall be considered a final action for purposes of section 1110 of this Act, and shall be implemented by the Secretary.

(e)<sup>394</sup> (1) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor. Subject to paragraph (2), the Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such a supervisor is nominated for any position requiring the advice and consent of the Senate and the Board shall provide access to the entire record of any proceedings of the Board concerning such a grievance decision to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.

(2)(A) Except as provided in subparagraph (B), all decisions, proceedings, and other records disclosed pursuant to paragraph (1) shall be treated as confidential and may be disclosed only to Committee members and appropriate staff.

(B) Whenever material is provided to the Committee or a Member thereof pursuant to paragraph (1), the Board shall, at the same time, provide a copy of all such material to the supervisor who is the subject of such material.

(C) A supervisor who is the subject of records disclosed to the committee pursuant to this subsection shall have the right to review such record and provide comments to the Committee con-

<sup>394</sup>Sec. 182 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1364), added subsec. (e).

cerning such record. Such comments shall be treated in a confidential manner.

(f)<sup>395</sup> The Board shall, with respect to any grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), apply the substantive law that would be applied by the Equal Employment Opportunity Commission if a charge or claim alleging discrimination under such law, rule, regulation, or policy directive had been filed with the commission.

SEC. 1108.<sup>396</sup> ACCESS TO RECORDS.—(a) If a grievant is denied access to any agency record prior to or during the consideration of the grievance by the Department, the grievant may raise such denial before the Board in connection with the grievance.

(b) In considering a grievance, the Board shall have access to any agency record as follows:

(1)(A) The Board shall request access to any agency record which the grievant requested to substantiate the grievance if the Board determines that such record may be relevant and material to the grievance.

(B) The Board may request access to any other agency record which the Board determines may be relevant and material to the grievance.

(2) Any agency shall make available to the Board any agency record requested under paragraph (1) unless the head or deputy head of such agency personally certifies in writing to the Board that disclosure of the record to the Board and the grievant would adversely affect the foreign policy or national security of the United States or that such disclosure is prohibited by law. If such a certification is made with respect to any record, the agency shall supply to the Board a summary or extract of such record unless the reasons specified in the preceding sentence preclude such a summary or extract.

(c) If the Board determines that an agency record, or a summary or extract of a record, made available to the Board under subsection (b) is relevant and material to the grievance, the agency concerned shall make such record, summary, or extract, as the case may be, available to the grievant.

(d) In considering a grievance, the Board may take into account the fact that the grievant or the Board was denied access to an agency record which the Board determines is or may be relevant and material to the grievance.

(e) The grievant in any case decided by the Board shall have access to the record of the proceedings and the decision of the Board.

SEC. 1109.<sup>397</sup> RELATIONSHIP TO OTHER REMEDIES.—(a)(1)<sup>398</sup> A grievant may not file a grievance with the Board if the grievant

<sup>395</sup> Sec. 153(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), added subsec. (f).

Subsec. (f) of sec. 153 further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

<sup>396</sup> 22 U.S.C. 4138.

<sup>397</sup> 22 U.S.C. 4139.

<sup>398</sup> Sec. 153(d)(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 673), added para. designation (1) and redesignated subsec. (b) as para. (2). In newly designated para. (2), it further struck “subsection (a)” and inserted “para-

has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided under another provision of law, regulation, or Executive order, other than under section 1214 or 1221<sup>399</sup> of title 5, United States Code, and the matter has been carried to final decision under such provision on its merits or is still under consideration.

(2) If a grievant is not prohibited from filing a grievance under paragraph (1), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5, United States Code, or a regulation or Executive order other than under this chapter. An election of remedies under this subsection shall be final upon the acceptance of jurisdiction by the Board.

(3)<sup>398</sup> This subsection shall not apply to any grievance with respect to which subsection (b) applies.

(b)<sup>400</sup> (1) With respect to a grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), a grievant may either—

(A) file a grievance under this chapter, or

(B) initiate in writing a proceeding under another provision of law, regulation, or Executive order that authorizes relief, but not both.

(2) A grievant shall be considered to have exercised the option under paragraph (1) as soon as the grievant timely either—

(A) files a grievance under this chapter, or

(B) initiates in writing a proceeding under such other provision of law, regulation, or Executive order.

SEC. 1110.<sup>401</sup> JUDICIAL REVIEW.—(a)<sup>402</sup> Any aggrieved party may obtain judicial review of a final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, United States Code, if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved

graph (1)”; struck “under this section” and inserted “under this subsection”; and added a new para. (3).

Subsec. (f) of sec. 153 further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

<sup>399</sup>Sec. 9 of the Whistleblower Protection Act (Public Law 101-12; 103 Stat. 35) made a conforming amendment at this point, striking reference to sec. 1206 and inserting reference to secs. 1214 or 1221.

<sup>400</sup>Sec. 153(d)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 674), added subsec. (b).

Sec. 153(f) of that Act further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

<sup>401</sup>22 U.S.C. 4140.

<sup>402</sup>Sec. 153(e) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 674), added subsec. designation (a); and added a new subsec. (b).

Sec. 153(e)(2) of that Act also added the third sentence in subsec. (a).

Sec. 153(f) of that Act further provided that “The amendments made by this section shall not apply with respect to any grievance (within the meaning of section 1101 of the Act, as amended by this section) arising before the date of enactment of this Act.”

party's return to the United States).<sup>403</sup> Section 706 of title 5, United States Code, shall apply without limitation or exception. This subsection shall not apply to any grievance with respect to which subsection (b) applies.<sup>402</sup>

(b)<sup>402</sup> (1) For purposes of this subsection, the term "aggrieved party" means a grievant.

(2) With respect to a grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 1101(a)(1)(H), judicial review of whether the act, omission, or condition that is the basis of the grievance violates such law, rule, regulation, or policy directive may be obtained by an aggrieved party only if such party commences a civil action, not later than 90 days after such party receives notice of the final action of the Secretary or the Board, in an appropriate district court of the United States for de novo review.

#### CHAPTER 12—FOREIGN SERVICE INTERNSHIP PROGRAM<sup>404</sup>

SEC. 1201.<sup>404, 405</sup> STATEMENT OF POLICY; OBJECTIVES.

(a) STATEMENT OF POLICY.—Consistent with the findings of section 101, the Foreign Service of the United States should be representative of the American people. In order to facilitate and encourage the entry into the Foreign Service of individuals who meet the rigorous requirements of the Service, while ensuring a Foreign Service system which reflects the cultural and ethnic diversity of the United States, intensive recruitment efforts are mandated. This is particularly true for Native Americans, African Americans, and Hispanic Americans, where other affirmative action and equal opportunity efforts have not been successful in attracting the ablest applicants for entry into the Foreign Service. The United States remains committed to equal opportunity and to a Foreign Service system operated on the basis of merit principles.

(b) OBJECTIVES.—The objective of this chapter is to strengthen and improve the Foreign Service of the United States through the establishment of a Foreign Service Internship Program. The program shall promote the Foreign Service as a viable and rewarding career opportunity for qualified individuals who reflect the cultural and ethnic diversity of the United States through a highly selective internship program for students enrolled in institutions of higher education.

SEC. 1202.<sup>404, 406</sup> FOREIGN SERVICE INTERNSHIP PROGRAM.

(a) ESTABLISHMENT.—In consultation with the heads of other agencies utilizing the Foreign Service system, the Secretary of

<sup>403</sup>Sec. 177(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 414), inserted "if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States)" after "United States Code".

<sup>404</sup>Sec. 149(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 39), added chapter 12. Sec. 149(d) of that Act also provided the following:

"(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of the Foreign Service Internship Program."

<sup>405</sup>22 U.S.C. 4141.

<sup>406</sup>22 U.S.C. 4141a.

State shall establish a Foreign Service internship program to carry out the objectives of this chapter in accordance with the provisions of this chapter.

(b) FOREIGN SERVICE INTERNSHIP PROGRAM.—The program shall introduce interns to the practice of diplomacy and the unique rewards of the Foreign Service. The program shall consist of three successive summer internships of not less than eight weeks duration in each year to be completed over the course of not more than four years. Special emphasis shall be given to preparing the intern for the Foreign Service examination process. In each year not less than 10 interns shall enter the program.

(c) ELIGIBILITY TO PARTICIPATE.—

(1) Students enrolled full-time in institutions of higher education from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service and for whom equal opportunity and affirmative action recruitment efforts have not been successful in achieving balanced representation in appointments to the Foreign Service shall be eligible to be interns in programs under this chapter.

(2) An intern shall have successfully completed not less than one academic year of study at an institution of higher education to be admitted to the program. In each succeeding year of participation an intern shall have completed an additional year of undergraduate or graduate study and shall maintain an exemplary record of academic achievement.

(3) In selecting interns, the Secretary shall consider only the ablest students of superior ability selected on the basis of demonstrated achievement and exceptional promise whose academic records reflect the requisite standards of performance necessary for the Foreign Service.

(d) SUMMER INTERNSHIPS.—

(1) The primary focus of the first internship shall be the study of international relations, the functions of the Department of State and other agencies which utilize the Foreign Service system, and the nature of the Foreign Service. The internship shall be held in Washington, District of Columbia, at the Department of State. As appropriate, the Secretary shall utilize the personnel and facilities of the Foreign Service Institute.<sup>407</sup>

(2) The second internship shall be, principally, an assignment to a specific bureau of the Department of State. Emphasis shall be on providing insight into the economic and political functional areas.

(3) The third internship shall be an assignment to a United States mission abroad in the political or economic area.

(4) The first and second internships may include a detail to the Congress.

(e) ADMINISTRATION.—The Secretary of State shall determine the academic requirements, other selection criteria, and standards for

<sup>407</sup>Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center’.”.

successful completion of each internship period. The Secretary shall be responsible for the design, implementation, and operation of the program.

(f) MENTORS.—Each intern shall be assigned a career Foreign Service officer as a mentor. The mentor shall act as a counselor and advisor throughout each summer internship and as a personal Foreign Service contact throughout the period of participation in the program. In the assignment of mentors, the Secretary shall give preference to Foreign Service officers who volunteer for such assignment and who may be role models for the interns.

(g) COMPENSATION.—Interns shall be compensated at a rate determined by the Secretary which shall not be less than the compensation of comparable summer interns at the Department of State. As determined by the Secretary, for the purposes of travel, housing, health insurance, and other appropriate benefits, interns shall be considered employees of the Foreign Service during each internship period.

(h) STUDY OF FOREIGN SERVICE EXAMINATION.—The Secretary of State shall study the feasibility of administering the Foreign Service examination in separate segments over several years. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report summarizing the findings of such a study to the Committee on Foreign Affairs<sup>408</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 1203.<sup>404, 409</sup> REPORT TO CONGRESS.

Together with the annual submission required under section 105(d)(2), the Secretary of State shall submit a report to the Congress concerning the implementation of the program established under this chapter. Such report accompanied by such other information as the Secretary considers appropriate, shall include specific information concerning the completion rates of interns in the program, interns who took the Foreign Service examination, interns who passed the examination, former interns appointed to the Foreign Service, assignments of former interns, and the advancement of former interns through the Foreign Service System.

SEC. 1204.<sup>404, 410</sup> AUTHORIZATION OF APPROPRIATIONS.

Of the amounts authorized to be appropriated by section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, \$100,000 for the fiscal year 1990 and \$150,000 for the fiscal year 1991 shall be available only to carry out this chapter. Sums appropriated for the purposes of this chapter are authorized to remain available until expended.

<sup>408</sup>Sec. 1(a)(5) of that Act (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>409</sup>22 U.S.C. 4141b.

<sup>410</sup>22 U.S.C. 4141c. Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 90), waived sec. 1204, as added by sec. 149(b) of that Act, for fiscal years 1990 and 1991.

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS,  
AND MISCELLANEOUS PROVISIONS

## CHAPTER 1—TRANSITION

SEC. 2101.<sup>411</sup> PAY AND BENEFITS PENDING CONVERSION.—Until converted under the provisions of this chapter, any individual who is in the Foreign Service before the effective date of this Act and is serving under an appointment as a Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer with limited or unlimited tenure, or Foreign Service staff officer or employee, shall be treated for purposes of salary, allowances, and other matters as if such individual had been converted under section 2102 or 2103, as the case may be, on the effective date of this Act, except that any adjustment of salary under this section shall take effect—

(1) in the case of an individual who is in the Foreign Service on the date of enactment of this Act, on the first day of the first pay period which begins on or after October 1, 1980, and

(2) in the case of an individual who is appointed to the Foreign Service after the date of enactment of this Act, on the date such appointment becomes effective.

SEC. 2102.<sup>412</sup> CONVERSION TO THE FOREIGN SERVICE SCHEDULE.—(a) Not later than 120 days after the effective date of this Act, the Secretary shall, in accordance with section 2106, convert to the appropriate class in the Foreign Service Schedule established under section 403 of this Act those individuals in the Foreign Service who are serving immediately before the effective date of this Act under appointments at or below class 3 of the schedule established under section 412 or 414 of the Foreign Service Act of 1946, or at any class in the schedule established under section 415 of such Act, as—

(1) Foreign Service officers, or

(2) Foreign Service Reserve officers with limited or unlimited tenure, and Foreign Service staff officers or employees, who the Secretary determines are available for worldwide assignment.

(b) Not later than 3 years after the effective date of this Act, Foreign Service Reserve officers and staff officers and employees who the Secretary determines under subsection (a)(2) are not available for worldwide assignment shall also be converted, in accordance with section 2106, to the appropriate class in the Foreign Service Schedule established under section 403 if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they agree in writing to accept availability for worldwide assignment as a condition of continued employment.

SEC. 2103.<sup>413</sup> CONVERSION TO THE SENIOR FOREIGN SERVICE.—(a) Foreign Service officers and Foreign Service Reserve officers with limited or unlimited tenure who, immediately before the effective date of this Act, are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414

<sup>411</sup> 22 U.S.C. 4151.

<sup>412</sup> 22 U.S.C. 4152.

<sup>413</sup> 22 U.S.C. 4153.



of the Foreign Service Act of 1946 may at any time within 120 days after such date submit to the Secretary a written request for appointment to the Senior Foreign Service.

(b) Except as provided in subsection (d), if a request is submitted under subsection (a) by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant to such officer a limited appointment to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(c) If a request is submitted under subsection (a) by a Foreign Service officer or, except as provided in subsection (d), a Foreign Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(d) If the Secretary determines that a Foreign Service Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for worldwide assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer agrees in writing to accept availability for worldwide assignment as a condition of continued employment.

(e) If a Foreign Service officer or a Foreign Service Reserve officer who is eligible to submit a request under subsection (a) submits a written request for appointment to the Senior Foreign Service to the Secretary more than 120 days after the effective date of this Act and before the end of the 3-year period beginning on such effective date, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment to, or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of, the requesting officer to the appropriate class established under section 402 of this Act, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe consistent with the provisions of chapter 6 of title I of this Act relating to promotion into the Senior Foreign Service.

(f) Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit a request under subsection (a), or

(2) who submits such a request more than 120 days after the effective date of this Act and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may not remain in the Foreign Service for more than 3 years after the effective date of this Act. During such period, the officer shall be subject to the provisions of title I of this Act applicable to members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 405 and shall not be eligible for a limited career extension as described in section 607(b). Upon separation from the Service, any such officer who is a participant in the Foreign Service Retirement and Dis-

ability System shall be entitled to retirement benefits on the same basis as a member retired from the Senior Foreign Service under section 607(c)(1), and section 609(a)(2)(B) shall be deemed to apply to such officer.<sup>414</sup>

SEC. 2104.<sup>415</sup> CONVERSION FROM THE FOREIGN SERVICE.—(a) In the case of any individual in the Foreign Service who, immediately before the effective date of this Act, is serving under an appointment described in section 2102(a) or 2103(a) and who is not converted under section 2102 or section 2103 because such individual does not meet the conditions specified in section 2102(b) or 2103(d), the Secretary shall, not later than 3 years after the effective date of this Act, provide that—

(1) the position such individual holds shall be subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

(2) such individual shall be appointed to such position without competitive examination; and

(3) such position shall be considered to be in the competitive service so long as the individual continues to hold that position;

except that any such individual who meets the eligibility requirements for the Senior Executive Service and who elects to join that Service shall be converted by the Secretary to the Senior Executive Service in the appropriate rate of basic pay established under section 5382 of title 5, United States Code.

(b) In the case of individuals in the Foreign Service in the United States Information Agency<sup>416</sup> who immediately before the date of enactment of this Act are covered by a collective bargaining agreement between the Agency and the exclusive representative of those individuals, the 3-year period referred to in subsection (a) shall begin on July 1, 1981.

(c)<sup>417</sup> The three-year period referred to in subsection (a) shall be extended for an additional period not to exceed one year from the date of enactment of this section in the case of Department of State security officers who are members of the Service and who were initially ineligible for conversion under that subsection because they were available for worldwide assignment and there was a need for their services in the Service, but as to whom subsequent events require the services of these members (and of those later employed who are similarly situated) only or primarily for domestic functions.

<sup>414</sup>Sec. 128 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1027), struck out “determined in accordance with chapter 8 of title I of this Act” and inserted in lieu thereof “on the same basis as a member retired from the Senior Foreign Service under section 607(c)(1), and section 609(a)(2)(B) shall be deemed to apply to such officer”.

<sup>415</sup>22 U.S.C. 4154.

<sup>416</sup>“United States Information Agency” was substituted for “International Communication Agency” pursuant to sec. 303(b) of Public Law 97-241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: “Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).”

<sup>417</sup>Sec. 132 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1028), added subsec. (c).

SEC. 2105.<sup>418</sup> CONVERSION OF CERTAIN POSITIONS IN THE DEPARTMENT OF AGRICULTURE.—(a) Not later than 15 days after the effective date of this Act, the Secretary of Agriculture shall—

(1) designate and classify under section 501 of this Act those positions in the Foreign Agricultural Service under the General Schedule described in section 5332 of title 5, United States Code, which the Secretary of Agriculture determines are to be occupied by career members of the Foreign Service, and

(2) provide written notice to individuals holding those positions of such designation and classification of the personnel category under section 103 which will apply to such individual.

(b) Each employee serving in a position at the time it is designated under subsection (a) shall, not later than 120 days after notice of such designation, elect—

(1) to accept conversion to the Foreign Service, in which case such employee shall be converted in accordance with the provisions of subsection (c); or

(2) to decline conversion to the Foreign Service and have the provisions of subsection (d) apply.

(c)(1) The Secretary of Agriculture shall recommend to the President for appointment to the appropriate class (as determined under paragraph (2)), by and with the advice and consent of the Senate, those employees who elect conversion under subsection (a)(1).

(2) The Secretary of Agriculture shall appoint as Foreign Service personnel those employees who elect to accept conversion and who are not eligible for appointment under paragraph (1).

(d) Any employee who declines conversion under subsection (b)(2) shall for so long as that employee continues to hold the designated position be deemed to be a member of the Foreign Service for purposes of allowances, differentials, and similar benefits (as determined by the Secretary of Agriculture).

SEC. 2106.<sup>419</sup> PRESERVATION OF STATUS AND BENEFITS.—(a)(1) Every individual who is converted under this chapter shall be converted to the class or grade and pay rate that most closely corresponds to the class or grade and step at which the individual was serving immediately before conversion. No conversion under this chapter shall cause any individual to incur a reduction in his or her class, grade, or basic rate of salary.

(2) An individual converted under section 2104 to a position in the competitive service shall be entitled to have that position, or any other position to which the individual is subsequently assigned (other than at the request of the individual), be considered for all purposes as at the grade which corresponds to the class in which the individual served immediately before conversion so long as the individual continues to hold that position.

(b)(1) Any participant in the Foreign Service Retirement and Disability System who would, but for this paragraph, participate in the Civil Service Retirement and Disability System by virtue of conversion under this chapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in the Foreign Service Retirement and Disability

<sup>418</sup> 22 U.S.C. 4155.

<sup>419</sup> 22 U.S.C. 4156.

System would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the Civil Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is not made, the individual shall then be covered by the Civil Service Retirement and Disability System and contributions made by the participant to the Foreign Service Retirement and Disability Fund shall be transferred to the Civil Service Retirement and Disability Fund.

(2) Any Foreign Service Reserve officer with limited tenure who has reemployment rights to a personnel category in the Foreign Service in which he or she would be a participant in the Foreign Service Retirement and Disability System and who would, but for this paragraph, continue to participate in the Civil Service Retirement and Disability System by virtue of conversion under section 2104 may elect, during the 120-day period beginning on the date of such conversion, to become a participant in the Foreign Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is made, the individual shall be transferred to the Foreign Service Retirement and Disability System and contributions made by that individual to the Civil Service Retirement and Disability Fund shall be transferred to the Foreign Service Retirement and Disability Fund.

(c) Individuals who are converted under this chapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion, except that this chapter shall not operate to extend the duration of any limited appointment or previously applicable time in class.

(d) Any individual who on the effective date of this Act is serving—

(1) under an appointment in the Foreign Service, or

(2) in any other office or position continued by this Act,

may continue to serve under such appointment, subject to the provisions of this Act, and need not be reappointed by virtue of the enactment of this Act.

(e) Any individual in the Foreign Service—

(1) who is serving under a career appointment on the date of enactment of this Act, and

(2) who was not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately before the effective date of this Act,

may not be retired under section 608 of this Act until 10 years after the effective date of this Act or when such individual first becomes eligible for an immediate annuity under chapter 8 of title I of this Act, whichever occurs first.

SEC. 2107.<sup>420</sup> REGULATIONS.—Under the direction of the President, the Secretary shall prescribe regulations for the implementation of this chapter.

<sup>420</sup> 22 U.S.C. 4157.

SEC. 2108.<sup>421</sup> AUTHORITY OF OTHER AGENCIES.—The heads of agencies other than the Department of State which utilize the Foreign Service personnel system shall perform functions under this chapter in accordance with regulations prescribed by the Secretary of State under section 2107. Such agency heads shall consult with the Secretary of State in the exercise of such functions.

SEC. 2109.<sup>422</sup> SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any participant or former participant in the Foreign Service Retirement and Disability System who on February 15, 1981, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 814(b).

(b)(1) If the participant or former participant has not retired under such system on or before February 15, 1981, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before February 15, 1981, an election under this section may be made within such period after February 15, 1981, as the Secretary of State may prescribe.

(3) For purposes of applying chapter 8 of title I, any such election shall be treated the same as if it were a spousal agreement under section 820(b)(1).

(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 806(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 806(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) February 15, 1981, in the case of an election under subsection (b)(2).

(e) For purposes of this section, the terms “former spouse”, “participant”, and “spousal agreement” have the meanings given such terms in sections 803 and 804.

#### CHAPTER 2—PROVISIONS RELATING TO FOREIGN AFFAIRS AGENCIES

SEC. 2201.<sup>423</sup> BASIC AUTHORITIES OF THE DEPARTMENT OF STATE.—\* \* \*

SEC. 2202.<sup>424</sup> PEACE CORPS ACT.—\* \* \*

SEC. 2203.<sup>425</sup> FOREIGN ASSISTANCE ACT.—\* \* \*

SEC. 2204.<sup>426</sup> ARMS CONTROL AND DISARMAMENT ACT.—\* \* \*

SEC. 2205. REPEALED PROVISIONS.—\* \* \*

SEC. 2206. OTHER CONFORMING AMENDMENTS.—\* \* \*

<sup>421</sup> 22 U.S.C. 4158.

<sup>422</sup> 22 U.S.C. 4159.

<sup>423</sup> Sec. 2201 consisted of amendments to the State Department Basic Authorities Act of 1956.

<sup>424</sup> Sec. 2202 consisted of amendments to the Peace Corps Act.

<sup>425</sup> Sec. 2203 consisted of amendments to the Foreign Assistance Act of 1961.

<sup>426</sup> Sec. 2204 consisted of amendments to the Arms Control and Disarmament Act.

SEC. 2207.<sup>427</sup> MODEL FOREIGN LANGUAGE COMPETENCE POSTS.— (a) In order to carry out the purposes of section 702 and to help ascertain the relationship between foreign language competence and the effectiveness of representation of the United States abroad, the Secretary of State shall designate as model foreign language competence posts at least two Foreign Service posts in countries where English is not the common language. Such designation shall be made no later than October 1, 1981, and shall be implemented so that no later than October 1, 1983, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.<sup>407</sup>

(b) The posts designated under subsection (a) shall continue as model foreign language competence posts at least until September 30, 1985. The Secretary of State shall submit no later than January 31, 1986, a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the operation of such posts and the costs, advantages and disadvantages associated with meeting the foreign language competence requirements of this section.

(c)<sup>428</sup> The Secretary of State may authorize exceptions to the requirements of this section if he determines that unanticipated exigencies so require.

#### CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES CODE

\* \* \* \* \*

#### CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL OVERSIGHT, AND EFFECTIVE DATE

SEC. 2401.<sup>429</sup> SAVING PROVISIONS.—(a) All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified, or affected by this Act.

(b) This Act shall not affect any increase in annuity or other right to benefits, which was provided by any provision amended or

<sup>427</sup> 22 U.S.C. 4171. See also sec. 161 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 46), relating to foreign language competence within the Foreign Service.

<sup>428</sup> Sec. 139(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), struck out a second sentence in subsec. (c), which had required: "Such exceptions shall be annually reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

Sec. 139(25) of the that Act made an identical amendment.

<sup>429</sup> 22 U.S.C. 4172.

repealed by this Act, with respect to any individual who became entitled to such benefit prior to the effective date of this Act.

(c) References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this Act shall be deemed to include reference to the corresponding provisions of this Act.

SEC. 2402.<sup>430</sup> CONGRESSIONAL OVERSIGHT OF IMPLEMENTATION.—

(a)<sup>431</sup> \* \* \* [Repealed—1987]

(b)<sup>431</sup> \* \* \* [Repealed—1987]

(c) The Secretary shall consult, in accordance with the procedures set out in section 1013(g), with the exclusive representative (if any) of members of the Foreign Service in each agency specified in section 1003(a) with respect to steps to be taken in implementing this Act and reported under section 601(c)(4).<sup>432</sup> To that end, each such exclusive representative will have timely access to all relevant information at each stage. Each such report shall include the views of each such exclusive representative on any and all aspects of the report and the information contained in such report.

SEC. 2403.<sup>433</sup> EFFECTIVE DATE.—(a) Except as otherwise provided, this Act shall take effect on February 15, 1981.

(b) Personnel actions may be taken on and after the effective date of this Act on the basis of any then current Foreign Service evaluation cycle as if this Act had been in effect at the beginning of that cycle.

(c)<sup>433</sup> \* \* \* [Repealed—1985]

(d)(1) Section 812 of this Act, and the repeal of sections 631 and 632 of the Foreign Service Act of 1946 and section 625(k) of the Foreign Assistance Act of 1961, shall be effective as of the date of enactment of this Act.

(2) For purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.

(e)(1) The provisions of chapter 8 of title I regarding the rights of former spouses to any annuity under section 814(a) shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of an individual who separates from the Service after such date.

(2) Except to the extent provided in section 2109, the provisions of such chapter regarding the rights of former spouses to receive survivor annuities under chapter 8 shall apply in the case of any individual who after the effective date of this Act becomes a former

<sup>430</sup> 22 U.S.C. 4173.

<sup>431</sup> Sec. 185(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366), repealed subsecs. (a) and (b). Subsec. (a) required the Secretary of State to submit a report to the Congress by February 1, 1982, describing the implementation of the Foreign Service Act during the fiscal year 1981. Subsec. (b) required the Secretary of State to submit thereafter an annual report.

<sup>432</sup> Sec. 185(c)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1366), struck out "this section" and inserted in lieu thereof "section 601(c)(4)".

<sup>433</sup> 22 U.S.C. 3901 note. Sec. 119(b) Public Law 99-93 (99 Stat. 405) repealed subsec. (c).

The repealed provision read as follows:

"(c) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in section 305(b) until October 1, 1985. Prior to that date, the number of members serving in the Senior Foreign Service under limited appointments by the Secretary of Commerce may not exceed 10 at any one time (excluding individuals with reemployment rights under section 310 as career appointees in the Senior Executive Service)."

spouse of a participant or former participant in the Foreign Service Retirement and Disability System.



## **b. Department of State Authorities**

**Partial text of Public Law 109-140 [H.R. 4436], 119 Stat. 2650, approved  
December 22, 2005**

AN ACT To provide certain authorities for the Department of State, and for other purposes.

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

### **SECTION 1. REDI CENTER.**

(a) AUTHORIZATION.—The Secretary of State is authorized to provide for the participation by the United States in the Regional Emerging Diseases Intervention Center (in this section referred to as “REDI Center”) in Singapore, as established by the Agreement described in subsection (c).

(b) CONSULTATION AND REPORT.—

(1) CONSULTATION.—Prior to the review required under Article 6.3 of the Agreement described in subsection (c), the Secretary shall consult with the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) REPORT.—In connection with the submission of the annual congressional budget justification, the Secretary shall report on efforts undertaken at the REDI Center with regard to bioterrorism concerns.

(c) AGREEMENT DESCRIBED.—The Agreement referred to in this section is the Agreement between the Governments of the United States of America and the Republic of Singapore Establishing the Regional Emerging Diseases Intervention Center, done at Singapore, November 22, 2005.

### **SEC. 2. RETENTION OF MEDICAL REIMBURSEMENTS.**

Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended \* \* \*

### **SEC. 3. ACCOUNTABILITY REVIEW BOARDS.**

Section 301(a) of the Diplomatic Security Act (22 U.S.C. 4831(a)) is amended—\* \* \*

### **SEC. 4. INCREASED LIMITS APPLICABLE TO POST DIFFERENTIALS AND DANGER PAY ALLOWANCES.**

(a) REPEAL OF LIMITED-SCOPE EFFECTIVE DATE FOR PREVIOUS INCREASE.—Subsection (c) of section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of Public Law 108-199) is repealed.

(b) POST DIFFERENTIALS.—Section 5925(a) of title 5, United States Code, is amended in the third sentence by striking “25 percent of the rate of basic pay or, in the case of an employee of the United States Agency for International Development,”.

(c) DANGER PAY ALLOWANCES.—Section 5928 of title 5, United States Code, is amended by striking “25 percent of the basic pay of the employee or 35 percent of the basic pay of the employee in the case of an employee of the United States Agency for International Development” both places that it appears and inserting “35 percent of the basic pay of the employee”.

(d)<sup>1</sup> CRITERIA.—The Secretary of State shall inform the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of the criteria to be used in determinations of appropriate adjustments in post differentials under section 5925(a) of title 5, United States Code, as amended by subsection (b), and danger pay allowances under section 5928 of title 5, United States Code, as amended by subsection (c).

(e) STUDY AND REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of State shall conduct a study assessing the effect of the increases in post differentials and danger pay allowances made by the amendments in subsections (b) and (c), respectively, in filling “hard-to-fill” positions and shall submit a report of such study to the committees specified in subsection (d) and to the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

**SEC. 5. CLARIFICATION OF FOREIGN SERVICE GRIEVANCE BOARD PROCEDURES.**

Section 1106(8) of the Foreign Service Act of 1980 (22 U.S.C. 4136(8)) is amended in the first sentence—\* \* \*

**SEC. 6. PERSONAL SERVICES CONTRACTING PILOT PROGRAM.**

Section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228) is amended \* \* \*

**SEC. 7. OFFICIAL RESIDENCE EXPENSES.**

Section 5913 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(c) Funds made available under subsection (b) may be provided in advance to persons eligible to receive reimbursements.”.

**SEC. 8. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS EDUCATION BENEFITS.**

Section 305(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)) is amended \* \* \*

<sup>1</sup> 5 U.S.C. 5925 note.

**c. Foreign Affairs Agencies Consolidation Act of 1998**

Partial text of Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; as amended by Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999; Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001; and Public Law 109-108 [Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006; H.R. 2862], 119 Stat. 2290, approved November 22, 2005

**DIVISION G—FOREIGN AFFAIRS REFORM AND  
RESTRUCTURING ACT OF 1998**

**SEC. 1001.<sup>1</sup> SHORT TITLE.**

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

**SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.**

(a)<sup>2</sup> DIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION A.—Foreign Affairs Agencies Consolidation Act of 1998.

(2) SUBDIVISION B.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.<sup>3</sup>

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

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<sup>1</sup>22 U.S.C. 6501 note.

<sup>2</sup>Sec. 802(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-468), struck out para. (3) of this subsec., which had referred to a subdivision K—United Nations Reform Act of 1998.

<sup>3</sup>For text, see page 274.

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SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

\* \* \* \* \*

NOTE.—The Foreign Affairs Agencies Consolidation Act of 1998 amends the State Department Basic Authorities Act of 1956, Arms Control and Disarmament Act, Arms Export Control Act, Foreign Assistance Act of 1961, United States Institute of Peace Act, Atomic Energy Act of 1954, Nuclear Non-Proliferation Act of 1978, Inspector General Act of 1978, International Broadcasting Act of 1994, Radio Broadcasting to Cuba Act, Television Broadcasting to Cuba Act, United States Information and Educational Exchange Act of 1948, and other legislation, to implement the reorganization and consolidation of U.S. foreign affairs agencies. Amendments have been incorporated into the texts of these Acts at the appropriate locations.

**SUBDIVISION A—CONSOLIDATION OF FOREIGN  
AFFAIRS AGENCIES****TITLE XI—GENERAL PROVISIONS****SEC. 1101.<sup>4</sup> SHORT TITLE.**

This subdivision may be cited as the “Foreign Affairs Agencies Consolidation Act of 1998”.

**SEC. 1102.<sup>5</sup> PURPOSES.**

The purposes of this subdivision are—

- (1) to strengthen—
  - (A) the coordination of United States foreign policy; and
  - (B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy;
- (2) to consolidate and reinvigorate the foreign affairs functions of the United States within the Department of State by—
  - (A) abolishing the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency, and transferring the functions of these agencies to the Department of State while preserving the special missions and skills of these agencies;
  - (B) transferring certain functions of the Agency for International Development to the Department of State; and
  - (C) providing for the reorganization of the Department of State to maximize the efficient use of resources, which may lead to budget savings, eliminate redundancy in functions, and improvement in the management of the Department of State;
- (3) to ensure that programs critical to the promotion of United States national interests be maintained;
- (4) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;
- (5) to ensure that the United States maintains effective representation abroad within budgetary restraints; and
- (6) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government.

**SEC. 1103.<sup>6</sup> DEFINITIONS.**

In this subdivision:

- (1) ACDA.—The term “ACDA” means the United States Arms Control and Disarmament Agency.
- (2) AID.—The term “AID” means the United States Agency for International Development.
- (3) AGENCY; FEDERAL AGENCY.—The term “agency” or “Federal agency” means an Executive agency as defined in section 105 of title 5, United States Code.

<sup>4</sup>22 U.S.C. 6501 note.

<sup>5</sup>22 U.S.C. 6501.

<sup>6</sup>22 U.S.C. 6502.

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

(5) **COVERED AGENCY.**—The term “covered agency” means any of the following agencies: ACDA, USIA, IDCA, and AID.

(6) **DEPARTMENT.**—The term “Department” means the Department of State.

(7) **FUNCTION.**—The term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(8) **IDCA.**—The term “IDCA” means the United States International Development Cooperation Agency.

(9) **OFFICE.**—The term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(10) **SECRETARY.**—The term “Secretary” means the Secretary of State.

(11) **USIA.**—The term “USIA” means the United States Information Agency.

**SEC. 1104.<sup>7</sup> REPORT ON BUDGETARY COST SAVINGS RESULTING FROM REORGANIZATION.**

The Secretary of State shall submit a report, together with the congressional presentation document for the budget of the Department of State for each of the fiscal years 2000 and 2001, to the appropriate congressional committees describing the total anticipated and achieved cost savings in budget outlays and budget authority related to the reorganization implemented under this subdivision, including cost savings by each of the following categories:

- (1) Reductions in personnel.
- (2) Administrative consolidation, including procurement.
- (3) Program consolidation.
- (4) Consolidation of real properties and leases.

**TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**

**CHAPTER 1—GENERAL PROVISIONS**

**SEC. 1201.<sup>8</sup> EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of abolition of the United States Arms Control and Disarmament Agency pursuant to the reorganization plan described in section 1601.

<sup>7</sup> 22 U.S.C. 6503.

<sup>8</sup> 22 U.S.C. 6511 note.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1211.<sup>9</sup> ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.**

The United States Arms Control and Disarmament Agency is abolished.

**SEC. 1212.<sup>10</sup> TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.**

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency, and all functions of the United States Arms Control and Disarmament Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

**SEC. 1213. UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651(b)) is amended—\* \* \*<sup>11</sup>

**CHAPTER 3—CONFORMING AMENDMENTS****SEC. 1221.<sup>12</sup> REFERENCES.**

Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; or

(2) the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

**SEC. 1222. REPEALS.**

The following sections of the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) are repealed: Sections 21 through 26 (22 U.S.C. 2561–2566), section 35 (22 U.S.C. 2575), section 42 (22 U.S.C. 2582), section 43 (22 U.S.C. 2583), sections 45 through 50 (22 U.S.C. 2585–2593), section 53 (22 U.S.C. 2593c), section 54 (22 U.S.C. 2593d), and section 63 (22 U.S.C. 2595b).

**SEC. 1223. AMENDMENTS TO THE ARMS CONTROL AND DISARMAMENT ACT.**

The Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended—\* \* \*<sup>13</sup>

**SEC. 1224. COMPENSATION OF OFFICERS.**

Title 5, United States Code, is amended—\* \* \*

<sup>9</sup>22 U.S.C. 6511.

<sup>10</sup>22 U.S.C. 6512.

<sup>11</sup>Sec. 1213 amended the State Department Basic Authorities Act of 1956 to provide for the Under Secretary for Arms Control and International Security.

<sup>12</sup>22 U.S.C. 6521.

<sup>13</sup>Sec. 1223 substantially amended and redesignated the remaining sections of the Arms Control and Disarmament Act. See notes accompanying that Act.



**SEC. 1225. ADDITIONAL CONFORMING AMENDMENTS.**

(a) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended—\* \* \*<sup>14</sup>

(b) FOREIGN ASSISTANCE ACT.—Section 511 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321d) is amended by \* \* \*<sup>15</sup>

(c) UNITED STATES INSTITUTE OF PEACE ACT.—\* \* \*

(d) ATOMIC ENERGY ACT OF 1954.—The Atomic Energy Act of 1954 is amended—\* \* \*

(e) NUCLEAR NON-PROLIFERATION ACT OF 1978.—The Nuclear Non-Proliferation Act of 1978 is amended—\* \* \*

(f) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 23(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended \* \* \*

(g) FOREIGN RELATIONS AUTHORIZATION ACT OF 1972.—Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended \* \* \*

(h) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking “, or the Director of the Arms Control and Disarmament Agency”.

**TITLE XIII—UNITED STATES INFORMATION AGENCY****CHAPTER 1—GENERAL PROVISIONS****SEC. 1301.<sup>16</sup> EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) October 1, 1999; or

(2) the date of abolition of the United States Information Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1311.<sup>17</sup> ABOLITION OF UNITED STATES INFORMATION AGENCY.**

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

**SEC. 1312.<sup>18</sup> TRANSFER OF FUNCTIONS.**

(a) IN GENERAL.—There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

(b) EXCEPTION.—Subsection (a) does not apply to the Broadcasting Board of Governors, the International Broadcasting Bureau, or any function performed by the Board or the Bureau.

<sup>14</sup>For amendments incorporated into secs. 36, 38, 42, 71, and 73, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>15</sup>For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>16</sup>22 U.S.C. 6531 note.

<sup>17</sup>22 U.S.C. 6531.

<sup>18</sup>22 U.S.C. 6532.

**SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

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

**SEC. 1314.<sup>19</sup> ABOLITION OF OFFICE OF INSPECTOR GENERAL OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS.**

(a) ABOLITION OF OFFICE.—The Office of Inspector General of the United States Information Agency is abolished.

(b) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking “the Office of Personnel Management, the United States Information Agency” and inserting “or the Office of Personnel Management”; and

(2) in paragraph (2), by striking “the United States Information Agency,”.

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking the following:

“Inspector General, United States Information Agency.”.

(d) AMENDMENTS TO PUBLIC LAW 103-236.—Subsections (i) and (j) of section 308 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207 (i) and (j)) are amended—

(1) by striking “Inspector General of the United States Information Agency” each place it appears and inserting “Inspector General of the Department of State and the Foreign Service”; and

(2) by striking “, the Director of the United States Information Agency,”.

(e) TRANSFER OF FUNCTIONS.—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency).

**CHAPTER 3—INTERNATIONAL BROADCASTING****SEC. 1321.<sup>20</sup> CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.**

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to

<sup>19</sup> 22 U.S.C. 6533.

<sup>20</sup> 22 U.S.C. 6541.

seek, receive, and impart information and ideas through any media and regardless of frontiers”, in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

**SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.**

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:  
\* \* \*

**SEC. 1323. CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994. \* \* \***

**SEC. 1324. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.**

The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is amended—\* \* \*

**SEC. 1325. AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT.**

The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) is amended—\* \* \*

**SEC. 1326.<sup>21</sup> TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.**

(a) TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) ADDITIONAL TRANSFERS.—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

<sup>21</sup> 22 U.S.C. 6542.

(b) **TRANSFER OF PERSONNEL.**—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.**—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

**SEC. 1327.<sup>22</sup> SAVINGS PROVISIONS.**

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

<sup>22</sup> 22 U.S.C. 6543.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) ORDERS, APPEALS, AND PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.—

(1) SUBSTITUTION OF PARTIES.—If, before the effective date of this title, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) LIABILITY OF THE BOARD.—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

**SEC. 1328.<sup>23</sup> REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.**

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. The report under this subsection shall include the following:

- (1) Efforts by RFE/RL, Incorporated, to terminate individual language services.
- (2) A detailed description of steps taken with regard to section 312(a) of that Act.
- (3) An analysis of prospects for privatization over the coming year.
- (4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

#### **CHAPTER 4—CONFORMING AMENDMENTS**

**SEC. 1331.<sup>24</sup> REFERENCES.**

(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

- (1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and
- (2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).

<sup>23</sup> 22 U.S.C. 6544.

<sup>24</sup> 22 U.S.C. 6551.

**SEC. 1332. AMENDMENTS TO TITLE 5, UNITED STATES CODE.**

Title 5, United States Code, is amended—

(1) in section 5313, by striking “Director of the United States Information Agency.”;

(2) in section 5315—

(A) by striking “Deputy Director of the United States Information Agency.”; and

(B) by striking “Director of the International Broadcasting Bureau, the United States Information Agency.” and inserting “Director of the International Broadcasting Bureau.”; and

(3) in section 5316—

(A) by striking “Deputy Director, Policy and Plans, United States Information Agency.”; and

(B) by striking “Associate Director (Policy and Plans), United States Information Agency.”.

**SEC. 1333.<sup>25</sup> APPLICATION OF CERTAIN LAWS.**

(a) **APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

(b) **APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.**—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

(c) **LIMITATION ON USE OF FUNDS.**—(1)<sup>26</sup> Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs, identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes,<sup>27</sup> shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.

(2)<sup>26</sup> **CONSTRUCTION.**—Nothing in paragraph (1) may be construed (A) to interfere with the integration of administrative resources between public diplomacy and other functions of the Department of State or to prevent the occasional performance of func-

<sup>25</sup> 22 U.S.C. 6552.

<sup>26</sup> Sec. 304(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-434), struck out “Except” and inserted in lieu thereof “(1) Except”. Sec. 304(3) of that Act added para. (2).

<sup>27</sup> Sec. 304(1) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-434), inserted “, identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes,” after “diplomacy programs”.

tions other than public diplomacy by officials or employees of the Department of State who are primarily assigned to public diplomacy, provided there is no substantial resulting diminution in the amount of resources devoted to public diplomacy below the amounts described in paragraph (1), or (B) to supersede reprogramming procedures.

(d) **REPORTING REQUIREMENTS.**—The report submitted pursuant to section 1601(f) of this subdivision shall include a detailed statement of the manner in which the special mission of public diplomacy carried out by USIA prior to the transfer of functions under this subdivision shall be preserved within the Department of State, including the planned duties and responsibilities of any new bureaus that will perform such public diplomacy functions. Such report shall also include the best available estimates of—

(1) the amounts expended by the Department of State for public affairs programs during fiscal year 1998, and on the personnel and support costs for such programs;

(2) the amounts expended by USIA for its public diplomacy programs during fiscal year 1998, and on the personnel and support costs for such programs; and

(3) the amounts, including funds to be transferred from USIA and funds appropriated to the Department, that will be allocated for the programs described in paragraphs (1) and (2), respectively, during the fiscal year in which the transfer of functions from USIA to the Department occurs.

(e) **CONGRESSIONAL PRESENTATION DOCUMENT.**—The Department of State's Congressional Presentation Document for fiscal year 2000 and each fiscal year thereafter shall include—

(1) the aggregated amounts that the Department will spend on such public diplomacy programs and on costs of personnel for such programs, and a detailed description of the goals and purposes for which such funds shall be expended; and

(2) the amount of funds allocated to and the positions authorized for such public diplomacy programs, including bureaus to be created upon the transfer of functions from USIA to the Department.

**SEC. 1334.<sup>28</sup> SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and

<sup>28</sup> 22 U.S.C. 6553. Sec. 404(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-446), amended and restated sec. 1334. It had previously read as follows:

**“SEC. 1334. ABOLITION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

“(a) **ABOLITION.**—The United States Advisory Commission on Public Diplomacy is abolished.

“(b) **REPEALS.**—Section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977 are repealed.”

Sec. 404(b) through (e) of the Nance/Donovan Act, furthermore, provided as follows:

“(b) **RETROACTIVITY OF EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998.

“(c) **REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW.**—

“(1) **REENACTMENT.**—The provisions of law repealed by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998, as in effect before the date of the enactment of this Act, are hereby reenacted into law.



Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operate under such provisions of law until October 1, 2006.<sup>29</sup>

**SEC. 1335. CONFORMING AMENDMENTS.** \* \* \* <sup>30</sup>

**SEC. 1336. REPEALS.**

The following provisions are repealed:

- (1) Sections 701 (22 U.S.C. 1476), 704 (22 U.S.C. 1477b), 807 (22 U.S.C. 1475b), 808 (22 U.S.C. 1475c), 811 (22 U.S.C. 1475f), and 1009 (22 U.S.C. 1440) of the United States Information and Educational Exchange Act of 1948.
- (2) Section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(c)).
- (3) Section 565(e) of the Anti-Economic Discrimination Act of 1994 (22 U.S.C. 2679c(e)).
- (4) Section 206(b) of Public Law 102-138.
- (5) Section 2241 of Public Law 104-66.
- (6) Sections 1 through 6 of Reorganization Plan Numbered 2 of 1977 (91 Stat. 636).
- (7) Section 207 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 22 U.S.C. 1463 note).

**TITLE XIV—UNITED STATES INTERNATIONAL  
DEVELOPMENT COOPERATION AGENCY**

**CHAPTER 1—GENERAL PROVISIONS**

**SEC. 1401.<sup>31</sup> EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of abolition of the United States International Development Cooperation Agency pursuant to the reorganization plan described in section 1601.

<sup>(2)</sup> REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed.

<sup>(d)</sup> CONTINUITY OF ADVISORY COMMISSION.—Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.

<sup>(e)</sup> REDUCTION IN STAFF AND BUDGET.—Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948, effective on the date of the enactment of this Act, the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999.”

<sup>29</sup> Sec. 410 of the Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2327), struck out “October 1, 2005” and inserted in lieu thereof “October 1, 2006”. Previously, sec. 407 of the Department of State and Related Agency Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790), struck out “October 1, 2001” and inserted in lieu thereof “October 1, 2005”.

<sup>30</sup> Sec. 1335 made conforming amendments to the United States Information and Educational Exchange Act of 1948, Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, National and Community Service Act of 1990, Public Law 97-446, Public Law 103-227, Fascell Fellowship Act, Intelligence Authorization Act, Fiscal Year 1992, Federal Triangle Development Act, Woodrow Wilson Memorial Act of 1968, Public Law 89-329, Foreign Service Act of 1980, State Department Authorities Act of 1956, Public Law 103-317, Public Law 92-352, Public Law 104-288, 49 U.S.C., Public Law 102-138, and Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996.

<sup>31</sup> 22 U.S.C. 6561 note.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1411.<sup>32</sup> ABOLITION OF UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY.**

(a) **IN GENERAL.**—Except for the components specified in subsection (b), the United States International Development Cooperation Agency (including the Institute for Scientific and Technological Cooperation) is abolished.

(b) **AID AND OPIC EXEMPTED.**—Subsection (a) does not apply to the Agency for International Development or the Overseas Private Investment Corporation.

**SEC. 1412.<sup>33</sup> TRANSFER OF FUNCTIONS AND AUTHORITIES.**

(a) **ALLOCATION OF FUNDS.**—

(1) **ALLOCATION TO THE SECRETARY OF STATE.**—Funds made available under the categories of assistance deemed allocated to the Director of the International Development Cooperation Agency under section 1-801 of Executive Order No. 12163 (22 U.S.C. 2381 note) as of October 1, 1997, shall be allocated to the Secretary of State on and after the effective date of this title without further action by the President.

(2) **PROCEDURES FOR REALLOCATIONS OR TRANSFERS.**—The Secretary of State may allocate or transfer as appropriate any funds received under paragraph (1) in the same manner as previously provided for the Director of the International Development Cooperation Agency under section 1-802 of that Executive Order, as in effect on October 1, 1997.

(b) **WITH RESPECT TO THE OVERSEAS PRIVATE INVESTMENT CORPORATION.**—There are transferred to the Administrator of the Agency for International Development all functions of the Director of the United States International Development Cooperation Agency as of the day before the effective date of this title with respect to the Overseas Private Investment Corporation.

(c) **OTHER ACTIVITIES.**—The authorities and functions transferred to the United States International Development Cooperation Agency or the Director of that Agency by section 6 of Reorganization Plan Numbered 2 of 1979 shall, to the extent such authorities and functions have not been repealed, be transferred to those agencies or heads of agencies, as the case may be, in which those authorities and functions were vested by statute as of the day before the effective date of such reorganization plan.

**SEC. 1413.<sup>34</sup> STATUS OF AID.**

(a) **IN GENERAL.**—Unless abolished pursuant to the reorganization plan submitted under section 1601, and except as provided in section 1412, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code.

(b) **RETENTION OF OFFICERS.**—Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States

<sup>32</sup> 22 U.S.C. 6561.

<sup>33</sup> 22 U.S.C. 6562.

<sup>34</sup> 22 U.S.C. 6563.

International Development Cooperation Agency as of the day before the effective date of this title.

### CHAPTER 3—CONFORMING AMENDMENTS

#### SEC. 1421.<sup>35</sup> REFERENCES.

Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

(1) insofar as such reference relates to any function or authority transferred under section 1412(a), shall be deemed to refer to the Secretary of State;

(2) insofar as such reference relates to any function or authority transferred under section 1412(b), shall be deemed to refer to the Administrator of the Agency for International Development;

(3) insofar as such reference relates to any function or authority transferred under section 1412(c), shall be deemed to refer to the head of the agency to which such function or authority is transferred under such section; and

(4) insofar as such reference relates to any function or authority not transferred by this title, shall be deemed to refer to the President or such agency or agencies as may be specified by Executive order.

#### SEC. 1422. CONFORMING AMENDMENTS.

(a) TERMINATION OF REORGANIZATION PLANS AND DELEGATIONS.—The following shall cease to be effective:

(1) Reorganization Plan Numbered 2 of 1979 (5 U.S.C. App.).

(2) Section 1-101 through 1-103, sections 1-401 through 1-403, section 1-801(a), and such other provisions that relate to the United States International Development Cooperation Agency or the Director of IDCA, of Executive Order No. 12163 (22 U.S.C. 2381 note; relating to administration of foreign assistance and related functions).

(3) The International Development Cooperation Agency Delegation of Authority Numbered 1 (44 Fed. Reg. 57521), except for section 1-6 of such Delegation of Authority.

(4) Section 3 of Executive Order No. 12884 (58 Fed. Reg. 64099; relating to the delegation of functions under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the Foreign Assistance Act of 1961, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993, and section 301 of title 3, United States Code).

(b) OTHER STATUTORY AMENDMENTS AND REPEAL.—

(1) TITLE 5.—Section 7103(a)(2)(B)(iv) of title 5, United States Code, is amended \* \* \*

<sup>35</sup>22 U.S.C. 6571.

(2) INSPECTOR GENERAL ACT OF 1978.—Section 8A of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—  
\* \* \*

(3) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—The State Department Basic Authorities Act of 1956 is amended—  
\* \* \*

(4) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 is amended—\* \* \*

(5) REPEAL.—Section 413 of Public Law 96-53 (22 U.S.C. 3512) is repealed.

(6) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended \* \* \*

(7) EXPORT ADMINISTRATION ACT OF 1979.—Section 2405(g) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)) is amended—\* \* \*

## TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

### CHAPTER 1—GENERAL PROVISIONS

#### SEC. 1501.<sup>36</sup> EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of reorganization of the Agency for International Development pursuant to the reorganization plan described in section 1601.

### CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

#### SEC. 1511.<sup>37</sup> REORGANIZATION OF AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.—The Agency for International Development shall be reorganized in accordance with this subdivision and the reorganization plan transmitted pursuant to section 1601.

(b) FUNCTIONS TO BE TRANSFERRED.—The reorganization of the Agency for International Development shall provide, at a minimum, for the transfer to and consolidation with the Department of State of the following functions of AID:

- (1) The Press office.
- (2) Certain administrative functions.

### CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

#### SEC. 1521.<sup>38</sup> DEFINITION OF UNITED STATES ASSISTANCE.

In this chapter, the term “United States assistance” means development and other economic assistance, including assistance made available under the following provisions of law:

<sup>36</sup> 22 U.S.C. 6581 note.

<sup>37</sup> 22 U.S.C. 6581.

<sup>38</sup> 22 U.S.C. 6591.

(1) Chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance).

(2) Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund).

(3) Chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa).

(4) Chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance for the independent states of the former Soviet Union).

(5) The Support for East European Democracy Act (22 U.S.C. 5401 et seq.).

**SEC. 1522.<sup>39</sup> ADMINISTRATOR OF AID REPORTING TO THE SECRETARY OF STATE.**

The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

**SEC. 1523.<sup>40</sup> ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.**

(a) **AUTHORITY OF THE SECRETARY OF STATE.—**

(1) **IN GENERAL.—**Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

(2) **EXPORT PROMOTION ACTIVITIES.—**Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

(3) **INTERNATIONAL ECONOMIC ACTIVITIES.—**Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

(4) **AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.—**The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

(b) **COORDINATION ACTIVITIES.—**Coordination activities of the Secretary of State under subsection (a) shall include—

(1) approving an overall assistance and economic cooperation strategy;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

(3) pursuing coordination with other countries and international organizations; and

<sup>39</sup> 22 U.S.C. 6592.

<sup>40</sup> 22 U.S.C. 6593.

(4) resolving policy, program, and funding disputes among United States Government agencies.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

(d) **AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.**—The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.

## **TITLE XVI—TRANSITION**

### **CHAPTER 1—REORGANIZATION PLAN**

#### **SEC. 1601.<sup>41</sup> REORGANIZATION PLAN AND REPORT.**

(a) **SUBMISSION OF PLAN AND REPORT.**—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan and report regarding—

(1) the abolition of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency in accordance with this subdivision;

(2) with respect to the Agency for International Development, the consolidation and streamlining of the Agency and the transfer of certain functions of the Agency to the Department in accordance with section 1511;

(3) the termination of functions of each covered agency as may be necessary to effectuate the reorganization under this subdivision, and the termination of the affairs of each agency abolished under this subdivision;

(4) the transfer to the Department of the functions and personnel of each covered agency consistent with the provisions of this subdivision; and

(5) the consolidation, reorganization, and streamlining of the Department in connection with the transfer of such functions and personnel in order to carry out such functions.

(b) **COVERED AGENCIES.**—The agencies covered by this section are the following:

(1) The United States Arms Control and Disarmament Agency.

(2) The United States Information Agency.

(3) The United States International Development Cooperation Agency.

(4) The Agency for International Development.

(c) **PLAN ELEMENTS.**—The plan transmitted under subsection (a) shall contain, consistent with this subdivision, such elements as the President deems appropriate, including elements that—

<sup>41</sup> 22 U.S.C. 6601.

(1) identify the functions of each covered agency that will be transferred to the Department under the plan;

(2) specify the steps to be taken by the Secretary of State to reorganize internally the functions of the Department, including the consolidation of offices and functions, that will be required under the plan in order to permit the Department to carry out the functions transferred to it under the plan;

(3) specify the funds available to each covered agency that will be transferred to the Department as a result of the transfer of functions of such agency to the Department;

(4) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(5) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency to the Department.

(d) REORGANIZATION PLAN OF AGENCY FOR INTERNATIONAL DEVELOPMENT.—In addition to applicable provisions of subsection (c), the reorganization plan transmitted under this section for the Agency for International Development—

(1) may provide for the abolition of the Agency for International Development and the transfer of all its functions to the Department of State; or

(2) in lieu of the abolition and transfer of functions under paragraph (1)—

(A) shall provide for the transfer to and consolidation within the Department of the functions set forth in section 1511; and

(B) may provide for additional consolidation, reorganization, and streamlining of AID, including—

(i) the termination of functions and reductions in personnel of AID;

(ii) the transfer of functions of AID, and the personnel associated with such functions, to the Department; and

(iii) the consolidation, reorganization, and streamlining of the Department upon the transfer of such functions and personnel in order to carry out the functions transferred.

(e) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) until that part of the plan becomes effective in accordance with subsection (g).

(f) REPORT.—The report accompanying the reorganization plan for the Department and the covered agencies submitted pursuant to this section shall describe the implementation of the plan and shall include—

(1) a detailed description of—

(A) the actions necessary or planned to complete the reorganization,

(B) the anticipated nature and substance of any orders, directives, and other administrative and operational ac-

tions which are expected to be required for completing or implementing the reorganization, and

(C) any preliminary actions which have been taken in the implementation process;

(2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred to the Department, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(3) the number of personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred within the Department, separated from service with the Department, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(4) a projected schedule for completion of the implementation process; and

(5) recommendations, if any, for legislation necessary to carry out changes made by this subdivision relating to personnel and to incidental transfers.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall become effective on the earlier of the date for the respective covered agency specified in paragraph (2) or the date announced by the President under paragraph (3).

(2) STATUTORY EFFECTIVE DATES.—The effective dates under this paragraph for the reorganization plan described in this section are the following:

(A) April 1, 1999, with respect to functions of the Agency for International Development described in section 1511.

(B) April 1, 1999, with respect to the abolition of the United States Arms Control and Disarmament Agency and the United States International Development Cooperation Agency.

(C) October 1, 1999, with respect to the abolition of the United States Information Agency.

(3) EFFECTIVE DATE BY PRESIDENTIAL DETERMINATION.—An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(5) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.



(h) PUBLICATION.—The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

## CHAPTER 2—REORGANIZATION AUTHORITY

### SEC. 1611.<sup>42</sup> REORGANIZATION AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized, subject to the requirements of this subdivision, to allocate or reallocate any function transferred to the Department under any title of this subdivision, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate to carry out any reorganization under this subdivision, but this subsection does not authorize the Secretary to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

(b) REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLAN.—The reorganization plan transmitted under section 1601 may not have the effect of—

- (1) creating a new executive department;
- (2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;
- (3) authorizing a Federal agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;
- (4) creating a new Federal agency which is not a component or part of an existing executive department or independent agency; or
- (5) increasing the term of an office beyond that provided by law for the office.

### SEC. 1612.<sup>43</sup> TRANSFER AND ALLOCATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as otherwise provided in this subdivision, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1615(e)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any title of this subdivision shall be transferred to the Secretary for appropriate allocation.

(b) LIMITATION ON USE OF TRANSFERRED FUNDS.—Except as provided in subsection (c), unexpended and unobligated funds transferred pursuant to any title of this subdivision shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) FUNDS TO FACILITATE TRANSITION.—

- (1) CONGRESSIONAL NOTIFICATION.—Funds transferred pursuant to subsection (a) may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable

<sup>42</sup> 22 U.S.C. 6611.

<sup>43</sup> 22 U.S.C. 6612.

to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(2) TRANSFER AUTHORITY.—Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State and shall expire September 30, 2000.

**SEC. 1613.<sup>44</sup> TRANSFER, APPOINTMENT, AND ASSIGNMENT OF PERSONNEL.**

(a) TRANSFER OF PERSONNEL FROM ACDA AND USIA.—Except as otherwise provided in title XIII—

(1) not later than the date of abolition of ACDA, all personnel and positions of ACDA, and

(2) not later than the date of abolition of USIA, all personnel and positions of USIA,

shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(b) TRANSFER OF PERSONNEL FROM AID.—Except as otherwise provided in title XIII, not later than the date of transfer of any function of AID to the Department of State under this subdivision, all AID personnel performing such functions and all positions associated with such functions shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) ASSIGNMENT AUTHORITY.—The Secretary, for a period of not more than 6 months commencing on the effective date of the transfer to the Department of State of personnel under subsections (a) and (b), is authorized to assign such personnel to any position or set of duties in the Department of State regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. In carrying out the reorganization under this Act, the Secretary shall ensure that the advances made in increasing the number and status of women and minorities within the foreign affairs agencies of the Federal Government, in terms of representation within the agencies as well as relative rank, are not undermined by discrimination within the newly reorganized Department of State.<sup>45</sup> The Secretary shall consult with the relevant exclusive representatives (as defined in section 1002

<sup>44</sup> 22 U.S.C. 6613.

<sup>45</sup> Sec. 341 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-444), added “In carrying out the reorganization under this Act, the Secretary shall ensure that the advances made in increasing the number and status of women and minorities within the foreign affairs agencies of the Federal Government, in terms of representation within the agencies as well as relative rank, are not undermined by discrimination within the newly reorganized Department of State.”

of the Foreign Service Act and in section 7103 of title 5, United States Code) with regard to the exercise of this authority. This subsection does not authorize the Secretary to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

(d) SUPERSEDING OTHER PROVISIONS OF LAW.—Subsections (a) through (c) shall be exercised notwithstanding any other provision of law.

**SEC. 1614.<sup>46</sup> INCIDENTAL TRANSFERS.**

The Director of the Office of Management and Budget, when requested by the Secretary, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any title of this subdivision. The Director of the Office of Management and Budget, in consultation with the Secretary, shall provide for the termination of the affairs of all entities terminated by this subdivision and for such further measures and dispositions as may be necessary to effectuate the purposes of any title of this subdivision.

**SEC. 1615.<sup>47</sup> SAVINGS PROVISIONS.**

(a) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any title of this subdivision; and

(2) that are in effect as of the effective date of such title, or were final before the effective date of such title and are to become effective on or after the effective date of such title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of any title of this subdivision shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any title of this subdivision before any Federal agency, commission, or component thereof, functions of which are transferred by any title of this subdivision. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) ORDERS, APPEALS, PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and pay-

<sup>46</sup> 22 U.S.C. 6614.

<sup>47</sup> 22 U.S.C. 6615.

ments shall be made pursuant to such orders, as if this subdivision had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subdivision shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subdivision had not been enacted.

(4) REGULATIONS.—The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—Except as provided in subsection (e) and section 1327(d)—

(1) the provisions of this subdivision shall not affect suits commenced prior to the effective dates of the respective titles of this subdivision; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this subdivision had not been enacted.

(d) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, shall abate by reason of the enactment of this subdivision. No cause of action by or against any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this subdivision.

(e) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the effective date of any title of this subdivision, any Federal agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this subdivision any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under any title of this subdivision shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any title of this subdivision shall apply to the exercise of such function by the Secretary.

**SEC. 1616.<sup>48</sup> AUTHORITY OF SECRETARY OF STATE TO FACILITATE TRANSITION.**

Notwithstanding any provision of this subdivision, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this subdivision, may transfer the whole or part of such functions prior to the effective dates established in this subdivision, including the transfer of personnel and funds associated with such functions.

**SEC. 1617.<sup>49</sup> FINAL REPORT.**

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this subdivision.

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<sup>48</sup> 22 U.S.C. 6616.

<sup>49</sup> 22 U.S.C. 6617.

#### **d. International Postal Arrangements; Postal Services at Diplomatic Posts**

**Partial text of 39 United States Code, as amended by Public Law 101-524 [Deceptive Mailings Prevention Act of 1990; H.R. 2331], 104 Stat. 2301 at 2303, approved November 6, 1990; and Public Law 105-277 [Treasury and General Government Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681-480, approved October 21, 1998**

#### **§ 407. International Postal Arrangements.<sup>1</sup>**

(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other

<sup>1</sup>Sec. 632(a) of Public Law 105-277 (112 Stat. 2681-523) amended and restated sec. 407. Subsecs. (b) and (d) of sec. 632 further provided the following:

“(b) SENSE OF CONGRESS.—It is the sense of Congress that any treaty, convention or amendment entered into under the authority of section 407 of title 39 of the United States Code, as amended by this section, should not grant any undue or unreasonable preference to the Postal Service, a private provider of postal services, or any other person.

“(c) \* \* \*  
“(d) TRANSFER OF FUNDS.—In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of Section 407 of title 39 of the United States Code.”.

persons as the Secretary or the Postal Service considers appropriate.

\* \* \* \* \*

**§ 413. Postal services at diplomatic posts.<sup>2</sup>**

(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section.

(d) Each agreement entered into under this section shall include—

(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.

<sup>2</sup>Sec. 5(a) of the Deceptive Mailings Prevention Act of 1990 (Public Law 101-524; 104 Stat. 2303) added sec. 413.

**e. Foreign Service Retirement Amendments of 1976**

**Partial text of Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 834, approved July 12, 1976; as amended by Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980**

AN ACT To authorize fiscal year 1977 appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1977”.

NOTE.—See also title I, chapter 8 of the Foreign Service Act of 1980 for additional legislation concerning the Foreign Service Retirement and Disability System.

\* \* \* \* \*

**TITLE V—FOREIGN SERVICE RETIREMENT**

**SHORT TITLE**

SEC. 500. This title may be cited as the “Foreign Service Retirement Amendments of 1976”.

\* \* \* \* \*

**CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM**

SEC. 522.<sup>1</sup> \* \* \* [Repealed—1981]

**GRANTS TO CERTAIN WIDOWS AND SURVIVOR ANNUITY ELECTIONS**

SEC. 523.<sup>2</sup> (a) A Foreign Service annuitant who was married at the time of retirement, whose service terminated prior to October 16, 1960, and who has not elected any survivor benefit, may, within one hundred and twenty days after the effective date of this title, elect a reduction in his or her annuity of \$300 per annum and provide a survivor benefit of \$2,400 per annum payable to the annuitant’s surviving spouse provided the marriage had been in effect

<sup>1</sup>Sec. 2205(4) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160) repealed sec. 522.

<sup>2</sup>22 U.S.C. 1076 note.



for at least two years at the time of death or resulted in the birth of a child. The survivor annuity shall be treated in all respects as if it had been elected under section 821(b) of the Foreign Service Act of 1946,<sup>3</sup> as amended by this title.

(b) An annuitant who makes an election under subsection (a) of this section shall pay into the Foreign Service Retirement and Disability Fund an amount equal to \$25 times the number of full months between the commencing date of his or her annuity and the first of the month following receipt of notice of election by the Secretary of State. This amount may be paid into such Fund by deduction from annuity in multiples of \$25 per month. The annuity reduction under subsection (a) of this section and the deduction under this subsection shall commence effective the first of the month following receipt of notice of the election by the Secretary of State. The deduction under this subsection shall continue until the required amount has been paid into such Fund or until the annuitant's death, whichever occurs first; and if the latter, any remaining portion of such required amount shall be deemed to have been paid.

(c) If a Foreign Service annuitant who separated from the Foreign Service prior to October 16, 1960, died before the effective date of this title, or dies within one hundred and twenty days after such effective date leaving a spouse to whom married at retirement who is not entitled to receive a survivor annuity under the terms of section 8133 of title 5, United States Code, or any law authorizing payment from the Foreign Service Retirement and Disability Fund and who qualifies under section 821(h) of the Foreign Service Act of 1946,<sup>3</sup> as amended by this title, the Secretary of State shall grant such surviving spouse, if not remarried prior to age sixty, an annuity, to be payable from such Fund in the amount of \$2,400 per annum adjusted by all cost-of-living increases received by widows granted annuities under section 4 of the Act of October 31, 1965 (79 Stat. 1130). An annuity to a surviving spouse who remarried prior to age sixty may be initiated or resumed under this subsection in accordance with the provisions of subsections (b) and (h) of section 821 of the Foreign Service Act of 1946,<sup>3</sup> as amended by this title, if such remarriage has terminated or terminates in the future.

#### EFFECTIVE DATES

SEC. 524.<sup>4</sup> (a) Unless otherwise specified, this title shall be effective upon enactment or on October 1, 1976, whichever is later.

(b) Section 522 of this title and sections 803 and 881 of the Foreign Service Act of 1946, as amended by this title,<sup>3</sup> shall be effective on the first day of the first pay period which begins more than ninety days after the effective date of this title.

(c) Effective on the last day of the first month which ends after the effective date of this title, all Foreign Service survivor annuities, including those then in effect, shall terminate on the last day

<sup>3</sup>The Foreign Service Act of 1980 (Public Law 96-465) repealed and replaced the Act of 1946. Sec. 2401(c) of the 1980 Act specified that any references in other Acts to the Foreign Service Act of 1946 would be deemed to be a reference to the corresponding provision of the Foreign Service Act of 1980.

<sup>4</sup>22 U.S.C. 915 note.

of a month in accordance with the provisions of subsections (b)(2)(B), (e), and (f) of section 821 of the Foreign Service Act of 1946, as amended by this title.<sup>3</sup>

(d) The amendment of section 804 of the Foreign Service Act of 1946<sup>3</sup> made by this title broadening eligibility for children's survivor annuities shall apply to all surviving children regardless of the date of death of the principal.

(e) Subsection (g) of section 821 of the Foreign Service Act of 1946, as added by this title,<sup>3</sup> shall apply to both present and future Foreign Service annuitants. Any annuitant unmarried at retirement who married after retirement but prior to the effective date of this title may make an election under such subsection (g) if notice of the election is received by the Secretary of State within one year after such effective date.

(f) If an annuitant dies on or after January 8, 1971, who, prior to the effective date of this title, elected a reduced annuity with a benefit to a surviving spouse, and is survived by a spouse acquired after such election who qualifies under section 804(2) of the Foreign Service Act of 1946, as amended by this title,<sup>3</sup> such surviving spouse shall be entitled to an annuity computed under the law in effect at the time of such election and in accordance with all other applicable statutes. Such an annuity shall be treated in all other respects in the same manner as an annuity payable under section 821(b) of the Foreign Service Act of 1946, as amended by this title.<sup>3</sup> For purposes of section 882(c)(2) of the Foreign Service Act of 1946, as amended by this title,<sup>3</sup> the death of an annuitant who has died before the effective date of this title shall be deemed to have occurred on such effective date.

(g) The restrictions on payment of survivor annuities in subsection (b)(2)(A) and subsection (h) of section 821 of such Act<sup>3</sup> shall not apply to a supplemental survivor annuity provided under subsection (i) of section 821 or subsection (f) of section 832 of such Act<sup>3</sup> if the restrictions do not apply to a basic survivor annuity elected prior to commencement of the recall service.

(h) Subsection (a) of section 822 of the Foreign Service Act of 1946,<sup>3</sup> as added by this title,<sup>3</sup> shall be effective on the first day of the first month which begins on or after the effective date of this title.

(i) Subsection (a) of section 841 of the Foreign Service Act of 1946, as amended by this title,<sup>3</sup> shall not apply to participants separated from the Foreign Service prior to the effective date of this title nor to their survivors. All payments from the Foreign Service Retirement Fund that become due on and after such effective date shall be paid in the order of precedence specified in such section 841 irrespective of the date of separation.

(j) Subsection (c) of section 851 of the Foreign Service Act of 1946, as added by this title,<sup>3</sup> shall be effective on the first day of the first pay period that begins more than thirty days after the effective date of this title. A participant who is on approved leave without pay and is serving as a full-time officer or employee of an organization composed primarily of Government employees on the effective date of such section shall have sixty days from such date to file an election under subsection (c) of said section 851.

(k) Subsection (f) of section 851 of the Foreign Service Act of 1946, as added by this title,<sup>3</sup> shall apply, in addition to present participants, to former participants who separated from the Foreign Service to enter the Armed Forces within the five-year period immediately preceding the effective date of this title and who are members of the Armed Forces on such date.

(l) The annuity of a survivor who becomes immediately eligible for an annuity under subsection (c) of section 523 of this title or subsection (d) or (f) of this section shall become effective the first day of the first month which begins on or after the effective date of this title. However, payment shall be made only after receipt by the Department of State of such application for annuity and such proof of eligibility as the Secretary may require. If such application and proof of eligibility are not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

(m) The amendment of subsections (a) and (b) of section 882 of the Foreign Service Act of 1946<sup>3</sup> made by this title shall be effective on the fifteenth day of the third month which begins after the effective date of this title.

(n) Annuities which commenced between—

(A)<sup>5</sup> the effective date of the last cost-of-living increase which became effective under section 882 of the Foreign Service Act of 1946<sup>3</sup> prior to the effective date of this title, and

(B)<sup>5</sup> such effective date,

shall be recomputed and, if necessary, adjusted retroactively to their commencing dates to apply the provisions of new subsections (c)(1) of section 882 of the Foreign Service Act of 1946, as added by section 515 of this title.<sup>3</sup>

(o) Any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service Act of 1946,<sup>3</sup> unless the Secretary determines it to be in the public interest to extend such officer's service for a period not to exceed five years:

#### RETIREMENT SCHEDULE

(1) Any career minister who reaches age sixty-five during the month this title becomes effective shall be retired at the end of such month.

(2) Other career ministers who are age sixty or over on such effective date shall be retired at the end of the month which contains the midpoint between the last day of the month of such effective date and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month.

(3) On the last day of the thirtieth month which ends after such effective date, all other career ministers who are age sixty or over shall be retired, and thereafter the amendments made by sections 518 and 519 shall be applicable in all cases.

<sup>5</sup> As enrolled; no paras. (1) and (2).

(4) Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which the officer completes such service.

## **f. Coordination Procedures—U.S. Diplomatic Missions**

**Executive Order No. 10338; April 4, 1952; 17 F.R. 3009; 22 U.S.C. 2382 note**

**Section 1. Functions of the Chief of the United States Diplomatic Mission.** (a) The Chief of the United States Diplomatic Mission in each country, as the representative of the President and acting on his behalf, shall coordinate the activities of the United States representatives (including the chiefs of economic missions, military assistance advisory groups, and other representatives of agencies of the United States Government) in such country engaged in carrying out programs under the Mutual Security Act of 1951 (hereinafter referred to as the Act), and he shall assume responsibility for assuring the unified development and execution of the said programs in such country. More particularly, the functions of each Chief of United States Diplomatic Mission shall include, with respect to the programs and country concerned:

(1) Exercising general direction and leadership of the entire effort.

(2) Assuring that recommendations and prospective plans and actions of the United States representatives are effectively coordinated and are consistent with and in furtherance of the established policy of the United States.

(3) Assuring that the interpretations and application of instructions received by the United States representatives from higher authority are in accordance with the established policy of the United States.

(4) Guiding the United States representatives in working out measures to prevent duplication in their efforts and to promote the most effective and efficient use of all United States officers and employees having mutual security responsibilities.

(5) Keeping the United States representatives fully informed as to current and prospective United States policies.

(6) Prescribing procedures governing the coordination of the activities of the United States representatives, and assuring that these representatives shall have access to all available information essential to the accomplishment of their prescribed duties.

(7) Preparing and submitting such reports on the operation and status of the programs under the Act as may be directed by the Director for Mutual Security.

(b) Each Chief of United States Diplomatic Mission shall perform his functions under this order in accordance with instructions from higher authority and subject to established policies and programs of the United States.

(c) No Chief of United States Diplomatic Mission shall delegate any function conferred upon him by the provisions of this order which directly involves the exercise of direction, coordination, or authority.

**Sec. 2. Referral of unresolved matters.** The Chief of the United States Diplomatic Mission in each country shall initiate steps to reconcile any divergent views arising in the country concerned with respect to programs under the Act. If agreement cannot be reached the Chief of the United States Diplomatic Mission shall recommend a course of action, and such course of action shall be followed unless a United States representative requests that the issue be referred to higher authority for decision. If such a request is made, the parties concerned shall promptly refer the issue to higher authority for resolution prior to taking action at the country level. The Director for Mutual Security shall assure expeditious decisions on matters so submitted.

**Sec. 3. Effect of order on United States representatives.** (a) All United States representatives in each country shall be subject to the responsibilities imposed upon the Chief of the United States Diplomatic Mission in such country by section 507 of the Mutual Security Act of 1951 and by this order.

(b) Subject to compliance with the provisions of this order and with the prescribed procedures of their respective agencies, all United States representatives affected by this order (1) shall have direct communication with their respective agencies and with such other parties and in such manner as may be authorized by their respective agencies, (2) shall keep the respective Chiefs of United States Diplomatic Missions and each other fully and currently informed on all matters, including prospective plans, recommendations, and actions, relating to programs under the Act, and (3) shall furnish to the respective Chiefs of United States Diplomatic Missions, upon their request, documents and information concerning the said programs.

**Sec. 4. Further coordination procedures.** The Director for Mutual Security shall be responsible for assuring the carrying out of the provisions of this order. He is authorized to prescribe, after consultation with the interested Government agencies, any additional procedures he may find necessary to carry out the provisions of this order.

**Sec. 5. Prior orders.** (a) To the extent that provisions of any prior order are inconsistent with the provisions of this order, the latter shall control, and any such prior provisions are amended accordingly. All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

(b) Nothing in this order shall affect Executive Orders Nos. 10062, 10063, and 10144 of June 6, 1949, June 13, 1949, and July 21, 1950, respectively.

(c) Executive Orders Nos. 9857, 9862, 9864, 9914, 9944, 9960, 10208, and 10259 of May 22, 1947, May 31, 1947, December 26, 1947, April 9, 1948, May 19, 1948, January 25, 1951, and June 27, 1951, respectively, are hereby revoked.

### **g. The Foreign Service of the United States**

**Executive Order 12293,**<sup>1</sup> February 23, 1981, 46 F.R. 13969; as amended by **Executive Order 12363,** May 21, 1982, 47 F.R. 22497; **Executive Order 12388,** October 14, 1982, 47 F.R. 46245; **Executive Order 12536,** October 9, 1985, 50 F.R. 41477; **Executive Order 13118,** March 31, 1999, 64 F.R. 16595; **Executive Order 13325,** January 23, 2004, 69 F.R. 4217; and **Executive Order 13374,** March 14, 2005, 70 F.R. 12961

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071, 22 U.S.C. 3901 *et seq.*), Section 202 of the Revised Statutes (22 U.S.C. 2656), and Section 301 of Title 3 of the United States Code, and in order to provide for the administration of the Foreign Service of the United States, it is hereby ordered as follows:

**Section 1.** There are hereby delegated to the Secretary of State those functions vested in the President by Sections 205, 401(a), 502(c), 613, and 801 of the Foreign Service Act of 1980, hereinafter referred to as the Act (22 U.S.C. 3925, 3942(a)(1), 3892(c), 4013, and 4041).

**Sec. 2.** The Secretary of State shall, in accord with Section 205 of the Act (22 U.S.C. 3925), consult with the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the United States Agency for International Development,<sup>2</sup> the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget, in order to ensure compatibility between the Foreign Service personnel system and other government personnel systems.

**Sec. 3.** The Secretary of State shall make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under Section 827 of the Act (22 U.S.C. 4067) to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System.

**Sec. 4.**<sup>3</sup> Pursuant to section 402 of the Foreign Service Act (22 U.S.C. 3962), and subject to any restrictions therein, there are established the following salary classes with titles for the Senior Foreign Service, at the following ranges of basic rates of pay:

(a) Career Minister

<sup>1</sup>22 U.S.C. 3901 note.

<sup>2</sup>Sec. 2 of Executive Order 13374 (70 F.R. 12961) struck out "the Director of the International Communication Agency, the Director of the United States International Development Cooperation Agency" and inserted in lieu thereof "the Administrator of the United States Agency for International Development". Previously, sec. 10(4)(A) of Executive Order 13118 struck out "Director of the United States International Development Cooperation Agency" and inserted in lieu thereof "Administrator of the United States Agency for International Development", and reference to the United States Information Agency was substituted in lieu of a reference to the International Communication Agency by sec. 4 of Executive Order 12388.

<sup>3</sup>Executive Order 13325 (January 23, 2004; 69 F.R. 4217) amended and restated sec. 4. It was further amended and restated by sec. 1 of Executive Order 13374 (March 14, 2005; 70 F.R. 12961).

Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 100 percent of the rate payable for level II of the Executive Schedule.

(b) Minister-Counselor

Range of 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 107 percent of the rate payable for level III of the Executive Schedule.

(c) Counselor

Range of 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 102 percent of the rate payable for level III of the Executive Schedule.

**Sec. 5.** There is hereby delegated to the Secretary of State, without further action by the President, the authority vested in the President by Section 2107 of the Act to the extent necessary to implement the provisions of Section 2101 of the Act, relating to pay and benefits pending conversion.

**Sec. 6.** (a) Pursuant to Section 211 of the Act (22 U.S.C. 3931), there is established in the Department of State the Board of Examiners for the Foreign Service.

(b) The Board shall be appointed by, and in accordance with regulations prescribed by, the Secretary of State, except that not less than five shall be career members of the Foreign Service and not less than seven shall be appointed as follows:

(1) not less than five shall be appointed by the heads of the agencies utilizing the Foreign Service personnel system;

(2) not less than one shall be a representative appointed by the Director of the Office of Personnel Management; and

(3) not less than one shall be a representative appointed by the Secretary of Labor.

(c) The Secretary of State shall designate from among the members of the Board a Chairman who is a member of the Service.

(d) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

**Sec. 7.** For the purpose of ensuring the accuracy of information used in the administration of the Foreign Service Retirement and Disability System, the Secretary of State may request from the Secretary of Defense and the Administrator of Veterans Affairs such information as the Secretary deems necessary. To the extent permitted by law: (a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10, United States Code; and, (b) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code. The Secretary, in consultation with the officials from whom information is requested, shall ensure that information made available under this Order is used only for the purpose authorized.

**Sec. 8.** The first seven Sections of this Order shall be effective as of February 15, 1981.

**Sec. 9.<sup>4</sup>** (a) Pursuant to Section 210 of the Act there is established in the Department of State the Board of the Foreign Service (22 U.S.C. 3930).

<sup>4</sup>Executive Order 12363 added secs. 9 and 10. Executive Order 12536 revoked sec. 9(e) and redesignated sec. 9(j) as 9(e). Sec. 9(e) previously read as follows:



(b) The Board shall be composed of the designated number of representatives of the heads of the following agencies:

- (1) Department of State, four members, at least three of whom must be career members of the Senior Foreign Service;
- (2) United States Information Agency,<sup>5</sup> two members, one of whom must be a career member of the Senior Foreign Service;
- (3) United States Agency for International Development,<sup>6</sup> two members, one of whom must be a career member of the Senior Foreign Service;
- (4) Department of Agriculture, two members, one of whom must be a career member of the Senior Foreign Service;
- (5) Department of Commerce, two members, one of whom must be a career member of the Senior Foreign Service;
- (6) Department of Labor, one member;
- (7) Office of Personnel Management, one member;
- (8) Office of Management and Budget, one member; and,
- (9) Equal Employment Opportunity Commission, one member;

(c) The membership of the Board shall be selected from among officials who are knowledgeable in matters concerning the management of the Foreign Service. Except for the career members of the Senior Foreign Service from the Department of Agriculture, the Department of Commerce, the United States Information Agency,<sup>5</sup> and the United States Agency for International Development,<sup>6</sup> the members of the Board shall be selected from among those who have the rank of Assistant Secretary or higher or a position of comparable responsibility.

(d) The Secretary of State may from time to time request the heads of other agencies to designate representatives to participate in the functions of the Board on a regular or occasional basis.

(e) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

**Sec. 10.** Pursuant to section 202(a)(2)(B) and (a)(3)(B) of the Act (22 U.S.C. 3922(a)(2)(B), (a)(3)(B)), it is hereby determined to be necessary, in order to enable the Department of Agriculture and the Department of Commerce to carry out functions which require service abroad, for the respective Secretaries, in consultation with the Office of Personnel Management and the Office of Management and Budget, to be able to utilize the Foreign Service personnel system with respect to personnel of the following:

(a) The Animal and Plant Health Inspection Service of the Department of Agriculture, not to exceed 125 positions, without the prior approval of the Director of the Office of Personnel Management;

(b) The United States Travel and Tourism Administration, and the International Trade Administration of the Department of Commerce, not to exceed 30 positions without the prior approval of the Director of the Office of Personnel Management, and providing that

<sup>4</sup>(e) The Secretary of State shall designate a Chairman of the Board from among those members who are career members of the Senior Foreign Service.”

<sup>5</sup>Sec. 5 of Executive Order 12388 struck out “International Communication Agency” and inserted in lieu thereof “United States Information Agency”.

<sup>6</sup>Sec. 10(4)(B) of Executive Order 13118 struck out “United States International Development Cooperation Agency” and inserted in lieu thereof “United States Agency for International Development”.

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assignments to such positions be administered consistent with policies of the Foreign Commercial Service established under Executive Order No. 12188.

## **h. Providing an Order of Succession Within the Department of State**

**Executive Order 13251, December 28, 2001, 67 F.R. 1599, 5 U.S.C. 3345 note; as amended by Executive Order 13261, March 19, 2002, 67 F.R. 13243**

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

**Section 1.** Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as, and perform the duties of, the office of the Office of Secretary of State (Secretary) during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

**Sec. 2. Order of Succession.**

- (a) Deputy Secretary of State.
- (b) Deputy Secretary of State for Management and Resources.
- (c) Under Secretary of State designated for political affairs pursuant to section 2651a(b) of title 22, United States Code;
- (d) Under Secretary of State designated for management affairs pursuant to section 2651a(b) of title 22, United States Code;
- (e) The remaining Under Secretaries of State, in the order in which they shall have taken the oath of office as such;
- (f) Assistant Secretaries of State designated for regional bureaus pursuant to section 2651a(c) of title 22, United States Code, in the order in which they shall have taken the oath of office as such;
- (g) The following officers, in the order in which they shall have taken the oath of office as such:
  - (1) Remaining Assistant Secretaries of State;
  - (2) Coordinator for Counterterrorism;
  - (3) Director General of the Foreign Service; and
  - (4) Legal Adviser;
- (h) United States Representative to the United Nations (New York);
- (i) Deputy United States Representative to the United Nations (New York);
- (j) The following other United States Representative to the United Nations (New York), in the order in which they shall have taken the oath of office as such:
  - (1) United States Representative to the United Nations for United Nations Management and Reform;
  - (2) United States Representative to the United Nations on the Economic and Social Council of the United Nations;and

- (3) Alternative United States Representative to the United Nations for Special Political Affairs in the United Nations;
- (k) The following Chiefs of Mission, in the order listed:
- (1) United States Ambassador to the United Kingdom;
  - (2) United States Ambassador to Canada;
  - (3) United States Ambassador to Australia;
  - (4) United States Ambassador to Mexico;
  - (5) United States Ambassador to Japan; and
  - (6) United States Ambassador to India;
- (l) The following officers, in the order in which they shall have taken the oath of office as such:
- (1) United States Ambassadors at Large;
  - (2) Counselor; and
  - (3) Special Representatives of the President; and
- (m) The remaining Chiefs of Mission, in the order in which they shall have taken the oath of office as such.

**Sec. 3. Exceptions.**

(a) No individual who has not been appointed by the President by and with the consent of the Senate shall act as Secretary pursuant to this order.

(b)<sup>1</sup> No individual who is serving in an office listed in section 2(a)–(m) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this order in designating an acting Secretary.

(d) A successor office, intended to be the equivalent of an office identified in section 2 of this order, shall be deemed to be the position identified in section 2 for purposes of this order.

**Sec. 4.** Executive Order 12343 of January 27, 1982, is hereby revoked.<sup>2</sup>

<sup>1</sup>Sec. 4(i) of Executive Order 13261 (March 19, 2002; 67 F.R. 13243), replaced the text of subsec. (b), which had read as follows:

“(b) No individual who is serving in an office listed in section 2(a)–(m) in an acting capacity shall act as Secretary pursuant to this order.”

<sup>2</sup>Executive Order 12343 (January 27, 1982; 47 F.R. 4225) had provided, in part, that, in the event of the unavailability of the Secretary of State or Deputy Secretary of State, “an officer from the Department of State who has been appointed by the President, by and with the advice and consent of the Senate, in such order as the Secretary of State may from time to time prescribe, shall act as Secretary.”

**i. Interdepartmental Operations of the U.S. Government Overseas**

**(1) Foreign Intelligence Surveillance Act of 1978**

Public Law 95-511 [S. 1566], 92 Stat. 1783, approved October 25, 1978; as amended by Public Law 103-359 [Intelligence Authorization Act for Fiscal Year 1995; H.R. 4299], 108 Stat. 3423, approved October 14, 1994; Public Law 105-272 [Intelligence Authorization Act for Fiscal Year 1999; H.R. 3694], 112 Stat. 2396, approved October 20, 1998; Public Law 106-120 [Intelligence Authorization Act for Fiscal Year 2000; H.R. 1555], 113 Stat. 1606, approved December 3, 1999; Public Law 106-567 [Intelligence Authorization Act for Fiscal Year 2001; H.R. 5630], 114 Stat. 2831, approved December 27, 2000; Public Law 107-56 [Uniting and Strengthening American By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 272, approved October 26, 2001; Public Law 107-108 [Intelligence Authorization Act for Fiscal Year 2002; H.R. 2883], 115 Stat. 11394, approved December 28, 2001; Public Law 107-296 [Homeland Security Act of 2002; H.R. 5005], 116 Stat. 2135, approved November 25, 2002; and Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

AN ACT To authorize electronic surveillance to obtain foreign intelligence information.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Foreign Intelligence Surveillance Act of 1978”.<sup>1</sup>*

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<sup>1</sup>50 U.S.C. 1801 note.

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TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101.<sup>3</sup> As used in this title:

(a) “Foreign power” means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism<sup>4</sup> or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) “Agent of a foreign power” means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer or employee of a foreign power, or as a member of a foreign power as defined in subsection (a)(4);

<sup>3</sup> 50 U.S.C. 1801.

<sup>4</sup> Note use of the term “terrorism” as defined in sec. 101(c) for purposes of this title.

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(C)<sup>5</sup> engages in international terrorism or activities in preparation therefore; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, or on behalf of a foreign power,<sup>6</sup>

(D)<sup>6</sup> knowingly enters the United States under a false or fraudulent identity for or on behalf of a foreign power or, while in the United States, knowingly assumes a false or fraudulent identity for or on behalf of a foreign power; or

(E)<sup>6</sup> knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

<sup>5</sup>Sec. 6001(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3742) added subpara. (C). Sec. 6001(b) of that Act, however, provided that "The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of Public Law 107-56 (115 Stat. 295), including the exception provided in subsection (b) of such section 224."

Sec. 224 of Public Law 107-56 (115 Stat. 295), read as follows:

**"SEC. 224. SUNSET.**

"(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title (other than sections 203(a), 203(c), 205, 208, 210, 211, 213, 216, 219, 221, and 222, and the amendments made by those sections) shall cease to have effect on December 31, 2005.

"(b) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect."

<sup>6</sup>Sec. 601 of Public Law 106-120 (113 Stat. 1619) struck out "or" at the end of subpara. (C); redesignated subpara. (D) as subpara. (E); and added a new subpara. (D).

- (A) to intimidate or coerce a civilian population;
  - (B) to influence the policy of a government by intimidation or coercion; or
  - (C) to effect the conduct of a government by assassination or kidnapping; and
- (3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.
- (d) "Sabotage" means activities that involve a violation of chapter 105 of title 18, United States Code, or that would involve such a violation if committed against the United States.
- (e) "Foreign intelligence information" means—
- (1) information that relates to, and if concerning a United States person is necessary to, the ability of the United States to protect against—
    - (A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;
    - (B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or
    - (C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or
  - (2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States person is necessary to—
    - (A) the national defense or the security of the United States; or
    - (B) the conduct of the foreign affairs of the United States.
- (f) "Electronic surveillance" means—
- (1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;
  - (2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States, but does not include the acquisition of those communications of computer trespassers that would be permissible under section 2511(2)(i) of title 18, United States Code;<sup>7</sup>
  - (3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any

<sup>7</sup>Sec. 1003 of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 392) inserted " but does not include the acquisition of those communications of computer trespassers that would be permissible under section 2511(2)(i) of title 18, United States Code".



radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purpose, and if both the sender and all intended recipients are located without the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) “Attorney General” means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) “Minimization procedures”, with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102(a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than 72 hours<sup>8</sup> unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(i) “United States person” means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation

<sup>8</sup>Sec. 314(a)(1) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) struck out “twenty-four hours” and inserted in lieu thereof “72 hours”.

which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identify of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(o) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN  
INTELLIGENCE PURPOSES

SEC. 102.<sup>9</sup> (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) the acquisition of the contents of communications transmitted by means of communications used exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence, other than the spoken communications of individuals, from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), or (3);

(B) there is no substantial likelihood that the surveillance will acquire the contents of any communication to which a United States person is a party; and

(C) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General reports such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney

<sup>9</sup>50 U.S.C. 1802.

General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him. The Attorney General shall assess compliance with such procedures and shall report such assessments to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence under the provisions of section 108(a).

(3) The Attorney General shall immediately transmit under seal to the court established under section 103(a) a copy of his certification. Such certification shall be maintained under security measures established by the Chief Justice with the concurrence of the Attorney General, in consultation with the Director of National Intelligence,<sup>10</sup> and shall remain sealed unless—

(A) an application for a court order with respect to the surveillance is made under sections 101(h)(4) and 104; or

(B) the certification is necessary to determine the legality of the surveillance under section 106(f).

(4) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence<sup>10</sup> any records concerning the surveillance or the aid furnished which such carrier wishes to retain.

The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

<sup>10</sup>Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out "Director of Central Intelligence" and inserted in lieu thereof "Director of National Intelligence".

## DESIGNATION OF JUDGES

SEC. 103.<sup>11</sup> (a) The Chief Justice of the United States shall publicly designate 11 district court judges<sup>12</sup> from seven of the United States judicial circuits of whom no fewer than 3 shall reside within 20 miles of the District of Columbia<sup>13</sup> who shall constitute a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act, except that no judge designated under this subsection shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).

(b) The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a court of review which shall have jurisdiction to review the denial of any application made under this Act. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(c) Proceedings under this Act shall be conducted as expeditiously as possible. The record of proceedings under this Act, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of National Intelligence.<sup>14</sup>

(d) Each judge designated under this section shall so serve for a maximum of seven years and shall not be eligible for redesignation, except that the judges first designated under subsection (a) shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) shall be designated for terms of three, five, and seven years.

## APPLICATION FOR AN ORDER

SEC. 104.<sup>15</sup> (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction

<sup>11</sup> 50 U.S.C. 1803.

<sup>12</sup> Sec. 208(1) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 283) struck out "seven district court judges" and inserted in lieu thereof "11 district court judges".

<sup>13</sup> Sec. 208(2) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 283) inserted "of whom no fewer than 3 shall reside within 20 miles of the District of Columbia" after "circuits".

<sup>14</sup> Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out "Director of Central Intelligence" and inserted in lieu thereof "Director of National Intelligence".

<sup>15</sup> 50 U.S.C. 1804.

under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

- (1) the identity of the Federal officer making the application;
- (2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;
- (3) the identity, if known, or a description of the target of the electronic surveillance;
- (4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—
  - (A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and
  - (B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;
- (5) a statement of the proposed minimization procedures;
- (6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;
- (7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—
  - (A) that the certifying official deems the information sought to be foreign intelligence information;
  - (B) that the significant purpose<sup>16</sup> of the surveillance is to obtain foreign intelligence information;
  - (C) that such information cannot reasonably be obtained by normal investigative techniques;
  - (D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and
  - (E) including a statement of the basis for the certification that—
    - (i) the information sought is the type of foreign intelligence information designated; and
    - (ii) such information cannot reasonably be obtained by normal investigative techniques;
- (8) a statement of the means by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;
- (9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

<sup>16</sup>Sec. 218 of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 291) struck out “the purpose” and inserted in lieu thereof “a significant purpose” in this section and in sec. 303(a)(7)(B).

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter, and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall state whether physical entry is required to effect the surveillance and shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

(e)<sup>17</sup> (1)(A) Upon written request of the Director of the Federal Bureau of Investigation, the Secretary of Defense, the Secretary of State, or the Director of National Intelligence,<sup>18</sup> the Attorney General shall personally review under subsection (a) an application under that subsection for a target described in section 101(b)(2).

(B) Except when disabled or otherwise unavailable to make a request referred to in subparagraph (A), an official referred to in that subparagraph may not delegate the authority to make a request referred to in that subparagraph.

(C) Each official referred to in subparagraph (A) with authority to make a request under that subparagraph shall take appropriate actions in advance to ensure that delegation of such authority is clearly established in the event such official is disabled or otherwise unavailable to make such request.

(2)(A) If as a result of a request under paragraph (1) the Attorney General determines not to approve an application under the second sentence of subsection (a) for purposes of making the application under this section, the Attorney General shall provide written notice of the determination to the official making the request for the review of the application under that paragraph. Except

<sup>17</sup> Sec. 602(a) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2851) added subsec. (e).

<sup>18</sup> Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out "Director of Central Intelligence" and inserted in lieu thereof "Director of National Intelligence".

when disabled or otherwise unavailable to make a determination under the preceding sentence, the Attorney General may not delegate the responsibility to make a determination under that sentence. The Attorney General shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event the Attorney General is disabled or otherwise unavailable to make such determination.

(B) Notice with respect to an application under subparagraph (A) shall set forth the modifications, if any, of the application that are necessary in order for the Attorney General to approve the application under the second sentence of subsection (a) for purposes of making the application under this section.

(C) Upon review of any modifications of an application set forth under subparagraph (B), the official notified of the modifications under this paragraph shall modify the application if such official determines that such modification is warranted. Such official shall supervise the making of any modification under this subparagraph. Except when disabled or otherwise unavailable to supervise the making of any modification under the preceding sentence, such official may not delegate the responsibility to supervise the making of any modification under that preceding sentence. Each such official shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event such official is disabled or otherwise unavailable to supervise the making of such modification.

#### ISSUANCE OF AN ORDER

SEC. 105.<sup>19</sup> (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made

<sup>19</sup> 50 U.S.C. 1805.

under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b)<sup>20</sup> In determining whether or not probable cause exists for purposes of an order under subsection (a)(3), a judge may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target.

(c)<sup>20</sup> An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed, if known;<sup>21</sup>

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected and whether physical entry will be used to effect the surveillance;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person, or in circumstances where the Court finds that the actions of the target of the application may have the effect of thwarting the identification of a specified person, such other persons,<sup>22</sup> furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the

<sup>20</sup>Sec. 602(b) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2581) redesignated former subsecs. (b) through (g) as subsecs. (c) through (h), respectively, and added a new subsec. (b).

<sup>21</sup>Sec. 314(a)(2)(A) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) inserted “, if known”.

<sup>22</sup>Sec. 206 of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 282) inserted “or in circumstances where the Court finds that the actions of the target of the application may have the effect of thwarting the identification of a specified person, such other persons,” after “specified person”.



Attorney General and the Director of National Intelligence<sup>23</sup> any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(d)<sup>20</sup> Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a)(1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (c)(1),<sup>24</sup> but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(e)<sup>20</sup> (1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that (A)<sup>25</sup> an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a)(1), (2), or (3), for the period specified in the application or for one year, whichever is less, and (B)<sup>25</sup> an order under this Act for a surveillance targeted against an agent of a foreign power specified in the application or for 120 days, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that (A)<sup>26</sup> an extension of an order under this Act for a surveillance targeted against a foreign power, as defined in section 101(a)(5) or (6), or against a foreign power as defined in section 101(a)(4) that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period, and (B) an extension of an order under this Act for a surveillance targeted against an agent of a foreign power as defined in section 101(b)(1)(A) may be for a period not to exceed 1 year.<sup>26</sup>

(3) At or before the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(f)<sup>20</sup> Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

<sup>23</sup> Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out “Director of Central Intelligence” and inserted in lieu thereof “Director of National Intelligence”.

<sup>24</sup> Sec. 602(b)(3) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2852) struck out “subsection (b)(1)” and inserted in lieu thereof “subsection (c)(1)”.

<sup>25</sup> Sec. 207(a)(1) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 282) inserted “(A)” after “except that”, and added “, and (B)” and the text that follows to the end of para. (1).

<sup>26</sup> Sec. 207(b)(1) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 282), as amended by sec. 314(c)(1) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402), inserted “(A)” after “except that”, and added “, and (B)” and the text that follows to the end of para. (1).

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge having jurisdiction under section 103 is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than 72 hours<sup>27</sup> after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of 72 hours<sup>27</sup> from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(g)<sup>20</sup> Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment;

(C) the contents of any communication acquired are retained and used only for the purpose of determining the

<sup>27</sup> Sec. 314(a)(2)(B) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) struck out “twenty-four hours” and inserted in lieu thereof “72 hours”.

capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test; and:

- (D) *Provided*, That the test may exceed ninety days only with the prior approval of the Attorney General;
- (2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—
- (A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;
- (B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and
- (C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or
- (3) train intelligence personnel in the use of electronic surveillance equipment, if—
- (A) it is not reasonable to—
- (i) obtain the consent of the persons incidentally subjected to the surveillance;
- (ii) train persons in the course of surveillance otherwise authorized by this title; or
- (iii) train persons in the use of such equipment without engaging in electronic surveillance;
- (B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and
- (C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(h)<sup>20</sup> Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained for a period of at least ten years from the date of the certification or application.

(i)<sup>28</sup> No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance in accordance with a court order or request for emergency assistance under this Act for electronic surveillance or physical search.<sup>28</sup>

<sup>28</sup>Sec. 225 of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 295) added this subsection as a second subsec. (h). Sec. 314(a)(2)(C) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) moved the text to follow the first subsec. (h) and redesignated the text as subsec. (i). Sec. 314(a)(2)(D) of that Act inserted “for electronic surveillance or physical search” before the period at the end of the subsection. Subsequently, sec. 4005(c) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107-273; 116 Stat. 1812) amended sec. 225 of Public Law 107-56 so that the amendment adding a second subsec. (h) would be enacted as subsec. (i).

## USE OF INFORMATION

SEC. 106.<sup>29</sup> (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any

<sup>29</sup>50 U.S.C. 1806.

Sec. 604(b) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2853) provided the following:

“(b) REPORT ON MECHANISMS FOR DETERMINATIONS OF DISCLOSURE OF INFORMATION FOR LAW ENFORCEMENT PURPOSES.—(1) The Attorney General shall submit to the appropriate committees of Congress a report on the authorities and procedures utilized by the Department of Justice for determining whether or not to disclose information acquired under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) for law enforcement purposes.

“(2) In this subsection, the term ‘appropriate committees of Congress’ means the following:

“(A) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

“(B) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.”

trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

- (1) the information was unlawfully acquired; or
- (2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to electronic surveillance or to discover, obtain, or suppress evidence or information obtained or derived from electronic surveillance under this Act, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority, shall, notwithstanding any other law, if the Attorney General files an affidavit under oath that disclosure or an adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the surveillance only where such disclosure is necessary to make an accurate determination of the legality of the surveillance.

(g) If the United States district court pursuant to subsection (f) determines that the surveillance was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that electronic surveillance was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure or applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except a United States court of appeals and the Supreme Court.

(i) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents

of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person.

(j) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

- (1) the fact of the application;
- (2) the period of the surveillance; and
- (3) the fact that during the period information was or not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

(k)<sup>30</sup> (1) Federal officers who conduct electronic surveillance to acquire foreign intelligence information under this title may consult with Federal law enforcement officers or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)<sup>31</sup> to coordinate efforts to investigate or protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 104(a)(7)(B) or the entry of an order under section 105.

#### REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107.<sup>32</sup> In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Court

<sup>30</sup>Sec. 504(a) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) added subsec. (k).

<sup>31</sup>Sec. 898 of the Homeland Security Information Sharing Act (subtitle I of title VIII of the Homeland Security Act of 2002; Public Law 107-296; 116 Stat. 2258) inserted "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)" after "law enforcement officers".

<sup>32</sup>50 U.S.C. 1807. Sec. 1(21) of Public Law 106-197 (114 Stat. 246) provided that requirements under sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 to automatically eliminate certain reporting requirements does not apply to secs. 107 and 108 of this Act.

and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

#### CONGRESSIONAL OVERSIGHT

SEC. 108.<sup>33</sup> (a)(1)<sup>34</sup> On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of the appropriate committees of each House of Congress to obtain such information as they may need to carry out their respective functions and duties.

(2)<sup>34</sup> Each report under the first sentence of paragraph (1) shall include a description of—

(A) each criminal case in which information acquired under this Act has been passed for law enforcement purposes during the period covered by such report; and

(B) each criminal case in which information acquired under this Act has been authorized for use at trial during such reporting period.

(b) On or before one year after the effective date of this Act and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this Act. Said reports shall include but not be limited to an analysis and recommendations concerning whether this Act should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

#### PENALTIES

SEC. 109.<sup>35</sup> (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by statute.

(b) DEFENSE.—It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic

<sup>33</sup>50 U.S.C. 1808. Sec. 1(21) of Public Law 106-197 (114 Stat. 246) provided that requirements under sec. 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 to automatically eliminate certain reporting requirements does not apply to secs. 107 and 108 of this Act.

<sup>34</sup>Sec. 604(a) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2853) inserted "(1)" after "(a)", and added a new para. (2).

<sup>35</sup>50 U.S.C. 1809.

surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employer of the United States at the time the offense was committed.

#### CIVIL LIABILITY

SEC. 110.<sup>36</sup> CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 110(a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

#### AUTHORIZATION DURING TIME OF WAR

#### SEC. 111.<sup>37</sup>

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

#### TITLE II—CONFORMING AMENDMENTS

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#### TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES<sup>38</sup>

##### DEFINITIONS

SEC. 301.<sup>39</sup> As used in this title:

(1) The terms “foreign power”, “agent of a foreign power”, “international terrorism”, “sabotage”, “foreign intelligence information”, “Attorney General”, “United States person”, “United States”, “person”, and “State” shall have the same meanings as in section 101 of this Act, except as specifically provided by this title.

<sup>36</sup> 50 U.S.C. 1810.

<sup>37</sup> 50 U.S.C. 1811.

<sup>38</sup> Title III was added by sec. 807(b) of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103-359; 108 Stat. 3443).

<sup>39</sup> 50 U.S.C. 1821.



(2) “Aggrieved person” means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

(3) “Foreign Intelligence Surveillance Court” means the court established by section 103(a) of this Act.

(4) “Minimization procedures” with respect to physical search, means—

(A) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1) of this Act, shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand such foreign intelligence information or assess its importance;

(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

(D) notwithstanding subparagraphs (A), (B), and (C), with respect to any physical search approved pursuant to section 302(a), procedures that require that no information, material, or property of a United States person shall be disclosed, disseminated, or used for any purpose or retained for longer than 72 hours<sup>40</sup> unless a court order under section 304 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

(5) “Physical search” means any physical intrusion within the United States into premises or property (including examination of the interior of property by technical means) that is intended to result in a seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include (A) “electronic surveillance”, as defined in section 101(f) of this Act, or (B) the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise

<sup>40</sup>Sec. 314(a)(3) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) struck out “24 hours” and inserted in lieu thereof “72 hours”.

applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101(f) of this Act.

AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 302.<sup>41</sup> (a)(1) Notwithstanding any other provision of law, the President, acting through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for periods of up to one year if—

(A) the Attorney General certifies in writing under oath that—

(i) the physical search is solely directed at premises, information, material, or property used exclusively by, or under the open and exclusive control of, a foreign power or powers (as defined in section 101(a) (1), (2), or (3));

(ii) there is no substantial likelihood that the physical search will involve the premises, information, material, or property of a United States person; and

(iii) the proposed minimization procedures with respect to such physical search meet the definition of minimization procedures under paragraphs (1) through (4) of section 301(4); and

(B) the Attorney General reports such minimization procedures and any changes thereto to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 30 days before their effective date, unless the Attorney General determines that immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) A physical search authorized by this subsection may be conducted only in accordance with the certification and minimization procedures adopted by the Attorney General. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under the provisions of section 306.

(3) The Attorney General shall immediately transmit under seal to the Foreign Intelligence Surveillance Court a copy of the certification. Such certification shall be maintained under security measures established by the Chief Justice of the United States with the concurrence of the Attorney General, in consultation with the Director of National Intelligence,<sup>42</sup> and shall remain sealed unless—

(A) an application for a court order with respect to the physical search is made under section 301(4) and section 303; or

(B) the certification is necessary to determine the legality of the physical search under section 305(g).

<sup>41</sup> 50 U.S.C. 1822.

<sup>42</sup> Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out “Director of Central Intelligence” and inserted in lieu thereof “Director of National Intelligence”.

(4)(A) With respect to physical searches authorized by this subsection, the Attorney General may direct a specified landlord, custodian, or other specified person to—

(i) furnish all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search; and

(ii) maintain under security procedures approved by the Attorney General and the Director of National Intelligence<sup>43</sup> any records concerning the search or the aid furnished that such person wishes to retain.

(B) The Government shall compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court. Notwithstanding any other provision of law, a judge of the court to whom application is made may grant an order in accordance with section 304 approving a physical search in the United States of the premises, property, information, or material of a foreign power or an agent of a foreign power for the purpose of collecting foreign intelligence information.

(c) The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this title, except that no judge shall hear the same application which has been denied previously by another judge designated under section 103(a) of this Act. If any judge so designated denies an application for an order authorizing a physical search under this title, such judge shall provide immediately for the record a written statement of each reason for such decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established under section 103(b).

(d) The court of review established under section 103(b) shall have jurisdiction to review the denial of any application made under this title. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(e) Judicial proceedings under this title shall be concluded as expeditiously as possible. The record of proceedings under this title, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of National Intelligence.<sup>43</sup>

<sup>43</sup>Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out “Director of Central Intelligence” and inserted in lieu thereof “Director of National Intelligence”.

## APPLICATION FOR AN ORDER

SEC. 303.<sup>44</sup> (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include—

- (1) the identity of the Federal officer making the application;
- (2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application;
- (3) the identity, if known, or a description of the target of the search, and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;
- (4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—
  - (A) the target of the physical search is a foreign power or an agent of a foreign power;
  - (B) the premises or property to be searched contains foreign intelligence information; and
  - (C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;
- (5) a statement of the proposed minimization procedures;
- (6) a statement of the nature of the foreign intelligence sought and the manner in which the physical search is to be conducted;
- (7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President, by and with the advice and consent of the Senate—
  - (A) that the certifying official deems the information sought to be foreign intelligence information;
  - (B) that the significant purpose<sup>45</sup> of the search is to obtain foreign intelligence information;
  - (C) that such information cannot reasonably be obtained by normal investigative techniques;
  - (D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and
  - (E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D);
- (8) where the physical search involves a search of the residence of a United States person, the Attorney General shall state what investigative techniques have previously been utilized to obtain the foreign intelligence information concerned

<sup>44</sup> 50 U.S.C. 1823.

<sup>45</sup> Sec. 218 of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 291) struck out "the purpose" and inserted in lieu thereof "a significant purpose" in this section and in sec. 104(a)(7)(B).

and the degree to which these techniques resulted in acquiring such information; and

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(c) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 304.

(d)<sup>46</sup> (1)(A) Upon written request of the Director of the Federal Bureau of Investigation, the Secretary of Defense, the Secretary of State, or the Director of National Intelligence,<sup>47</sup> the Attorney General shall personally review under subsection (a) an application under that subsection for a target described in section 101(b)(2).

(B) Except when disabled or otherwise unavailable to make a request referred to in subparagraph (A), an official referred to in that subparagraph may not delegate the authority to make a request referred to in that subparagraph.

(C) Each official referred to in subparagraph (A) with authority to make a request under that subparagraph shall take appropriate actions in advance to ensure that delegation of such authority is clearly established in the event such official is disabled or otherwise unavailable to make such request.

(2)(A) If as a result of a request under paragraph (1) the Attorney General determines not to approve an application under the second sentence of subsection (a) for purposes of making the application under this section, the Attorney General shall provide written notice of the determination to the official making the request for the review of the application under that paragraph. Except when disabled or otherwise unavailable to make a determination under the preceding sentence, the Attorney General may not delegate the responsibility to make a determination under that sentence. The Attorney General shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event the Attorney General is disabled or otherwise unavailable to make such determination.

(B) Notice with respect to an application under subparagraph (A) shall set forth the modifications, if any, of the application that are necessary in order for the Attorney General to approve the application under the second sentence of subsection (a) for purposes of making the application under this section.

(C) Upon review of any modifications of an application set forth under subparagraph (B), the official notified of the modifications under this paragraph shall modify the application if such official determines that such modification is warranted. Such official shall supervise the making of any modification under this subparagraph. Except when disabled or otherwise unavailable to supervise the

<sup>46</sup>Sec. 603(a) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2852) added subsec. (d).

<sup>47</sup>Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out "Director of Central Intelligence" and inserted in lieu thereof "Director of National Intelligence".

making of any modification under the preceding sentence, such official may not delegate the responsibility to supervise the making of any modification under that preceding sentence. Each such official shall take appropriate actions in advance to ensure that delegation of such responsibility is clearly established in the event such official is disabled or otherwise unavailable to supervise the making of such modification.

#### ISSUANCE OF AN ORDER

SEC. 304.<sup>48</sup> (a) Upon an application made pursuant to section 303, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the physical search is a foreign power or an agent of a foreign power, except that no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power;

(4) the proposed minimization procedures meet the definition of minimization contained in this title; and

(5) the application which has been filed contains all statements and certifications required by section 303, and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 303(a)(7)(E) and any other information furnished under section 303(c).

(b)<sup>49</sup> In determining whether or not probable cause exists for purposes of an order under subsection (a)(3), a judge may consider past activities of the target, as well as facts and circumstances relating to current or future activities of the target.

(c)<sup>49</sup> An order approving a physical search under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the physical search;

(B) the nature and location of each of the premises or property to be searched;

(C) the type of information, material, or property to be seized, altered, or reproduced;

<sup>48</sup> 50 U.S.C. 1824.

<sup>49</sup> Sec. 603(b) of the Counterintelligence Reform Act of 2000 (title VI of Public Law 106-567; 114 Stat. 2853) redesignated subsecs. (b) through (e) as subsecs. (c) through (f), respectively, and added a new subsec. (b).

(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the authorized scope of each search and what minimization procedures shall apply to the information acquired by each search; and

(E) the period of time during which physical searches are approved; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search;

(C) that such landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of National Intelligence<sup>50</sup> any records concerning the search or the aid furnished that such person wishes to retain;

(D) that the applicant compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid; and

(E) that the Federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

(d)<sup>49</sup> (1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for 90<sup>51</sup> days, whichever is less, except that (A)<sup>52</sup> an order under this section shall approve a physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a), for the period specified in the application or for one year, whichever is less, and (B) an order under this section for a physical search targeted against an agent of a foreign power as defined in section 101(b)(1)(A) may be for the period specified in the application or for 120 days, whichever is less.<sup>52</sup>

(2) Extensions of an order issued under this title may be granted on the same basis as the original order upon an application for an extension and new findings made in the same manner as required for the original order, except that an extension of an order under this Act for a physical search targeted against a foreign power, as defined in section 101(a) (5) or (6), or against a foreign power, as defined in section 101(a)(4), that is not a United States person, or against an agent of a foreign power as defined in section

<sup>50</sup>Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out “Director of Central Intelligence” and inserted in lieu thereof “Director of National Intelligence”.

<sup>51</sup>Sec. 207(a)(2)(A) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 282) struck out “forty-five” and inserted in lieu thereof “90”.

<sup>52</sup>Sec. 207(a)(2)(B) and (C) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 282) added “(A)” after “except that” and clause (B) at the end of the para.

101(b)(1)(A),<sup>53</sup> may be for a period not to exceed one year if the judge finds probable cause to believe that no property of any individual United States person will be acquired during the period.

(3) At or before the end of the period of time for which a physical search is approved by an order or an extension, or at any time after a physical search is carried out, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e)<sup>49</sup> (1)(A) Notwithstanding any other provision of this title, whenever the Attorney General reasonably makes the determination specified in subparagraph (B), the Attorney General may authorize the execution of an emergency physical search if—

(i) a judge having jurisdiction under section 103 is informed by the Attorney General or the Attorney General's designee at the time of such authorization that the decision has been made to execute an emergency search, and

(ii) an application in accordance with this title is made to that judge as soon as practicable but not more than 72 hours<sup>54</sup> after the Attorney General authorizes such search.

(B) The determination referred to in subparagraph (A) is a determination that—

(i) an emergency situation exists with respect to the execution of a physical search to obtain foreign intelligence information before an order authorizing such search can with due diligence be obtained, and

(ii) the factual basis for issuance of an order under this title to approve such a search exists.

(2) If the Attorney General authorizes an emergency search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

(3) In the absence of a judicial order approving such a physical search, the search shall terminate the earlier of—

(A) the date on which the information sought is obtained;

(B) the date on which the application for the order is denied;

or

(C) the expiration of 72 hours<sup>54</sup> from the time of authorization by the Attorney General.

(4) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the search, no information obtained or evidence derived from such search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search shall subsequently be used or disclosed in any other manner by Federal

<sup>53</sup>Sec. 207(b)(2) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 282) inserted "or against an agent of a foreign power as defined in section 101(b)(1)(A)," after "not a United States person."

<sup>54</sup>Sec. 314(a)(4) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) struck out "24 hours" and inserted in lieu thereof "72 hours".



officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 302.

(f)<sup>49</sup> Applications made and orders granted under this title shall be retained for a period of at least 10 years from the date of the application.

#### USE OF INFORMATION

SEC. 305.<sup>55</sup> (a) Information acquired from a physical search conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No information acquired from a physical search pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) Where a physical search authorized and conducted pursuant to section 304 involves the residence of a United States person, and, at any time after the search the Attorney General determines there is no national security interest in continuing to maintain the secrecy of the search, the Attorney General shall provide notice to the United States person whose residence was searched of the fact of the search conducted pursuant to this Act and shall identify any property of such person seized, altered, or reproduced during such search.

(c) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(d) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search pursuant to the authority of this title, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

(e) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search pursuant to the authority of this title, the State or political subdivision thereof shall notify

<sup>55</sup> 50 U.S.C. 1825.

the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(f)(1) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

(A) the information was unlawfully acquired; or

(B) the physical search was not made in conformity with an order of authorization or approval.

(2) Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(g) Whenever a court or other authority is notified pursuant to subsection (d) or (e), or whenever a motion is made pursuant to subsection (f), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law, if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

(h) If the United States district court pursuant to subsection (g) determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting motions or requests under subsection (h), decisions under this section that a physical search was not lawfully

authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

(j)(1) If an emergency execution of a physical search is authorized under section 304(d) and a subsequent order approving the search is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to the search as the judge may determine in his discretion it is in the interests of justice to serve, notice of—

(A) the fact of the application;

(B) the period of the search; and

(C) the fact that during the period information was or was not obtained.

(2) On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed 90 days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

(k)<sup>56</sup> (1) Federal officers who conduct physical searches to acquire foreign intelligence information under this title may consult with Federal law enforcement officers or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)<sup>57</sup> to coordinate efforts to investigate or protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power.

(2) Coordination authorized under paragraph (1) shall not preclude the certification required by section 303(a)(7) or the entry of an order under section 304.

#### CONGRESSIONAL OVERSIGHT

SEC. 306.<sup>58</sup> On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all physical searches conducted pursuant to this title. On a semiannual basis the Attorney General shall also provide to those committees and the Committees on the Judiciary

<sup>56</sup>Sec. 504(b) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 364) added subsec. (k).

<sup>57</sup>Sec. 899 of the Homeland Security Information Sharing Act (subtitle I of title VIII of the Homeland Security Act of 2002; Public Law 107-296; 116 Stat. 2258) inserted "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)" after "law enforcement officers".

<sup>58</sup>50 U.S.C. 1826.

of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

- (1) the total number of applications made for orders approving physical searches under this title;
- (2) the total number of such orders either granted, modified, or denied; and
- (3) the number of physical searches which involved searches of the residences, offices, or personal property of United States persons, and the number of occasions, if any, where the Attorney General provided notice pursuant to section 305(b).

#### PENALTIES

SEC. 307.<sup>59</sup> (a) A person is guilty of an offense if he intentionally—

- (1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or
- (2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

(b) It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

(d) There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

#### CIVIL LIABILITY

SEC. 308.<sup>60</sup> An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 307 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

- (1) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;
- (2) punitive damages; and
- (3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

<sup>59</sup> 50 U.S.C. 1827.

<sup>60</sup> 50 U.S.C. 1828.

## AUTHORIZATION DURING TIME OF WAR

SEC. 309.<sup>61</sup> Notwithstanding any other provision of law, the President, through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.

TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES<sup>62</sup>

## DEFINITIONS

SEC. 401.<sup>63</sup> As used in this title:

(1) The terms “foreign power”, “agent of a foreign power”, “international terrorism”, “foreign intelligence information”, “Attorney General”, “United States person”, “United States”, “person”, and “State” shall have the same meanings as in section 101 of this Act.

(2) The terms “pen register” and “trap and trace device” have the meanings given such terms in section 3127 of title 18, United States Code.

(3) The term “aggrieved person” means any person—

(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or

(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

## PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 402.<sup>64</sup> (a)(1) Notwithstanding any other provision of law, the Attorney General or a designated attorney for the government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution<sup>65</sup> which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

<sup>61</sup> 50 U.S.C. 1829.

<sup>62</sup> Added by sec. 601 of Public Law 105-272 (112 Stat. 2404).

<sup>63</sup> 50 U.S.C. 1841.

<sup>64</sup> 50 U.S.C. 1842.

<sup>65</sup> Sec. 214(a)(1) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 286) struck out “for any investigation to gather foreign intelligence information or information concerning international terrorism” and inserted in lieu thereof “for any investigation to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United

(2) The authority under paragraph (1) is in addition to the authority under title I of this Act to conduct the electronic surveillance referred to in that paragraph.

(b) Each application under this section shall be in writing under oath or affirmation to—

(1) a judge of the court established by section 103(a) of this Act; or

(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap and trace device on behalf of a judge of that court.

(c)<sup>66</sup> Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application; and<sup>67</sup>

(2)<sup>68</sup> a certification by the applicant that the information likely to be obtained is foreign intelligence information not concerning a United States person or is relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

(2) An order issued under this section—

(A)<sup>69</sup> shall specify—

States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”.

<sup>66</sup>Sec. 214(a)(3) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 286) struck out subsec. (c)(3), which had read as follows:

“(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

“(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

“(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.”

<sup>67</sup>Sec. 314(a)(5)(A) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) inserted “and” at the end of para. (1).

<sup>68</sup>Sec. 214(a)(2) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 286) amended and restated para. (2). It formerly read as follows:

“(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and”.

<sup>69</sup>Sec. 214(a)(4) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 286) amended and restated subpara. (A), which formerly read as follows:

“(A) shall specify—

“(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

- (i) the identity, if known, of the person who is the subject of the investigation;
  - (ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;
  - (iii) the attributes of the communications to which the order applies, such as the number or other identifier, and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied and, in the case of a trap and trace device, the geographic limits of the trap and trace order.
- (B) shall direct that—
- (i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;
  - (ii) such provider, landlord, custodian, or other person—
    - (I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and
    - (II) shall maintain, under security procedures approved by the Attorney General and the Director of National Intelligence<sup>70</sup> pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and
  - (iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

<sup>70</sup>(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

“(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

“(II) the number and, if known, physical location of the telephone line; and

“(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

“(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

“(II) the number of the instrument or device; and”.

<sup>70</sup>Sec. 1071(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3691) struck out “Director of Central Intelligence” and inserted in lieu thereof “Director of National Intelligence”.

(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of an order issued<sup>71</sup> under this section.

(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

#### AUTHORIZATION DURING EMERGENCIES

SEC. 403.<sup>72</sup> (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution<sup>73</sup> if—

(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

(b) A determination under this subsection is a reasonable determination by the Attorney General that—

(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution<sup>74</sup> before an order authorizing the installation and use of

<sup>71</sup> Sec. 314(a)(5)(B) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) struck out “of a court” and inserted in lieu thereof “or an order issued”.

<sup>72</sup> 50 U.S.C. 1843.

<sup>73</sup> Sec. 214(b)(1) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 287) struck out “foreign intelligence information or information concerning international terrorism” and inserted in lieu thereof “foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”.

<sup>74</sup> Sec. 214(b)(2) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 287) struck out “foreign intelligence information or information concerning international terrorism” and inserted in lieu thereof “foreign intelligence information not concerning a United States person or information to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”.



the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

(A) when the information sought is obtained;

(B) when the application for the order is denied under section 402 of this Act; or

(C) 48 hours after the time of the authorization by the Attorney General.

(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

#### AUTHORIZATION DURING TIME OF WAR

SEC. 404.<sup>75</sup> Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

#### USE OF INFORMATION

SEC. 405.<sup>76</sup> (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

<sup>75</sup> 50 U.S.C. 1844.

<sup>76</sup> 50 U.S.C. 1845.

(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

(A) the information was unlawfully acquired; or

(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the

United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

#### CONGRESSIONAL OVERSIGHT

SEC. 406.<sup>77</sup> (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence

<sup>77</sup> 50 U.S.C. 1846.

of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

(2) the total number of such orders either granted, modified, or denied.

#### TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES<sup>78</sup>

##### SEC. 501.<sup>79</sup> ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

(a)(1) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information not concerning a United States person or<sup>80</sup> to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

(2) An investigation conducted under this section shall—

(A) be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order); and

(B) not be conducted of a United States person solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(b) Each application under this section—

(1) shall be made to—

(A) a judge of the court established by section 103(a); or

(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the production of tangible things under this section on behalf of a judge of that court; and

<sup>78</sup>Sec. 602 of Public Law 105-272 (112 Stat. 2410) added title V. Sec. 215 of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 287) struck out secs. 501 through 503, which included a section containing definitions for this title, and inserted in lieu thereof new secs. 501 and 502.

<sup>79</sup>50 U.S.C. 1861.

<sup>80</sup>Sec. 314(a)(6) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) inserted “to obtain foreign intelligence information not concerning a United States person or” after “an investigation”.

(2) shall specify that the records concerned are sought for an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities.

(c)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section.

(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

(d) No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.

(e) A person who, in good faith, produces tangible things under an order pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

#### **SEC. 502.<sup>81</sup> CONGRESSIONAL OVERSIGHT.**

(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for the production of tangible things under section 501.<sup>82</sup>

(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving requests for the production of tangible things under section 501;<sup>82</sup> and

(2) the total number of such orders either granted, modified, or denied.

### **TITLE VI—REPORTING REQUIREMENT<sup>83</sup>**

#### **SEC. 601.<sup>84</sup> SEMIANNUAL REPORT OF THE ATTORNEY GENERAL.**

(a) **REPORT.**—On a semiannual basis, the Attorney General shall submit to the Permanent Select Committee on Intelligence of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Committees on the Judiciary of the House of Representatives and the Senate, in a manner consistent with the protection of the national security, a report setting forth with respect to the preceding 6-month period—

<sup>81</sup>50 U.S.C. 1862.

<sup>82</sup>Sec. 314(a)(7) of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 115 Stat. 1402) struck out “section 402” and inserted in lieu thereof “section 501”.

<sup>83</sup>Sec. 6002 of the Intelligence Reform and Terrorism Prevention Act of 2002 (Public Law 108-458; 118 Stat. 3743) redesignated former title VI as title VII, former sec. 601 as sec. 701, and added a new title VI.

<sup>84</sup>50 U.S.C. 1871.

(1) the aggregate number of persons targeted for orders issued under this Act, including a breakdown of those targeted for—

- (A) electronic surveillance under section 105;
- (B) physical searches under section 304;
- (C) pen registers under section 402; and
- (D) access to records under section 501;

(2) the number of individuals covered by an order issued pursuant to section 101(b)(1)(C);

(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding;

(4) a summary of significant legal interpretations of this Act involving matters before the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review, including interpretations presented in applications or pleadings filed with the Foreign Intelligence Surveillance Court or the Foreign Intelligence Surveillance Court of Review by the Department of Justice; and

(5) copies of all decisions (not including orders) or opinions of the Foreign Intelligence Surveillance Court or Foreign Intelligence Surveillance Court of Review that include significant construction or interpretation of the provisions of this Act.

(b) FREQUENCY.—The first report under this section shall be submitted not later than 6 months after the date of enactment of this section. Subsequent reports under this section shall be submitted semi-annually thereafter.

## TITLE VII—EFFECTIVE DATE

### EFFECTIVE DATE

SEC. 701.<sup>85</sup> The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the first judge pursuant to section 103 of this Act.

<sup>85</sup> 50 U.S.C. 1801 note. This section and title were originally enacted as sec. 301 and title III; sec. 807 of the Intelligence Authorization Act for Fiscal Year 1995 (Public Law 103-359; 108 Stat. 3443) redesignated same as sec. 401 and title IV, respectively, and added a new title III. Sec. 601 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105-272; 112 Stat. 2404) subsequently redesignated this title and section as title VI and sec. 601, respectively, and added new title IV. Sec. 602 of that Act added a new title V. Sec. 6002 of the Intelligence Reform and Terrorism Prevention Act of 2002 (Public Law 108-458; 118 Stat. 3743) redesignated the title as title VII, sec. 601 as sec. 701, and added a new title VI.

## (2) United States Intelligence Activities

**Executive Order 12333, December 4, 1981, 46 F.R. 59941, 50 U.S.C. 401 note; as amended by Executive Order 13284, January 23, 2003, 68 F.R. 4075; and Executive Order 13355, August 27, 2004, 69 F.R. 53593<sup>1</sup>**

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Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and

<sup>1</sup> Executive Order 12333 revoked Executive Order 12036 of January 24, 1978 (43 F.R. 3674), as amended, which had addressed U.S. intelligence activities. That Order, in turn, had revoked Executive Order 11905 of February 18, 1976 (41 F.R. 7703), as amended.

persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended (Act),<sup>2</sup> and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

## PART 1

### **Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort**

**1.1 Goals.** The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal:

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

### **1.2 The National Security Council.**

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

<sup>2</sup>Sec. 6(a) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) inserted "(Act)" after "amended".



(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

### **1.3 National Foreign Intelligence Advisory Groups.**

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

- (1) Production, review and coordination of national foreign intelligence;
- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments and organizations<sup>3</sup> on intelligence matters;
- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Director of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

**1.4 The Intelligence Community.** The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

- (a) Collection of information needed by the President and, in the performance of Executive functions, the Vice President,<sup>4</sup> the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;
- (b) Production and dissemination of intelligence;
- (c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed

<sup>3</sup>Sec. 6(b) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) inserted "and organizations" after "governments".

<sup>4</sup>Sec. 6(c) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) inserted "and, in the performance of Executive functions, the Vice President," after "needed by the President".

against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;

(d) Special activities;

(e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and

(f) Such other intelligence activities as the President may direct from time to time.

**1.5 Director of Central Intelligence.** In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

(a)<sup>5</sup> (1) Act as the principal adviser to the President for Intelligence matters related to the national security;

(2) Act as the principal adviser to the National Security Council and Homeland Security Council for intelligence matters related to the national security; and

(b)<sup>6</sup> (1) Develop such objectives and guidance for the Intelligence Community necessary, in the Director's judgment, to ensure timely and effective collection, processing, analysis, and dissemination of intelligence, of whatever nature and from whatever source derived, concerning current and potential threats to the security of the United States and its interests, and to ensure that the National Foreign Intelligence Program (NFIP) is structured adequately to achieve these requirements; and

(2) Working with the Intelligence Community, ensure that United States intelligence collection activities are integrated in: (i) collecting against enduring and emerging national security intelligence issues; (ii) maximizing the value to the national security; and (iii) ensuring that all collected data is available to the maximum extent practicable for integration, analysis, and dissemination to those who can act of, add value to, or otherwise apply it to mission needs.

(c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;

(d) Ensure implementation of special activities;

(e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the

<sup>5</sup> Sec. 2(a) of Executive Order 13355 (August 27, 2004; 69 F.R. 53593) amended and restated sec. 1.5(a). It formerly read as follows:

"(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;"

<sup>6</sup> Sec. 2(b) of Executive Order 13355 (August 27, 2004; 69 F.R. 53593) amended and restated sec. 1.5(b). It formerly read as follows:

"(b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;"

intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;

(f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;

(g)<sup>7</sup> (1) Establish common security and access standards for managing and handling intelligence systems, information, and products, with special emphasis on facilitating:

(A) the fullest and most prompt sharing of information practicable, assigning the highest priority to detecting, preventing, preempting, and disrupting terrorist threats against our homeland, our people, our allies, and our interests; and

(B) the establishment of interface standards for an interoperable information sharing enterprise that facilitates the automated sharing of information among agencies within the Intelligence Community.

(2)(A) Establish, operate, and direct national centers with respect to matters determined by the President for purposes of this subparagraph to be of the highest national security priority, with the functions of analysis and planning (including planning for diplomatic, financial, military, intelligence, homeland security, and law enforcement activities, and integration of such activities among departments and agencies) relating to such matters.

(B) The countering of terrorism within the United States, or against citizens of the United States, our allies, and our interests abroad, is hereby determined to be a matter of the highest national security priority for purposes of subparagraph (2)(A) of this subsection.

(3) Ensure that appropriate agencies and departments have access to and receive all-source intelligence support needed to perform independent, alternative analysis.

(h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;

(i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;

(k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in

<sup>7</sup> Sec. 2(c) of Executive Order 13355 (August 27, 2004; 69 F.R. 53593) amended and restated sec. 1.5(g). It formerly read as follows:

"(g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;"

consultation with those organizations, ensuring that appropriate mechanisms for competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(1) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m)<sup>8</sup> (1) Establish policies, procedures, and mechanisms that translate intelligence objectives and priorities approved by the President into specific guidance for the Intelligence Community.

(2) In accordance with objectives and priorities approved by the President, establish collection requirements for the Intelligence Community, determine collection priorities, manage collection tasking, and resolve conflicts in the tasking of national collection assets (except when otherwise directed by the President or when the Secretary of Defense exercises collection tasking authority under plans and arrangements approved by the Secretary of Defense and the Director) of the Intelligence Community.

(3) Provide advisory tasking concerning collection of intelligence information to elements of the United States Government that have information collection capabilities and are not organizations within the Intelligence Community.

(4) The responsibilities in subsections 1.5(m)(2) and (3) apply, to the maximum extent consistent with applicable law, whether information is to be collected inside or outside the United States.

(n)<sup>9</sup> (1) Develop, determine, and present with the advice of the heads of departments or agencies that have an organization within the Intelligence Community, the annual consolidated NFIP budget. The Director shall be responsible for developing an integrated and balanced national intelligence program that is directly responsive to the national security threats facing the United States. The Director shall submit such budget (accompanied by dissenting views, if any, of the

<sup>8</sup> Sec. 2(d) of Executive Order 13355 (August 27, 2004; 69 F.R. 53594) amended and restated sec. 1.5(m). It formerly read as follows:

“(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments, and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;”

<sup>9</sup> Sec. 3 of Executive Order 13355 (August 27, 2004; 69 F.R. 53595) amended and restated sec. 1.5(n), (o), and (p). The subsecs. formerly read as follows:

“(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

“(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

“(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;”

head of a department or agency that has an organization within the Intelligence Community) to the President for approval; and

(2) Participate in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program (JMIP) and the Tactical Intelligence and Related Activities (TIARA) Program.

(o)<sup>9</sup> (1) Transfer, consistent with applicable law and with the approval of the Director of the Office of Management and Budget, funds from an appropriation for the NFIP to another appropriation for the NFIP or to another NFIP component;

(2) Review, and approve or disapprove, consistent with applicable law, any proposal to: (i) reprogram funds within an appropriation for the NFIP; (ii) transfer funds from an appropriation for the NFIP to an appropriation that is not for the NFIP within the Intelligence Community; or (iii) transfer funds from an appropriation that is not for the NFIP within the Intelligence Community to an appropriation for the NFIP; and

(3) Monitor and consult with the Secretary of Defense on reprogrammings or transfers of funds within, into, or out of, appropriations for the JMIP and the TIARA Program.

(p)<sup>9</sup> (1) Monitor implementation and execution of the NFIP budget by the heads of departments or agencies that have an organization within the Intelligence Community, including, as necessary, by conducting program and performance audits and evaluations;

(2) Monitor implementation of the JMIP and TIARA Program and advise the Secretary of Defense thereon; and

(3) After consultation with the heads of relevant departments, report periodically, and not less often than semiannually, to the President on the effectiveness of implementation of the NFIP Program by organizations within the Intelligence Community, for which purpose the heads of departments and agencies shall ensure that the Director has access to programmatic, execution, and other appropriate information.

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national foreign intelligence products by Congress in a secure manner.

#### **1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.**

(a)<sup>10</sup> The heads of all departments and agencies shall:

(1) Unless the Director provides otherwise, give the Director access to all foreign intelligence, counterintelligence, and national intelligence, as defined in the Act, that is relevant to transnational terrorist threats and weapons of mass destruction proliferation threats, including such relevant intelligence derived from activities of the FBI, DHS, and any other department or agency, and all other information that is related to the national security or that otherwise is required for the performance of the Director's duties, except such information that is prohibited by law, by the President, or by the Attorney General acting under this order at the direction of the President from being provided to the Director. The Attorney General shall agree to procedures with the Director pursuant to section 3(5)(B) of the Act no later than 90 days after the issuance of this order that ensure the Director receives all such information;

(2) support the Director in developing the NFIP;

(3) ensure that any intelligence and operational systems and architectures of their departments and agencies are consistent with national intelligence requirements set by the Director and all applicable information sharing and security guidelines, and information privacy requirements; and

(4) provide, to the extent permitted by law, subject to the availability of appropriations, and not inconsistent with the mission of the department or agency, such further support to the Director as the Director may request, after consultation with the head of the department or agency, for the performance of the Director's functions.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

**1.7<sup>11</sup> Senior Officials of the Intelligence Community.** The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate shall:

<sup>10</sup>Sec. 2(e) of Executive Order 13355 (August 27, 2004; 69 F.R. 53594) amended and restated sec. 1.6(a). It formerly read as follows:

"(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities."

<sup>11</sup>Sec. 19 of Executive Order 13284 (January 23, 2003; 68 F.R. 4077) provided the following:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the NSC,<sup>12</sup> in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of its duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

**“Sec. 19. Functions of Certain Officials in the Department of Homeland Security.**

“The Secretary of Homeland Security, the Deputy Secretary of Homeland Security, the Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security, and the Assistant Secretary for Information Analysis, Department of Homeland Security, each shall be considered a ‘Senior Official of the Intelligence Community’ for purposes of Executive Order 12333, and all other relevant authorities, and shall:

“(a) recognize and give effect to all current clearances for access to classified information held by those who become employees of the Department of Homeland Security by operation of law pursuant to the Homeland Security Act of 2002 or by Presidential appointment;

“(b) recognize and give effect to all current clearances for access to classified information held by those in the private sector with whom employees of the Department of Homeland Security may seek to interact in the discharge of their homeland security-related responsibilities;

“(c) make all clearance and access determination pursuant to Executive Order 12968 of August 2, 1995, or any successor Executive Order, as to employees of, and applicants for employment in, the Department of Homeland Security who do not then hold a current clearance for access to classified information; and

“(d) ensure all clearance and access determinations for those in the private sector with whom employees of the Department of Homeland Security may seek to interact in the discharge of their homeland security-related responsibilities are made in accordance with Executive Order 12829 of January 6, 1993.”

Executive Order 12968 (August 2, 1995), as amended, relating to access to classified information, and Executive Order 12829 (January 6, 1993), as amended, relating to the national industrial security program, are each codified as notes to 50 U.S.C. 435.

<sup>12</sup>Sec. 6(d) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out “the Director of Central Intelligence and” preceding “the NSC”, and struck out “their respective” and inserted in lieu thereof “its”.

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this Order.

**1.8 The Central Intelligence Agency.** All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon by<sup>13</sup> the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through<sup>14</sup> (h) above, including procurement and essential cover and proprietary arrangements.

**1.9 The Department of State.** The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

<sup>13</sup>Sec. 6(e) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) inserted "by" after "agreed upon".

<sup>14</sup>Sec. 6(f) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out "and through" and inserted in lieu thereof "through".



(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

**1.10 The Department of the Treasury and the Department of Homeland Security.** The Secretary of the Treasury, with respect to subsection (a), (b), and (c), and the Secretary of Homeland Security with respect to subsection (d), shall:<sup>15</sup>

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President or the Vice President<sup>16</sup> of the United States, the Executive Office of the President, and, as authorized by the Secretary of Homeland Security<sup>17</sup> or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of Homeland Security<sup>17</sup> and the Attorney General.

**1.11 The Department of Defense.** The Secretary of Defense shall:

(a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;

(b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;

(c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;

(d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;

<sup>15</sup>Sec. 6(g)(i) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out "**The Department of the Treasury.** The Secretary of the Treasury shall:" and inserted in lieu thereof the current text.

<sup>16</sup>Sec. 6(g)(ii) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) inserted "or the Vice President" after "used against the President".

<sup>17</sup>Sec. 6(g)(iii) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out "the Secretary of the Treasury" and inserted in lieu thereof "the Secretary of Homeland Security".

(e) Conduct, as the executive agent of the United States Government signals intelligence and communications security activities, except as otherwise directed by the NSC;

(f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

(h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

**1.12 Intelligence Components Utilized by the Secretary of Defense.** In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attaché system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency

may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;

(5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;

(6) Collection processing and dissemination of signals intelligence information for counterintelligence purposes;

(7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;

(10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;

(11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;

(12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs, whose responsibilities shall include:*

- (1) Carrying out consolidated reconnaissance programs for specialized intelligence;
  - (2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and
  - (3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.
- (d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include:
- (1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA and such collection within the United States shall be coordinated with the FBI;
  - (2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and
  - (3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.
- (e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense*. If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

**1.13 The Department of Energy.** The Secretary of Energy shall:

- (a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;
- (b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;
- (c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and
- (d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

**1.14 The Federal Bureau of Investigation.** Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

- (a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

(b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;

(d) Produce and disseminate foreign intelligence and counterintelligence; and

(e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

## PART 2

### Conduct of Intelligence Activities

**2.1 Need.** Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

**2.2 Purpose.** This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

**2.3 Collection of Information.** Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counterintelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable

shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes.

In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

**2.4 Collection Techniques.** Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

- (1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and
  - (2) Searches by CIA of personal property of non-United States persons lawfully in its possession.
- (c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:
- (1) Physical surveillance of present or former<sup>18</sup> employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and
  - (2) Physical surveillance of a military person employed by a nonintelligence element of a military service.
- (d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

**2.5 Attorney General Approval.** The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

**2.6 Assistance to Law Enforcement Authorities.** Agencies within the Intelligence Community are authorized to:

- (a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;
- (b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;
- (c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and
- (d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

**2.7 Contracting.** Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in

<sup>18</sup>Sec. 6(h) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out "present of former" and inserted in lieu thereof "present or former".

the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

**2.8 Consistency With Other Laws.** Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

**2.9 Undisclosed Participation in Organizations Within the United States.** No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

**2.10 Human Experimentation.** No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

**2.11 Prohibition on Assassination.** No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

**2.12 Indirect Participation.** No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

## PART 3

### General Provisions

**3.1 Congressional Oversight.** The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be implemented in accordance with applicable law, including title V of the Act.<sup>19</sup> The requirements of applicable law, including title V of the Act,<sup>20</sup> shall apply to all special activities as defined in this Order.

<sup>19</sup>Sec. 6(i)(i) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out "as provided in title 50, United States Code, section 413" and inserted in lieu thereof "implemented in accordance with applicable law, including title V of the Act".

<sup>20</sup>Sec. 6(i)(ii) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out "section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the



**3.2 Implementation.** The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

**3.3 Procedures.** Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036. Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

**3.4 Definitions.** For the purposes of this Order, the following terms shall have these meanings:

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly<sup>21</sup> present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community, or organizations within the Intelligence Community*<sup>22</sup> refer to the following agencies or organizations:

- (1) The Central Intelligence Agency (CIA);

National Security Act of 1947, as amended (50 U.S.C. 413),” and inserted in lieu thereof “applicable law, including title V of the Act.”

<sup>21</sup>Sec. 6(j) of Executive Order 13355 (August 27, 2004; 69 F.R. 53596) struck out “visibly” and inserted in lieu thereof “visibly”.

<sup>22</sup>Sec. 6(k)(i) of Executive Order 13355 (August 27, 2004; 69 F.R. 53597) inserted “, or organizations within the Intelligence Community”.

- (2) The National Security Agency (NSA);
  - (3) The Defense Intelligence Agency (DIA);
  - (4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
  - (5) The Bureau of Intelligence and Research of the Department of State;
  - (6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy;<sup>23</sup>
  - (7) The staff elements of the Director of Central Intelligence;<sup>24</sup>
  - (8)<sup>23</sup> The intelligence elements of the Coast Guard and those<sup>25</sup> elements of the Department of Homeland Security that are supervised by the Department's Under Secretary for Information Analysis and Infrastructure Protection through the Department's Assistant Secretary for Information Analysis, with the exception of those functions that involve no analysis of foreign intelligence information; and<sup>24</sup>
  - (9)<sup>24</sup> National Geospatial-Intelligence Agency.
- (g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:
- (1) The programs of the CIA;
  - (2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;
  - (3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;
  - (4) Activities of the staff elements of the Director of Central Intelligence;
  - (5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.
- (h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government

<sup>23</sup> Sec. 18 of Executive Order 13284 (January 23, 2003; 68 F.R. 4077) struck out "and" at the end of para. (6), struck out a period and the end of para. (7) and inserted in lieu thereof "; and", and added para. (8).

<sup>24</sup> Sec. 6(k)(iii) of Executive Order 13355 (August 27, 2004; 69 F.R. 53597) struck out "and" at the end of para. (7), struck out a period at the end of para. (8) and inserted in lieu thereof "; and", and added para. (9).

<sup>25</sup> Sec. 6(k)(ii) of Executive Order 13355 (August 27, 2004; 69 F.R. 53597) struck out "Those" and inserted in lieu thereof "The intelligence elements of the Coast Guard and those".

is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

**3.5 Purpose and Effect.** This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

**3.6 Revocation.** Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

### (3) President's Foreign Intelligence Advisory Board<sup>1</sup>

Executive Order 12863, September 13, 1993, 58 F.R. 48441, 50 U.S.C. 401 note; as amended by Executive Order 13070, December 15, 1997, 62 F.R. 66493; Executive Order 13301, May 14, 2003, 68 F.R. 26981; and Executive Order 13376, April 13, 2005, 70 F.R. 20261

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to enhance the security of the United States by improving the quality and effectiveness of intelligence available to the United States, it is ordered as follows:

#### PART I. ASSESSMENT OF INTELLIGENCE ACTIVITIES

**Section 1.1.** There is hereby established within the White House Office, Executive Office of the President, the President's Foreign Intelligence Advisory Board (PFIAB). The PFIAB Board shall consist of not more than 16 members, who shall serve at the pleasure of the President and shall be appointed by the President from among trustworthy and distinguished citizens outside the Government who are qualified on the basis of achievement, experience and independence. The President shall establish the terms of the members upon their appointment. To the extent practicable, one-third of the PFIAB at any one time shall be comprised of members whose term of service does not exceed 2 years. The President shall designate a Chairman and Vice Chairman from among the members. The PFIAB shall utilize full-time staff and consultants as authorized by the President. Such staff shall be headed by an Executive Director, appointed by the President.

**Sec. 1.2.** The PFIAB shall assess the quality, quantity, and adequacy of intelligence collection, of analysis and estimates, and of counterintelligence and other intelligence activities. The PFIAB shall have the authority to review continually the performance of all agencies of the Federal Government that are engaged in the collection, evaluation, or production of intelligence or the execution of intelligence policy. The PFIAB shall further be authorized to assess the adequacy of management, personnel and organization in the intelligence agencies. The heads of departments and agencies of the Federal Government, to the extent permitted by law, shall provide the PFIAB with access to all information that the PFIAB deems necessary to carry out its responsibilities.

**Sec. 1.3.** The PFIAB shall report directly to the President and advise him concerning the objectives, conduct, management and coordination of the various activities of the agencies of the Intelligence Community. The PFIAB shall report periodically, but at least semiannually, concerning its findings and appraisals and

<sup>1</sup>Formerly in Executive Order 12537 (October 28, 1985, 50 F.R. 45083, 50 U.S.C. 401 note; as amended by Executive Order 12624, January 6, 1988, 53 F.R. 489).

shall make appropriate recommendations for the improvement and enhancement of the intelligence efforts of the United States.

**Sec. 1.4.** The PFIAB shall consider and recommend appropriate action which respect to matters, identified to the PFIAB by the Director of National Intelligence,<sup>2</sup> the Central Intelligence Agency, or other Government agencies engaged in intelligence or related activities, in which the advice of the PFIAB will further the effectiveness of the national intelligence effort. With respect to matters deemed appropriate by the President, the PFIAB shall advise and make recommendations to the Director of National Intelligence,<sup>2</sup> the Central Intelligence Agency, and other Government agencies engaged in intelligence and related activities, concerning ways to achieve increased effectiveness in meeting national intelligence needs.

## PART II. OVERSIGHT OF INTELLIGENCE ACTIVITIES

**Sec. 2.1.**<sup>3</sup> The Intelligence Oversight Board (IOB)<sup>4</sup> is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than five<sup>5</sup> members designated by the President from among the membership of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman or a member of the IOB is so designated by the President. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the IOB with the concurrence of the Chairman of the PFIAB.

**Sec. 2.2.** The IOB shall:

- (a) prepare for the President reports of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;
- (b) forward to the Attorney General reports received concerning intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive;
- (c) review the internal guidelines of each agency within the Intelligence Community that concern the lawfulness of intelligence activities;
- (d) review the practices and procedures of the Inspectors General and General Counsel of the Intelligence Community for discovering and reporting intelligence activities that may be unlawful or contrary to Executive order or Presidential directive; and

<sup>2</sup> Executive Order 13376 (April 13, 2005; 70 F.R. 20261) provided the following:

“(a) effective upon appointment of the Director of National Intelligence, by striking ‘Director of Central Intelligence’ each place it appears and inserting in lieu thereof ‘Director of National Intelligence.’”

<sup>3</sup> Executive Order 13070 (December 15, 1997; 62 F.R. 66493) amended and restated sec. 2.1. It formerly read as follows:

“The Intelligence Oversight Board (IOB) is hereby established as a standing committee of the PFIAB. The IOB shall consist of no more than four members appointed from among the membership of the PFIAB by the Chairman of the PFIAB. The Chairman of the IOB shall be appointed by the Chairman of the PFIAB. The Chairman of the PFIAB may also serve as the Chairman of the IOB. The IOB shall utilize such full-time staff and consultants as authorized by the Chairman of the PFIAB.”

<sup>4</sup> As originally established in Executive Order 12334, December 4, 1981 (50 U.S.C. 401 note; 46 F.R. 59955; as amended by Executive Order 12701, February 14, 1990, 55 F.R. 5953).

<sup>5</sup> Executive Order 13301 (May 14, 2003; 68 F.R. 26981) struck out “four” and inserted in lieu thereof “five”. The amendment was so stated to be executed in the first sentence of sec. 2.1, which does not contain the word “four”; it is interpreted to be intended to be executed in the second sentence, as shown.

(e) conduct such investigations as the IOB deems necessary to carry out its functions under this order.

**Sec. 2.3.** The IOB shall, when required by this order, report to the President through the Chairman of the PFIAB. The IOB shall consider and take appropriate action with respect to matters identified by the Director of National Intelligence,<sup>2</sup> the Central Intelligence Agency or other agencies of the Intelligence Community. With respect to matters deemed appropriate by the President, the IOB shall advise and make appropriate recommendations to the Director of National Intelligence,<sup>2</sup> the Central Intelligence Agency and other agencies of the Intelligence Community.

**Sec. 2.4.** The heads of departments and agencies of the Intelligence Community, to the extent permitted by law, shall provide the IOB with all information that the IOB deems necessary to carry out its responsibilities. Inspectors General and General Counsel of the Intelligence Community, to the extent permitted by law, shall report to the IOB, at least on a quarterly basis and from time to time as necessary or appropriate, concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive.

### PART III. GENERAL PROVISIONS

**Sec. 3.1.** Information made available to the PFIAB, or members of the PFIAB acting in their IOB capacity, shall be given all necessary security protection in accordance with applicable laws and regulations. Each member of the PFIAB, each member of the PFIAB's staff and each of the PFIAB's consultants shall execute an agreement never to reveal any classified information obtained by virtue of his or her services with the PFIAB except to the President or to such persons as the President may designate.

**Sec. 3.2.** Members of the PFIAB shall serve without compensation but may receive transportation expenses and per diem allowance as authorized by law. Staff and consultants to the PFIAB shall receive pay and allowances as authorized by the President.

**Sec. 3.3.** Executive Order No. 12334 of December 4, 1981, as amended, and Executive Order No. 12537 of October 28, 1985, as amended, are revoked.

**Sec. 3.4.**<sup>6</sup> This order is intended only to improve the internal management of the executive branch of the Federal Government, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

<sup>6</sup> Executive Order 13376 (April 13, 2005; 70 F.R. 20261) added sec. 3.4.

#### (4) Foreign Intelligence Physical Searches

**Executive Order 12949, February 9, 1995, 60 F.R. 8169, 50 U.S.C. 1822 note; amended by Executive Order 13383, July 15, 2005, 70 F.R. 41933**

By the authority vested in me as President by the Constitution and the laws of the United States, including sections 302 and 303 of the Foreign Intelligence Surveillance Act of 1978 (“Act”) (50 U.S.C. 1801, *et seq.*), as amended by Public Law 101–359, and in order to provide for the authorization of physical searches for foreign intelligence purposes as set forth in the Act, it is hereby ordered as follows:

**Section 1.** Pursuant to section 302(a)(1) of the Act, the Attorney General is authorized to approve physical searches, without a court order, to acquire foreign intelligence information for periods of up to one year, if the Attorney General makes the certifications required by that section.

**Sec. 2.** Pursuant to section 302(a)(1) of the Act, the Attorney General is authorized to approve applications to the Foreign Intelligence Surveillance Court under section 303 of the Act to obtain orders for physical searches for the purpose of collecting foreign intelligence information.

**Sec. 3.** Pursuant to section 303(a)(7) of the Act, the following of officials, each of whom is employed in the areas of national security or defense, is designated to make the certifications required by section 303(a)(7) of the Act in support of applications to conduct physical searches:

- (a) Secretary of State;
- (b) Secretary of Defense;
- Director of National Intelligence;<sup>1</sup>
- (d) Director of the Federal Bureau of Investigation;
- (e) Deputy Secretary of State;
- (f) Deputy Secretary of Defense;<sup>2</sup>
- (g)<sup>3</sup> Director of the Central Intelligence Agency; and
- (h)<sup>4</sup> Principal Deputy Director of National Intelligence.

None of the above officials, nor anyone officially acting in that capacity, may exercise the authority to make the above certifications, unless that official has been appointed by the President, by and with the advice and consent of the Senate.

<sup>1</sup>Sec. 2(a) of Executive Order 13383 (July 15, 2005; 70 F.R. 41933) struck out “(c) Director of Central Intelligence” and inserted in lieu thereof “Director of National Intelligence”. Designation for subsec. (c) should probably have been retained.

<sup>2</sup>Sec. 2(b) of Executive Order 13383 (July 15, 2005; 70 F.R. 41933) struck out “and” at the end of subsec. (f).

<sup>3</sup>Sec. 2(c) of Executive Order 13383 (July 15, 2005; 70 F.R. 41933) struck out “(g) Deputy Director of Central Intelligence.” and inserted in lieu thereof “(g) Director of the Central Intelligence Agency; and”.

<sup>4</sup>Sec. 2(d) of Executive Order 13383 (July 15, 2005; 70 F.R. 41933) inserted subsec. (h) “at the end [of sec. 3] thereof”. The amendment is executed here as probably intended.

## (5) Strengthened Management of the Intelligence Community

Partial text of Executive Order 13355, August 27, 2004, 69 F.R. 53593, 50 U.S.C. 403-4a note

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 103(c)(8) of the National Security Act of 1947, as amended (Act), and in order to further strengthen the effective conduct of United States intelligence activities and protect the territory, people, and interests of the United States of America, including against terrorist attacks, it is hereby ordered as follows:

**Section 1.** *Strengthening the Authority of the Director of Central Intelligence.* The Director of Central Intelligence (Director) shall perform the functions set forth in this order to ensure an enhanced joint, unified national intelligence effort to protect the national security of the United States. Such functions shall be in addition to those assigned to the Director by law, Executive Order, or Presidential directive.

**Sec. 2.** *Strengthened Role in National Intelligence.* \* \* \*<sup>1</sup>

**Sec. 3.** *Strengthened Control of Intelligence Funding.* \* \* \*<sup>1</sup>

**Sec. 4.** *Strengthened Role in Selecting Heads of Intelligence Organizations.* With respect to a position that heads an organization within the Intelligence Community:

(a) if the appointment to that position is made by the head of the department or agency or a subordinate thereof, no individual shall be appointed to such position without the concurrence of the Director;

(b) if the appointment to that position is made by the President alone, any recommendation to the President to appoint an individual to that position shall be accompanied by the recommendation of the Director with respect to the proposed appointment; and

(c) if the appointment to that position is made by the President, by and with the advice and consent of the Senate, any recommendation to the President for nomination of an individual for that position shall be accompanied by the recommendation of the Director with respect to the proposed nomination.

**Sec. 5.** *Strengthened Control of Standards and Qualifications.* The Director shall issue, after coordination with the heads of departments and agencies with an organization in the Intelligence Community, and not later than 120 days after the date of this order, and thereafter as appropriate, standards and qualifications

<sup>1</sup>Secs. 2, 3, and 6 amended Executive Order 12333, relating to U.S. intelligence activities; see beginning at page 957.



for persons engaged in the performance of United States intelligence activities, including but not limited to:

(a) standards for training, education, and career development of personnel within organizations in the Intelligence Community, and for ensuring compatible personnel policies and an integrated professional development and education system across the Intelligence Community, including standards that encourage and facilitate service in multiple organizations within the Intelligence Community and make such rotated service as a factor to be considered for promotion to senior positions;

(b) standards for attracting and retaining personnel who meet the requirements for effective conduct of intelligence activities;

(c) standards for common personnel security policies among organizations within the Intelligence Community; and

(d) qualifications for assignment of personnel to centers established under section 1.5(g)(2) of Executive Order 12333, as amended by section 2 of this order.

**Sec. 6.** *Technical Corrections.* \* \* \*<sup>1</sup>

**Sec. 7.** *General Provisions.*

(a) This order and the amendments made by this order:

(i) shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations;

(ii) shall be implemented in a manner consistent with the authority of the principal officers of the executive departments as heads of their respective departments, including under section 199 of the Revised Statutes (22 U.S.C. 2651), section 201 of the Department of Energy Reorganization Act (42 U.S.C. 7131), section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code; and

(iii) shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals.

(b) Nothing in section 4 of this order limits or otherwise affects—

(i) the appointment of an individual to a position made before the date of this order; or

(ii) the power of the President as an appointing authority to terminate an appointment.

(c) Nothing in this order shall be construed to impair or otherwise affect any authority to provide intelligence to the President, the Vice President in the performance of Executive functions, and other officials in the executive branch.

(d) This order and amendments made by this order are intended only to improve the internal management of the Federal Government and are not intended to, and do not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

## **i. International Agreements**

### **(1) Compilation and Transmittal of International Agreements**

**Section 112a and 112b, Title 1, United States Code; as added by Act of September 23, 1950, 64 Stat. 980; and added by Public Law 92-403 [Case-Zablocki Act, S. 596], 86 Stat. 619, approved August 22, 1972; as amended by Public Law 95-45 [Department of State Appropriation Authorization; H.R. 5040] 91 Stat. 221, approved June 15, 1977; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-437 [H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004**

#### **§ 112a.<sup>1</sup> United States Treaties and Other International Agreements; contents; admissibility in evidence**

(a)<sup>2</sup> The Secretary of State shall cause to be compiled, edited, indexed, and published, beginning as of January 1, 1950, a compilation entitled "United States Treaties and Other International Agreements," which shall contain all treaties to which the United States is a party that have been proclaimed during each calendar year, and all international agreements other than treaties to which the United States is a party that have been signed, proclaimed, or with reference to which any other final formality has been executed, during each calendar year. The said United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

(b)<sup>3</sup> The Secretary of State may determine that publication of certain categories of agreements is not required, if the following criteria are met:

<sup>1</sup>Title VIII of the Legislative Branch Appropriations Act, 1976 (Public Law 94-59; 89 Stat. 296; 44 U.S.C. 1317 note), however, provided the following:

"Hereafter, notwithstanding any other provisions of law, appropriations for the automatic distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner from Puerto Rico) of copies of the Foreign Relations of the United States, the United States Treaties and other International Agreements, the District of Columbia Code and Supplements, and more than one bound set of the United States Code and Supplements shall not be available with respect to any Senator or Representative unless such Senator or Representative specifically, in writing, requests that he receive copies of such documents."

See also Department of State rule at 22 CFR Part 181 for the coordination and reporting of international agreements, beginning at page 988.

<sup>2</sup>Sec. 138(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), added subsec. designation "(a)".

<sup>3</sup>Sec. 138(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 397), added subsecs. (b) and (c).

The Secretary of State delegated functions authorized under subsec. (b) to the Legal Advisor (Department of State Public Notice 2086; sec. 13 of Delegation of Authority No. 214; 59 F.R. 50790).

(1) such agreements are not treaties which have been brought into force for the United States after having received Senate advice and consent pursuant to section 2(2) of Article II of the Constitution of the United States;

(2) the public interest in such agreements is insufficient to justify their publication, because (A) as of the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, the agreements are no longer in force, (B) the agreements do not create private rights or duties, or establish standards intended to govern government action in the treatment of private individuals; (C) in view of the limited or specialized nature of the public interest in such agreements, such interest can adequately be satisfied by an alternative means; or (D) the public disclosure of the text of the agreement would, in the opinion of the President, be prejudicial to the national security of the United States; and

(3) copies of such agreements (other than those in paragraph (2)(D)), including certified copies where necessary for litigation or similar purposes, will be made available by the Department of State upon request.

(c)<sup>3</sup> Any determination pursuant to subsection (b) shall be published in the Federal Register.

(d)<sup>4</sup> The Secretary of State shall make publicly available through the Internet website of the Department of State each treaty or international agreement proposed to be published in the compilation entitled "United States Treaties and Other International Agreements" not later than 180 days after the date on which the treaty or agreement enters into force.

#### **§ 112b.<sup>5</sup> United States international agreements; transmission to Congress**

(a)<sup>6</sup> The Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing)<sup>7</sup> other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter.<sup>8</sup> However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee

<sup>4</sup>Sec. 7121(a) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108-458; 118 Stat. 3638) added subsec. (d).

<sup>5</sup>Popularly known as the Case-Zablocki Act.

<sup>6</sup>Sec. 708 of Public Law 95-426 (92 Stat. 993) inserted the subsec. designation "(a)" and added subsecs. (b) through (e). Subsecs. (d) and (e) were subsequently redesignated as subsecs. (e) and (f) by sec. 7121(c)(1) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108-458; 118 Stat. 3638).

<sup>7</sup>Sec. 708 of Public Law 95-426 (92 Stat. 993) added the parenthetical phrase.

<sup>8</sup>Sec. 139 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1347), required that if the 60-day period specified in this sentence was not honored, no funds authorized to be appropriated would be available after the end of the 60-day period to implement any agreement required to be transmitted until the text of such agreement was so transmitted. This restriction on use of funds was made effective 60 days after the enactment of Public Law 100-204 and made applicable during fiscal years 1988 and 1989.

on International Relations<sup>9</sup> of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President. Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Department of State the text of such agreement not later than twenty days after such agreement has been signed.<sup>10</sup>

(b)<sup>6</sup> Not later than March 1, 1979, and at yearly intervals thereafter, the President shall, under his own signature, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report with respect to each international agreement which, during the preceding year, was transmitted to the Congress after the expiration of the 60-day period referred to in the first sentence of subsection (a), describing fully and completely the reasons for the late transmittal.

(c)<sup>6</sup> Notwithstanding any other provision of law, an international agreement may not be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State. Such consultation may encompass a class of agreements rather than a particular agreement.

(d)<sup>11</sup> (1) The Secretary of state shall annually submit to Congress a report that contains an index of all international agreements, listed by country, date, title, and summary of each such agreements, listed by country, date, title, and summary of each such agreement (including a description of the duration of activities under the agreement and the agreement itself), that the United States—

(A) has signed, proclaimed, or with reference to which any other final formality has been executed, or that has been extended or otherwise modified, during the preceding calendar year; and

(B) has not been published, or is not proposed to be published, in the compilation entitled “United States Treaties and Other International Agreements”.

(2) The report described in paragraph (1) may be submitted in classified form.

(e)<sup>6</sup> (1)<sup>12</sup> Subject to paragraph (2), the Secretary of State shall determine for and within the executive branch whether an arrangement constitutes an international agreement within the meaning of this section.

(2)<sup>13</sup> (A) An arrangement shall constitute an international agreement within the meaning of this section (other than subsection (c))

<sup>9</sup>Sec. 7121(b) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) struck out “Committee on Foreign Affairs” and inserted in lieu thereof “Committee on International Relations”. Previously, sec. 1 of Public Law 103–437 (108 Stat. 4581) struck out “Committee on International Relations” and inserted in lieu thereof “Committee on Foreign Affairs”. Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186), however, subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>10</sup>Sec. 5(a) of Public Law 95–45 (91 Stat. 224) added this sentence.

<sup>11</sup>Sec. 7121(c)(2) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) added subsec. (d).

<sup>12</sup>Sec. 7121(d)(1) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) struck out “(e) The Secretary of State” and inserted in lieu thereof “(e)(1) Subject to paragraph (2), the Secretary of State”.

<sup>13</sup>Sec. 7121(d)(2) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108–458; 118 Stat. 3638) added para. (2).

irrespective of the duration of activities under the arrangement or the arrangement itself.

(B) Arrangements that constitute an international agreement within the meaning of this section (other than subsection (c)) include the following:

(i) A bilateral or multilateral counterterrorism agreement.

(ii) A bilateral agreement with a country that is subject to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

(f)<sup>6</sup> The President shall, through the Secretary of State, promulgate such rules and regulations as may be necessary to carry out this section.

## **(2) Coordination and Reporting of International Agreements**

**Regulations of the Secretary of State, Department Regulation 108.809, 22 CFR Part 181, July 13, 1981, 46 F.R. 35918; amended at 61 F.R. 7070, February 26, 1996**

### SUBCHAPTER S—INTERNATIONAL AGREEMENTS

#### PART 181—COORDINATION AND REPORTING OF INTERNATIONAL AGREEMENTS

Sec.

- 181.1 Purpose and application.
- 181.2 Criteria.
- 181.3 Determinations.
- 181.4 Consultations with the Secretary of State.
- 181.5 Twenty-day rule for concluded agreements.
- 181.6 Documentation and certification.
- 181.7 Transmittal to the Congress.
- 181.8 Publication.<sup>1</sup>

Authority: 1 U.S.C. 112a, 112b; and 22 U.S.C. 2651a

#### **§181.1 Purpose and application.**

(a) The purpose of this part is to implement the provisions of 1 U.S.C. 112a and 112b, popularly known as the Case-Zablocki Act (hereinafter “the Act”), on the reporting to Congress, coordination with the Secretary of State and publication of international agreements.<sup>2</sup> This part applies to all agencies of the U.S. Government whose responsibilities include the negotiation and conclusion of international agreements. This part does not, however, constitute a delegation by the Secretary of State of the authority to engage in such activities. Further, it does not affect any additional requirements of law governing the relationship between particular agencies and the Secretary of State in connection with international negotiations and agreements, or any other requirements of law concerning the relationship between particular agencies and the Congress. The term “agency” as used in this part means each authority of the United States Government, whether or not it is within or subject to review by another agency.

(b) Pursuant to the key legal requirements of the Act—full and timely disclosure to the Congress of all concluded agreements and consultation by agencies with the Secretary of State with respect to proposed agreements—every agency of the Government is required to comply with each of the provisions set out in this part in implementation of the Act. Nevertheless, this part is intended as

<sup>1</sup> Sec. 181.8 was added at 61 F.R. 7071, February 16, 1996.

<sup>2</sup> The first sentence of sec. 181.1 was amended at 61 F.R. 7071, February 16, 1996. It formerly read as follows: “The purpose of this part is to implement the provisions of 1 U.S.C. 112b, popularly known as the Case-Zablocki Act (hereinafter referred to as the ‘Act’), on the reporting to Congress and coordination with the Secretary of State of international agreements of the United States.”

a framework of measures and procedures which, it is recognized, cannot anticipate all circumstances or situations that may arise. Deviation or derogation from the provisions of this part will not affect the legal validity, under United States law or under international law, of agreements concluded, will not give rise to a cause of action, and will not affect any public or private rights established by such agreements.

**§181.2 Criteria.**

(a) *General.* The following criteria are to be applied in deciding whether any undertaking, oral agreement, document, or set of documents, including an exchange of notes or of correspondence, constitutes an international agreement within the meaning of the Act, as well as within the meaning of 1 U.S.C. 112a, requiring the publication of international agreements. Each of the criteria except those in paragraph (a)(5) of this section must be met in order for any given undertaking of the United States to constitute an international agreement.

(1) *Identity and intention of the parties.* A party to an international agreement must be a state, a state agency, or an intergovernmental organization. The parties must intend their undertaking to be legally binding, and not merely of political or personal effect. Documents intended to have political or moral weight, but not intended to be legally binding, are not international agreements. An example of the latter is the Final Act of the Helsinki Conference on Cooperation and Security in Europe. In addition, the parties must intend their undertaking to be governed by international law, although this intent need not be manifested by a third-party dispute settlement mechanism or any express reference to international law. In the absence of any provision in the arrangement with respect to governing law, it will be presumed to be governed by international law. This presumption may be overcome by clear evidence, in the negotiating history of the agreement or otherwise, that the parties intended the arrangement to be governed by another legal system. Arrangements governed solely by the law of the United States, or one of the states or jurisdictions thereof, or by the law of any foreign state, are not international agreements for these purposes. For example, a foreign military sales loan agreement governed in its entirety by U.S. law is not an international agreement.

(2) *Significance of the arrangement.* Minor or trivial undertakings, even if couched in legal language and form, are not considered international agreements within the meaning of the Act or of 1 U.S.C. 112a. In deciding what level of significance must be reached before a particular arrangement becomes an international agreement, the entire context of the transaction and the expectations and intent of the parties must be taken into account. It is often a matter of degree. For example, a promise to sell one map to a foreign nation is not an international agreement; a promise to exchange all maps of a particular region to be produced over a period of years may be an international agreement. It remains a matter of judgment

based on all of the circumstances of the transaction. Determinations are made pursuant to § 181.3. Examples of arrangements that may constitute international agreements are agreements that: (a) are of political significance; (b) involve substantial grants of funds or loans by the United States or credits payable to the United States; (c) constitute a substantial commitment of funds that extends beyond a fiscal year or would be a basis for requesting new appropriations; (d) involve continuing and/or substantial cooperation in the conduct of a particular program or activity, such as scientific, technical, or other cooperation, including the exchange or receipt of information and its treatment, or the pooling of data. However, individual research grants and contracts do not ordinarily constitute international agreements.

(3) *Specificity, including objective criteria for determining enforceability.* International agreements require precision and specificity in the language setting forth the undertakings of the parties. Undertakings couched in vague or very general terms containing no objective criteria for determining enforceability or performance are not normally international agreements. Most frequently such terms reflect an intent not to be bound. For example, a promise to “help develop a more viable world economic system” lacks the specificity essential to constitute a legally binding international agreement. However, the intent of the parties is the key factor. Undertakings as general as those of, for example, Articles 55 and 56 of the United Nations Charter have been held to create internationally binding obligations intended as such by the parties.

(4) *Necessity for two or more parties.* While unilateral commitments on occasion may be legally binding, they do not constitute international agreements. For example, a statement by the President promising to send money to Country Y to assist earthquake victims would not be an international agreement. It might be an important undertaking, but not all undertakings in international relations are in the form of international agreements. Care should be taken to examine whether a particular undertaking is truly unilateral in nature, or is part of a larger bilateral or multilateral set of undertakings. Moreover, “consideration,” as that term is used in domestic contract law, is not required for international agreements.

(5) *Form.* Form as such is not normally an important factor, but it does deserve consideration. Documents which do not follow the customary form for international agreements, as to matters such as style, final clauses, signatures, or entry into force dates, may or may not be international agreements. Failure to use the customary form may constitute evidence of a lack of intent to be legally bound by the arrangement. If, however, the general content and context reveal an intention to enter into a legally binding relationship, a departure from customary form will not preclude the arrangement from being an international agreement. Moreover, the title of the agreement will not be determinative. Decisions will be made on the basis of the substance of the arrangement, rather than on its denomination as an international agreement, a memorandum of



understanding, exchange of notes, exchange of letters, technical arrangement, protocol, note verbale, aide-memoire, agreed minute, or any other name.

(b) *Agency-level agreements.* Agency-level agreements are international agreements within the meaning of the Act and of 1 U.S.C. 112a if they satisfy the criteria discussed in paragraph (a) of this section. The fact that an agreement is concluded by and on behalf of a particular agency of the United States Government, rather than the United States Government, does not mean that the agreement is not an international agreement. Determinations are made on the basis of the substance of the agency-level agreement in question.

(c) *Implementing agreements.* An implementing agreement, if it satisfies the criteria discussed in paragraph (a) of this section, may be an international agreement, depending upon how precisely it is anticipated and identified in the underlying agreement it is designed to implement. If the terms of the implementing agreement are closely anticipated and identified in the underlying agreement, only the underlying agreement is considered an international agreement. For example, the underlying agreement might call for the sale by the United States of 1000 tractors, and a subsequent implementing agreement might require a first installment on this obligation by the sale of 100 tractors of the brand X variety. In that case, the implementing agreement is sufficiently identified in the underlying agreement, and would not itself be considered an international agreement within the meaning of the Act or of 1 U.S.C. 112a. Project annexes and other documents which provide technical content for an umbrella agreement are not normally treated as international agreements. However, if the underlying agreement is general in nature, and the implementing agreement meets the specified criteria of paragraph (a) of this section, the implementing agreement might well be an international agreement. For example, if the underlying agreement calls for the conclusion of "agreements for agricultural assistance," but without further specificity, then a particular agricultural assistance agreement subsequently concluded in "implementation" of that obligation, provided it meets the criteria discussed in paragraph (a) of this section, would constitute an international agreement independent of the underlying agreement.

(d) *Extension and modifications of agreements.* If an undertaking constitutes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, then a subsequent extension or modification of such an agreement would itself constitute an international agreement within the meaning of the Act of 1 U.S.C. 112a.

(e) *Oral agreements.* Any oral arrangement that meets the criteria discussed in paragraphs (a)(1)–(4) of this section is an international agreement and, pursuant to section (a) of the Act, must be reduced to writing by the agency that concluded the oral arrangement. In such written form, the arrangement is subject to all the requirements of the Act and of this part. Whenever a question arises whether an oral arrangement constitutes an international agreement, the arrangement shall be reduced to writing and the decision made in accordance with §181.3.

**§181.3 Determinations.**

(a) Whether any undertaking, document, or set of documents constitutes or would constitute an international agreement within the meaning of the Act or of 1 U.S.C. 112a shall be determined by the Legal Adviser of the Department of State, a Deputy Legal adviser, or in most cases the Assistant Legal Adviser for Treaty Affairs. Such determinations shall be made either on a case-by-case basis, or on periodic consultation, as appropriate.

(b) Agencies whose responsibilities include the negotiation and conclusion of international agreements are responsible for transmitting to the Assistant Legal Adviser for Treaty Affairs, for decision pursuant to paragraph (a) of this section, the texts of any document or set of documents that might constitute an international agreement. The transmittal shall be made prior to or simultaneously with the request for consultations with the Secretary of State required by subsection (c) of the Act and §181.4 of this part.

(c) Agencies whose responsibilities include the negotiation and conclusion of large numbers of agency-level and implementing arrangements at overseas posts, only a small number of which might constitute international agreements within the meaning of the Act and of 1 U.S.C. 112a, are required to transmit prior to their entry into force only the texts of the more important of such arrangements for decision pursuant to paragraph (a) of this section. The texts of all arrangements that might constitute international agreements shall, however, be transmitted to the Office of the Assistant Legal Adviser for Treaty Affairs as soon as possible, and in no event to arrive at that office later than 20 days after their signing for decision pursuant to paragraph (a) of this section.

(d) Agencies to which paragraphs (b) and (c) of this section apply shall consult periodically with the Assistant Legal Adviser for Treaty Affairs in order to determine which categories of arrangements for which they are responsible are likely to be international agreements within the meaning of the Act and of 1 U.S.C. 112a.

**§181.4 Consultations with the Secretary of State.**

(a) The Secretary of State is responsible, on behalf of the President, for ensuring that all proposed international agreements of the United States are fully consistent with United States foreign policy objectives. Except as provided in §181.3(c) of this part, no agency of the U.S. Government may conclude an international agreement, whether entered into in the name of the U.S. Government or in the name of the agency, without prior consultation with the Secretary of State or his designee.

(b) The Secretary of State (or his designee) gives his approval for any proposed agreement negotiated pursuant to his authorization, and his opinion on any proposed agreement negotiated by an agency which has separate authority to negotiate such agreement. The approval or opinion of the Secretary of State or his designee with respect to any proposed international agreement will be given pursuant to Department of State procedures set out in Volume 11, *Foreign Affairs Manual*, Chapter 700 (Circular 175 procedure). Officers of the Department of State shall be responsible for the preparation of all documents required by the Circular 175 procedure.

(c) Pursuant to the Circular 175 procedure, the approval of, or an opinion on a proposed international agreement to be concluded in the name of the U.S. Government will be given either by the Secretary of State or his designee. The approval of, or opinion on a proposed international agreement to be concluded in the name of a particular agency of the U.S. Government will be given by the interested assistant secretary or secretaries of State, or their designees, unless such official(s) judge that consultation with the Secretary, Deputy Secretary, or an Under Secretary is necessary. The approval of, or opinion on a proposed international agreement will normally be given within 20 days of receipt of the request for consultation and of the information as required by § 181.4(d)–(g).

(d) Any agency wishing to conclude an international agreement shall transmit to the interested bureau or office in the Department of State, or to the Office of the Legal Adviser, for consultation pursuant to this section, a draft text or summary of the proposed agreement, a precise citation of the Constitutional, statutory, or treaty authority for such agreement, and other background information as requested by the Department of State. The transmittal of the draft text or summary and citation of legal authority shall be made before negotiations are undertaken, or if that is not feasible, as early as possible in the negotiating process. In any event such transmittals must be made no later than 50 days prior to the anticipated date for concluding the proposed agreement. If unusual circumstances prevent this 50-day requirement from being met, the concerned agency shall use its best efforts to effect such transmittal as early as possible prior to the anticipated date for concluding the proposed agreement.

(e) If a proposed agreement embodies a commitment to furnish funds, goods, or services that are beyond or in addition to those authorized in an approved budget, the agency proposing the agreement shall state what arrangements have been planned or carried out concerning consultation with the Office of Management and Budget for such commitment. The Department of State should receive confirmation that the relevant budget approved by the President provides or requests funds adequate to fulfill the proposed commitment, or that the President has made a determination to seek the required funds.

(f) Consultation may encompass a specific class of agreements rather than a particular agreement where a series of agreements of the same general type is contemplated; that is, where a number of agreements are to be negotiated according to a more or less standard formula, such as, for example, Public Law 480 Agricultural Commodities Agreements. Any agency wishing to conclude a particular agreement within a specific class of agreements about which consultations have previously been held pursuant to this section shall transmit a draft text of the proposed agreement to the Office of the Legal Adviser as early as possible but in no event later than 20 days prior to the anticipated date for concluding the agreement.

(g) The consultation requirement shall be deemed to be satisfied with respect to proposed international agreements of the United States about which the Secretary of State (or his designee) has

been consulted in his capacity as a member of an interagency committee or council established for the purpose of approving such proposed agreements. Designees of the Secretary of State serving on any such interagency committee or council are to provide as soon as possible to the interested offices or bureaus of the Department of State and to the Office of the Legal Adviser copies of draft texts or summaries of such proposed agreements and other background information as requested.

(h) Before an agreement containing a foreign language text may be signed or otherwise concluded, a signed memorandum must be obtained from a responsible language officer of the Department of State or of the U.S. Government agency concerned certifying that the foreign language text and the English language text are in conformity with each other and that both texts have the same meaning in all substantive respects. The signed memorandum is to be made available to the Department of State upon request.

**§ 181.5 Twenty-day rule for concluded agreements.**

(a) Any agency, including the Department of State, that concludes an international agreement within the meaning of the Act and of 1 U.S.C. 112a, whether entered into in the name of the U.S. Government or in the name of the agency, must transmit the text of the concluded agreement to the office of the Assistant Legal Adviser for Treaty Affairs as soon as possible and in no event to arrive at that office later than 20 days after the agreement has been signed. The 20-day limit, which is required by the Act, is essential for purposes of permitting the Department of State to meet its obligation under the Act to transmit concluded agreements to the Congress no later than 60 days after their entry into force.

(b) In any case of transmittal after the 20-day limit, the agency or Department of State office concerned may be asked to provide to the Assistant Legal Adviser for Treaty Affairs a statement describing the reasons for the late transmittal. Any such statements will be used, as necessary, in the preparation of the annual report on late transmittals, to be signed by the President and transmitted to the Congress, as required by subsection (b) of the Act.

**§ 181.6 Documentation and certification.**

(a) Transmittals of concluded agreements to the Assistant Legal Adviser for Treaty Affairs pursuant to § 181.5 must include the signed or initialed original texts, together with all accompanying papers, such as agreed minutes, exchanges of notes, or side letters. The texts transmitted must be accurate, legible, and complete, and must include the texts of all languages in which the agreement was signed or initiated. Names and identities of the individuals signing or initialing the agreements, for the foreign government as well as for the United States, must, unless clearly evident in the texts transmitted, be separately provided.

(b) Agreements from overseas posts should be transmitted to the Department of State by priority airgram, marked for the attention of the Assistant Legal Adviser for Treaty Affairs, with the following notation below the enclosure line: FAIM: Please send attached original agreement to L/T on arrival.

(c) Where the original texts of concluded agreements are not available, certified copies must be transmitted in the same manner as original texts. A certified copy must be an exact copy of the signed original.

(d) When an exchange of diplomatic notes between the United States and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the United States to the foreign government, and the signed original of the note from the foreign government, must be transmitted. If, in conjunction with the agreement signed, other notes related thereto are exchanged (either at the same time, beforehand, or subsequently), properly certified copies of the notes from the United States to the foreign government must be transmitted with the signed originals of the notes from the foreign government.

(e) Copies may be certified either by a certification on the document itself, or by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or stamped, that the document is a true copy of the original signed or initialed by (insert full name of signing officer), and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed by (full name) and it is signed by the certifying officer.

#### **§ 181.7 Transmittal to the Congress.**

(a) International agreements other than treaties shall be transmitted by the Assistant Legal Adviser for Treaty Affairs to the President of the Senate and the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter.

(b) Classified agreements shall be transmitted by the Assistant Secretary of State for Congressional Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.<sup>3</sup>

(c) The Assistant Legal Adviser for Treaty Affairs shall also transmit to the President of the Senate and to the Speaker of the House of Representatives background information to accompany each agreement reported under the Act. Background statements, while not expressly required by the Act, have been requested by the Congress and have become an integral part of the reporting requirement. Each background statement shall include information explaining the agreement, the negotiations, the effect of the agreement, and a precise citation of legal authority. At the request of the Assistant Legal Adviser for Treaty Affairs, each background statement is to be prepared in time for transmittal with the agreement it accompanies by the office most closely concerned with the agreement. Background statements for classified agreements are to be transmitted by the Assistant Secretary of State for Congressional

<sup>3</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

Relations to the Senate Committee on Foreign Relations and to the House Committee on Foreign Affairs.<sup>3</sup>

(d) Pursuant to Section 12 of the Taiwan Relations Act (22 U.S.C. 3311), any agreement entered into between the American Institute in Taiwan and the governing authorities on Taiwan, or any agreement entered into between the Institute and an agency of the United States Government, shall be transmitted by the Assistant Secretary of State for Congressional Relations to the President of the Senate and to the Speaker of the House of Representatives as soon as practicable after the entry into force of such agreements, but in no event later than 60 days thereafter. Classified agreements entered into by the Institute shall be transmitted by the Assistant Secretary for Congressional Relations to the Senate Committee on Foreign Affairs.<sup>4</sup>

**§ 181.8 Publication.<sup>5</sup>**

(a) The following categories of international agreements will not be published in United States Treaties and Other International Agreements:

(1) Bilateral agreements for the rescheduling of intergovernmental debt payments;

(2) Bilateral textile agreements concerning the importation of products containing specified textile fibers done under the Agricultural Act of 1956, as amended;

(3) Bilateral agreements between postal administrations governing technical arrangements;

(4) Bilateral agreements that apply to specified military exercises;

(5) Bilateral military personnel exchange agreements;

(6) Bilateral judicial assistance agreements that apply only to specified civil or criminal investigations or prosecutions;

(7) Bilateral mapping agreements;

(8) Tariff and other schedules under the General Agreement on Tariffs and Trade and under the Agreement of the World Trade Organization;

(9) Agreements that have been given a national security classification pursuant to Executive Order No. 12958 or its successors; and

(b) Agreements on the subjects listed in paragraphs (a) (1) through (9) of this section that had not been published as of February 26, 1996.

(c) Any international agreements in the possession of the Department of State, other than those in paragraph (a)(9) of this section, but not published will be made available upon request by the Department of State.

<sup>4</sup> In original. Should read Senate Committee on Foreign Relations.

<sup>5</sup> Sec. 181.8 was added at 61 F.R. 7071, February 16, 1996.

### (3) Implementation of Human Rights Treaties

**Executive Order 13107, December 10, 1998, 63 F.R. 68991, 5 U.S.C. 601 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and bearing in mind the obligations of the United States pursuant to the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), and other relevant treaties concerned with the protection and promotion of human rights to which the United States is now or may become a party in the future, it is hereby ordered as follows:

**Section 1. *Implementation of Human Rights Obligations.*** (a) It shall be the policy and practice of the Government of the United States, being committed to the protection and promotion of human rights and fundamental freedoms, fully to respect and implement its obligations under the international human rights treaties to which it is a party, including the ICCPR, the CAT, and the CERD.

(b) It shall also be the policy and practice of the Government of the United States to promote respect for international human rights, both in our relationships with all other countries and by working with and strengthening the various international mechanisms for the promotion of human rights, including, inter alia, those of the United Nations, the International Labor Organization, and the Organization of American States.

**Sec. 2. *Responsibility of Executive Departments and Agencies.*** (a) All executive departments and agencies (as defined in 5 U.S.C. 101–105, including boards and commissions, and hereinafter referred to collectively as “agency” or “agencies”) shall maintain a current awareness of United States international human rights obligations that are relevant to their functions and shall perform such functions so as to respect and implement those obligations fully. The head of each agency shall designate a single contact officer who will be responsible for overall coordination of the implementation of this order. Under this order, all such agencies shall retain their established institutional roles in the implementation, interpretation, and enforcement of Federal law and policy.

(b) The heads of agencies shall have lead responsibility, in coordination with other appropriate agencies, for questions concerning implementation of human rights obligations that fall within their respective operating and program responsibilities and authorities or, to the extent that matters do not fall within the operating and program responsibilities and authorities of any agency, that most closely relate to their general areas of concern.

**Sec. 3. *Human Rights Inquiries and Complaints.*** Each agency shall take lead responsibility, in coordination with other appropriate agencies, for responding to inquiries, requests for information, and complaints about violations of human rights obligations that fall within its areas of responsibility or, if the matter does not fall within its areas of responsibility, referring it to the appropriate agency for response.

**Sec. 4. *Interagency Working Group on Human Rights Treaties.*** (a) There is hereby established an Interagency Working Group on Human Rights Treaties for the purpose of providing guidance, oversight, and coordination with respect to questions concerning the adherence to and implementation of human rights obligations and related matters.

(b) The designee of the Assistant to the President for National Security Affairs shall chair the Interagency Working Group, which shall consist of appropriate policy and legal representatives at the Assistant Secretary level from the Department of State, the Department of Justice, the Department of Labor, the Department of Defense, the Joint Chiefs of Staff, and other agencies as the chair deems appropriate. The principal members may designate alternates to attend meetings in their stead.

(c) The principal functions of the Interagency Working Group shall include:

(i) coordinating the interagency review of any significant issues concerning the implementation of this order and analysis and recommendations in connection with pursuing the ratification of human rights treaties, as such questions may from time to time arise;

(ii) coordinating the preparation of reports that are to be submitted by the United States in fulfillment of treaty obligations;

(iii) coordinating the responses of the United States Government to complaints against it concerning alleged human rights violations submitted to the United Nations, the Organization of American States, and other international organizations;

(iv) developing effective mechanisms to ensure that legislation proposed by the Administration is reviewed for conformity with international human rights obligations and that these obligations are taken into account in reviewing legislation under consideration by the Congress as well;

(v) developing recommended proposals and mechanisms for improving the monitoring of the actions by the various States, Commonwealths, and territories of the United States and, where appropriate, of Native Americans and Federally recognized Indian tribes, including the review of State, Commonwealth, and territorial laws for their conformity with relevant treaties, the provision of relevant information for reports and other monitoring purposes, and the promotion of effective remedial mechanisms;

(vi) developing plans for public outreach and education concerning the provisions of the ICCPR, CAT, CERD, and other relevant treaties, and human rights-related provisions of domestic law;



(vii) coordinating and directing an annual review of United States reservations, declarations, and understandings to human rights treaties, and matters as to which there have been nontrivial complaints or allegations of inconsistency with or breach of international human rights obligations, in order to determine whether there should be consideration of any modification of relevant reservations, declarations, and understandings to human rights treaties, or United States practices or laws. The results and recommendations of this review shall be reviewed by the head of each participating agency;

(viii) making such other recommendations as it shall deem appropriate to the President, through the Assistant to the President for National Security Affairs, concerning United States adherence to or implementation of human rights treaties and related matters; and

(ix) coordinating such other significant tasks in connection with human rights treaties or international human rights institutions, including the Inter-American Commission on Human Rights and the Special Rapporteurs and complaints procedures established by the United Nations Human Rights Commission.

(d) The work of the Interagency Working Group shall not supplant the work of other interagency entities, including the President's Committee on the International Labor Organization, that address international human rights issues.

**Sec. 5. *Cooperation Among Executive Departments and Agencies.*** All agencies shall cooperate in carrying out the provisions of this order. The Interagency Working Group shall facilitate such cooperative measures.

**Sec. 6. *Judicial Review, Scope, and Administration.*** (a) Nothing in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) This order does not supersede Federal statutes and does not impose any justiciable obligations on the executive branch.

(c) The term "treaty obligations" shall mean treaty obligations as approved by the Senate pursuant to Article II, section 2, clause 2 of the United States Constitution.

(d) To the maximum extent practicable and subject to the availability of appropriations, agencies shall carry out the provisions of this order.

**(4) Delegating to the Secretary of State Certain Functions  
With Respect to the Negotiation of International Agree-  
ments Relating to the Enhancement of the Environment**

**Executive Order 11742; October 23, 1973; 38 F.R. 29457; 33 U.S.C. 1251 note**

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code and as President of the United States, I hereby authorize and empower the Secretary of State, in coordination with the Council on Environmental Quality, the Environmental Protection Agency, and other appropriate Federal agencies, to perform, without the approval, ratification, or other action of the President, the functions vested in the President by section 7 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 898) with respect to international agreements relating to the enhancement of the environment.

## k. Textile Trade Agreements

**Executive Order 11651, March 3, 1972, 37 F.R. 4699, 7 U.S.C. 1854 note; as amended by Executive Order 11951, January 6, 1977, 42 F.R. 1453; and by Executive Order 12188, January 2, 1980, 45 F.R. 989**

By virtue of the authority vested in me by Section 204 of the Agricultural Act of 1956 (76 Stat. 104), as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

**Section 1.** (a) The Committee for the Implementation of Textile Agreements (hereinafter referred to as the Committee), consisting of representatives of the Departments of State, the Treasury, Commerce and Labor, with the representative of the Department of Commerce as Chairman, is hereby established to supervise the implementation of all textile trade agreements. It shall be located for administrative purposes in the Department of Commerce. The United States Trade Representative, or his designee, also shall be a member of the Committee.<sup>1</sup>

(b) Except as provided in subsection (c) of this section, the Chairman of the Committee, after notice to the representatives of the other member agencies, shall take such actions or shall recommend that appropriate officials or agencies of the United States take such actions as may be necessary to implement each such textile trade agreement: *Provided, however,* That if a majority of the voting members of the Committee have objected to such action within ten days of receipt of notice from the Chairman, such action shall not be taken except as may otherwise be authorized.

(c) To the extent authorized by the President and by such officials as the President may from time to time designate, the Committee shall take appropriate actions concerning textiles and textile products under Section 204 of the Agricultural Act of 1956, as amended, and Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973,<sup>2</sup> and with respect to any other matter affecting textile trade policy.

**Sec. 2.** (a) The Commissioner of Customs shall take such actions as the Committee, acting through its Chairman, shall recommend to carry out all agreements and arrangements entered into by the United States pursuant to Section 204 of the Agricultural Act of 1956, as amended, with respect to entry, or withdrawal from warehouse, for consumption in the United States of textiles and textile products.

<sup>1</sup> Sec. 1-105(c) of Executive Order 12188, January 2, 1980, amended and restated this sentence, which formerly provided that the President's Special Representative for Trade Negotiations would be a nonvoting member of the Committee.

<sup>2</sup> Executive Order 11951 struck out "Article 3 and 6 of the Long Term Agreement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, as extended," and inserted in lieu thereof "Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973."

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(b) Under instructions approved by the Committee, the Secretary of State shall designate the Chairman of the United States delegation to all negotiations and consultations with foreign governments undertaken with respect to the implementation of textile trade agreements pursuant to this Order. The Secretary of State shall make such representations to foreign governments, including the presentation of diplomatic notes and other communications, as may be necessary to carry out this Order.

## I. United States Institute of Peace Act

Partial text of Public Law 98-525 [Department of Defense Authorization Act, 1985; H.R. 5167], 98 Stat. 2492 at 2649, approved October 19, 1984; as amended by Public Law 99-498 [Higher Education Amendments of 1986, S. 1965], 100 Stat. 1268, approved October 17, 1986; Public Law 100-50 [Higher Education Technical Amendments Act of 1987, H.R. 1846], 101 Stat. 335, approved June 3, 1987; Public Law 100-569 [Library Services and Construction and United States Institute of Peace Reauthorization; National Geography Studies Centers; H.R. 4416], 102 Stat. 2862, approved October 31, 1988; Public Law 101-520 [Legislative Branch Appropriations Act, 1991; H.R. 5399], 104 Stat. 2254, approved November 5, 1990; Public Law 102-325, as amended [Higher Education Amendments of 1992, S. 1150], 106 Stat. 448, approved July 23, 1992; Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681-765, approved October 21, 1998; and by Public Law 108-7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

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

### SHORT TITLE: TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the “Department of Defense Authorization Act, 1985”.

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### TITLE XVII—UNITED STATES INSTITUTE OF PEACE

#### SHORT TITLE

SEC. 1701. This title may be cited as the “United States Institute of Peace Act”.

#### DECLARATION OF FINDINGS AND PURPOSES

SEC. 1702.<sup>1</sup> (a) The Congress finds and declares that—

(1) a living institution embodying the heritage, ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict;

(2) people throughout the world are fearful of nuclear war, are divided by war and threats of war, are experiencing social

<sup>1</sup> 22 U.S.C. 4601.

and cultural hostilities from rapid international change and real and perceived conflicts over interests, and are diverted from peace by the lack of problem-solving skills for dealing with such conflicts;

(3) many potentially destructive conflicts among nations and people have been resolved constructively and with cost efficiency at the international, national, and community levels through proper use of such techniques as negotiation, conciliation, mediation, and arbitration;

(4) there is a national need to examine the disciplines in the social, behavioral, and physical sciences and the arts and humanities with regard to the history, nature, elements, and future of peace processes, and to bring together and develop new and tested techniques to promote peaceful economic, political, social, and cultural relations in the world;

(5) existing institutions providing programs in international affairs, diplomacy, conflict resolution, and peace studies are essential to further development of techniques to promote peaceful resolution of international conflict, and the peacemaking activities of people in such institutions, government, private enterprise, and voluntary associations can be strengthened by a national institution devoted to international peace research, education and training, and information services;

(6) there is a need for Federal leadership to expand and support the existing international peace and conflict resolution efforts of the Nation and to develop new comprehensive peace education and training programs, basic and applied research projects, and programs providing peace information;

(7) the Commission on Proposals for the National Academy of Peace and Conflict Resolution, created by the Education Amendments of 1978, recommended establishing an academy as a highly desirable investment to further the Nation's interest in promoting international peace;

(8) an institute strengthening and symbolizing the fruitful relation between the world of learning and the world of public affairs, would be the most efficient and immediate means for the Nation to enlarge its capacity to promote the peaceful resolution of international conflicts; and

(9) the establishment of such an institute is an appropriate investment by the people of this Nation to advance the history, science, art, and practice of international peace and the resolution of conflicts among nations without the use of violence.

(b) It is the purpose of this title to establish an independent, non-profit, national institute to serve the people and the Government through the widest possible range of education and training, basic and applied research opportunities, and peace information services on the means to promote international peace and the resolution of conflicts among the nations and peoples of the world without recourse to violence.

#### DEFINITIONS

SEC. 1703.<sup>2</sup> As used in this title, the term—

<sup>2</sup> 22 U.S.C. 4602.

- (1) "Institute" means the United States Institute of Peace established by this title; and
- (2) "Board" means the Board of Directors of the Institute.

## ESTABLISHMENT OF THE INSTITUTE

SEC. 1704.<sup>3</sup> (a) There is hereby established the United States Institute of Peace.

(b) The Institute is an independent nonprofit corporation and an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954. The Institute does not have the power to issue any shares of stock or to declare or pay any dividends.

(c) As determined by the Board, the Institute may establish, under the laws of the District of Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this title. The Institute may designate such legal entity as the "Endowment of the United States Institute for Peace".

(d) The Institute is liable for the acts of its directors, officers, employees, and agents when acting within the scope of their authority.

(e)(1) The Institute has the sole and exclusive right to use and to allow or refuse others the use of the terms "United States Institute of Peace", "Jennings Randolph Program for International Peace", "Spark M. Matsunaga Medal of Peace",<sup>4</sup> and "Endowment of the United States Institute of Peace" and the use of any official United States Institute of Peace emblem, badge, seal, and other mark of recognition or any colorable simulation thereof. No powers or privileges hereby granted shall interfere or conflict with established or vested rights secured as of September 1, 1981.

(2) Notwithstanding any other provision of this title, the Institute may use "United States" or "U.S." or any other reference to the United States Government or Nation in its title or in its corporate seal, emblem, badge, or other mark of recognition or colorable simulation thereof in any fiscal year only if there is an authorization of appropriations for the Institute for such fiscal year provided by law.

## POWERS AND DUTIES

SEC. 1705.<sup>5</sup> (a) The Institute may exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act consistent with this title, except for section 5(o) of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1005(o)).

(b) The Institute, acting through the Board, may—

- (1) establish a Jennings Randolph Program for International Peace and appoint, for periods up to two years, scholars and leaders in peace from the United States and abroad to pursue

<sup>3</sup>22 U.S.C. 4603.

<sup>4</sup>Sec. 319(b) of Public Law 101-520 (104 Stat. 2285) inserted "Spark M. Matsunaga Medal of Peace".

<sup>5</sup>22 U.S.C. 4604.

scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution and, as appropriate, provide stipends, grants, fellowships, and other support to the leaders and scholars;

(2) enter into formal and informal relationships with other institutions, public and private, for purposes not inconsistent with this title;

(3) establish a Jeannette Rankin Research Program on Peace to<sup>6</sup> conduct research and make studies, particularly of an interdisciplinary or of a multidisciplinary nature, into the causes of war and other international conflicts and the elements of peace among the nations and peoples of the world, including peace theories, methods, techniques, programs, and systems, and into the experiences of the United States and other nations in resolving conflicts with justice and dignity and without violence as they pertain to the advancement of international peace and conflict resolution, placing particular emphasis on realistic approaches to past successes and failures in the quest for peace and arms control and utilizing to the maximum extent possible United States Government documents and classified materials from the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community;

(4) develop programs to make international peace and conflict resolution research, education, and training more available and useful to persons in government, private enterprise, and voluntary associations, including the creation of handbooks and other practical materials;

(5) provide, promote, and support peace education and research programs at graduate and postgraduate levels;

(6) conduct training, symposia, and continuing education programs for practitioners, policymakers, policy implementers, and citizens and noncitizens directed to developing their skills in international peace and conflict resolution;

(7) develop, for publication or other public communication, and disseminate, the carefully selected products of the Institute;

(8) establish a clearinghouse and other means for disseminating information, including classified information that is properly safeguarded, from the field of peace learning to the public and to government personnel with appropriate security clearances;<sup>7, 8</sup>

(9)<sup>7</sup> secure directly, upon request of the president of the Institute to the head of any Federal department or agency and

<sup>6</sup>Sec. 25 of the Higher Education Technical Amendments Act (Public Law 100-50; 101 Stat. 363) inserted "establish a Jeannette Rankin Research Program on Peace to" in sec. 1703(3). Sec. 6272 of Public Law 100-418 (102 Stat. 1523) amended sec. 25 of that Act, to make this amendment in sec. 1705(b)(3).

<sup>7</sup>Sec. 319(a)(1) of Public Law 101-520 (104 Stat. 2284) inserted "and" at the end of para. (8) (see next note), struck out para. (9), and redesignated para. (10) as (9). Para. (9) formerly read as follows:

"(9) recommend to the Congress the establishment of a United States Medal of Peace to be awarded under such procedures as the Congress may determine, except that no person associated with the Institute may receive the United States Medal of Peace; and".

<sup>8</sup>Sec. 1554(b) of Public Law 102-325 (106 Stat. 839) struck out "and" at the end of para. (8), struck the period at the end of para. (9) and inserted in lieu thereof "; and"; and added a new para. (10).



in accordance with section 552 of title 5, United States Code (relating to freedom of information), information necessary to enable the Institute to carry out the purposes of this title if such release of the information would not unduly interfere with the proper functioning of a department or agency, including classified information if the Institute staff and members of the Board who have access to such classified information obtain appropriate security clearances from the Department of Defense and the Department of State; and<sup>8</sup>

(10)<sup>8</sup> establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding secondary school students and the provision of scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships to be known as "Spark M. Matsunaga Scholars".

(c)<sup>9</sup> (1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society's knowledge and skill in peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed \$25,000 for any recipient.

(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 1710(a)(1).

(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives<sup>10</sup> about the selection procedures it intends to follow, together with any

<sup>8</sup>Sec. 319(a)(3) of Public Law 101-520 (104 Stat. 2284) added subsec. (c).

<sup>10</sup>Sec. 1(a)(3) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Education and Labor of the House of Representatives shall be treated as referring to the Committee on Economic and Educational Opportunities of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

other matters relevant to making the award and emphasizing its prominence and significance.

(d)<sup>11</sup> The Institute may undertake extension and outreach activities under this title by making grants and entering into contracts with institutions of postsecondary, community, secondary, and elementary education (including combinations of such institutions), with public and private educational, training, or research institutions (including the American Federation of Labor—the Congress of Industrial Organizations) and libraries, and with public departments and agencies (including State and territorial departments of education and of commerce). No grant may be made to an institution unless it is a nonprofit or official public institution, and at least one-fourth of the Institute's annual appropriations shall be paid to such nonprofit and official public institutions. A grant or contract may be made to—

(1) initiate, strengthen, and support basic and applied research on international peace and conflict resolution;

(2) promote and advance the study of international peace and conflict resolution by educational, training, and research institutions, departments, and agencies;

(3) educate the Nation about and educate and train individuals in peace and conflict resolution theories, methods, techniques, programs, and systems;

(4) assist the Institute in its publication, clearinghouse, and other information services programs;

(5) assist the Institute in the study of conflict resolution between free trade unions and Communist-dominated organizations in the context of the global struggle for the protection of human rights; and

(6) promote the other purposes of this title.

(e)<sup>11</sup> The Institute may respond to the request of a department or agency of the United States Government to investigate, examine, study, and report on any issue within the Institute's competence, including the study of past negotiating histories and the use of classified materials.

(f)<sup>11</sup> The Institute may enter into personal service and other<sup>12</sup> contracts for the proper operation of the Institute.

(g)<sup>11</sup> The Institute may fix the duties of its officers, employees, and agents, and establish such advisory committees, councils, or other bodies, as the efficient administration of the business and purposes of the Institute may require.

(h)<sup>11</sup> (1) Except as provided in paragraphs (2) and (3), the Institute may obtain grants and contracts, including contracts for classified research for the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community, and receive gifts and contributions from government at all levels.

<sup>11</sup> Sec. 319(a)(2) of Public Law 101-520 (104 Stat. 2284) redesignated subsecs. (c) through (n) as (d) through (o), respectively.

<sup>12</sup> Sec. 931(1)(A) of Public Law 105-244 (112 Stat. 1834) inserted "personal service and other" after "may enter into".

(2)<sup>13</sup> The Institute and the legal entity described in section 1704(c) may not accept any gift, contribution, or grant from a foreign government, any agency or instrumentality of such government, any international organization, or any corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

(3) Notwithstanding any other provisions of this title, the Institute and the legal entity described in section 1704(c) may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation or other legal entity, institution, or individual,<sup>14</sup> except such Institute or legal entity may accept such a gift or contribution to—

(A) purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute and the legal entity described in section 1704(c); or

(B) provide program-related hospitality, including such hospitality connected with the presentation of the Spark M. Matsunaga Medal of Peace.

(i)<sup>11</sup> The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials.

(j)<sup>11</sup> The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute's direct activities authorized in subsection (b).

(k)<sup>11</sup> The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

(l)<sup>11</sup> The Institute may adopt, alter, use, and display a corporate seal, emblem, badge, and other mark of recognition and colorable simulations thereof.

(m)<sup>11</sup> The Institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this title.

(n)<sup>11</sup> The Institute shall not itself undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, or by the United Nations, except that personnel of the Institute may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof.

(o)<sup>11</sup> The Institute may obtain administrative support services from the Administrator of General Services and use all sources of supply and services of the General Services Administration<sup>15</sup> on a reimbursable basis.

<sup>13</sup>Sec. 1554(c)(1) of Public Law 102-325 (106 Stat. 839) amended and restated para. (2).

<sup>14</sup>Sec. 1554(c)(2) of Public Law 102-325 (106 Stat. 840) struck out "individual." and inserted in lieu thereof text from "individual," through subpara. (B).

<sup>15</sup>Sec. 931(1)(B) of Public Law 105-244 (112 Stat. 1834) inserted "and use all sources of supply and services of the General Services Administration" after "Services".

## BOARD OF DIRECTORS

SEC. 1706.<sup>16</sup> (a) The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this title.

(b) The Board shall consist of fifteen voting members as follows:

(1) The Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate).

(2) The Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate).

(3)<sup>17</sup> The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

(4)<sup>17</sup> Twelve<sup>18</sup> individuals appointed by the President, by and with the advice and consent of the Senate.

(c) Not more than eight voting members of the Board (including members described in paragraphs (1) through (4) of subsection (b)) may be members of the same political party.

(d)(1) Each individual appointed to the Board under subsection (b)(5) shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

(2) Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(5).

(e)(1) Members of the Board appointed under subsection (b)(5) shall be appointed to four year terms, except that—

(A) the term of six of the members initially appointed shall be two years, as designated by the President at the time of their nomination;

(B) a member may continue to serve until his or her successor is appointed; and

(C) a member appointed to replace a member whose term has not expired shall be appointed to serve the remainder of that term.

(2) The terms of the members of the Board initially appointed under subsection (b)(5) shall begin on January 20, 1985, and subsequent terms shall begin upon the expiration of the preceding term, regardless of when a member is appointed to fill that term.

(3) The President may not nominate an individual for appointment to the Board under subsection (b)(5) prior to January 20, 1985, but shall submit the names of eleven nominees for initial Board membership under subsection (b)(5) not later than ninety days after that date. If the Senate rejects such a nomination or if such a nomination is withdrawn, the President shall submit the name of a new nominee within fifteen days.

<sup>16</sup>22 U.S.C. 4605.

<sup>17</sup>Sec. 1225(c)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-773) struck out para. (3) and redesignated paras. (4) and (5) as paras. (3) and (4), respectively. Para. (3) had read as follows:

“(3) The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate).”

<sup>18</sup>Sec. 1225(c)(1)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-773) struck out “Eleven” and inserted in lieu thereof “Twelve”.

(4) An individual appointed as a member of the Board under subsection (b)(5) may not be appointed to more than two terms on the Board.

(f) A member of the Board appointed under subsection (b)(5) may be removed by the President—

(1) in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties.

(2) upon the recommendation of eight voting members of the Board; or

(3) upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives<sup>10</sup> and a majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

A recommendation made in accordance with paragraph (2) may be made only pursuant to action taken at a meeting of the Board, which may be closed pursuant to the procedures of subsection (h)(3). Only members who are present may vote. A record of the vote shall be maintained. The President shall be informed immediately by the Board of the recommendation.

(g) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly and financially benefits the member or pertains specifically to any public body or any private or nonprofit firm or organization with which the member is then formally associated or has been formally associated within a period of two years, except that this subsection shall not be construed to prohibit an ex officio member of the Board from participation in actions of the Board which pertain specifically to the public body of which that member is an officer.

(h) Meetings of the Board shall be conducted as follows:

(1) The President shall stipulate by name the nominee who shall be the first Chairman of the Board. The first Chairman shall serve for a term of three years. Thereafter the Board shall elect a Chairman every three years from among the directors appointed by the President under subsection (b)(5) and may elect a Vice Chairman if so provided by the Institute's by-laws.

(2) The Board shall meet at least semiannually, at any time pursuant to the call of the Chairman or as requested in writing to the Chairman by at least five members of the Board. A majority of the members of the Board shall constitute a quorum for any Board meeting.

(3) All meetings of the Board shall be open to public observation and shall be preceded by reasonable public notice. Notice in the Federal Register shall be deemed to be reasonable public notice for purposes of the preceding sentence. In exceptional circumstances, the Board may close those portions of a meeting, upon a majority vote of its members present and with the vote taken in public session, which are likely to disclose information likely to affect adversely any ongoing peace proceeding or activity or to disclose information or matters exempted from

public disclosure pursuant to subsection (c) of section 552b of title 5, United States Code.

(i) A director appointed by the President under subsection (b)(5) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which the director is engaged in the performance of duties as a member of the Board.

(j) While away from his home or regular place of business in the performance of duties for the Institute, a director shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703(b) of title 5, United States Code.

#### OFFICERS AND EMPLOYEES

SEC. 1707.<sup>19</sup> (a) The Board shall appoint the president of the Institute and such other officers as the Board determines to be necessary. The president of the Institute shall be a nonvoting ex officio member of the Board. All officers shall serve at the pleasure of the Board. The president shall be appointed for an explicit term of years. Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be compensated at rates determined by the Board, but no greater than that payable for level I of the Executive Schedule under chapter 53 of title 5, United States Code.

(b) Subject to the provisions of section 1705(h)(3),<sup>20</sup> the Board shall authorize the president and any other officials or employees it designates to receive and disburse public moneys, obtain and make grants, enter into contracts, establish and collect fees, and undertake all other activities necessary for the efficient and proper functioning of the Institute.

(c) The president, subject to Institute's bylaws and general policies established by the Board, may appoint, fix the compensation of, and remove such employees of the Institute as the president determines necessary to carry out the purposes of the Institute. In determining employee rates of compensation, the president shall be governed by the provisions of title 5, United States Code, relating to classification and General Schedule pay rates.

(d)(1) The president may request the assignment of any Federal officer or employee to the Institute by an appropriate department, agency, or congressional official or Member of Congress and may enter into an agreement for such assignment, if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the department, agency, or congressional staff of such officer or employee.

<sup>19</sup>22 U.S.C. 4606. The current rate of compensation at level I of the Executive Schedule is \$183,500 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

<sup>20</sup>Sec. 319(c) of Public Law 101-520 (104 Stat. 2285) struck out "section 1705(g)(3)" and inserted in lieu thereof "section 1705(h)(3)" to conform with amendments to sec. 1705.

(2) The Secretary of State, the Secretary of Defense,<sup>21</sup> and the Director of Central Intelligence each may assign officers and employees of his respective department or agency, on a rotating basis to be determined by the Board, to the Institute if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the respective department or agency of such officer or employee.

(e) No officer or full-time employee of the Institute may receive any salary or other compensation for services from any source other than the Institute during the officer's or employee's period of employment by the Institute, except as authorized by the Board.

(f)(1) Officers and employees of the Institute shall not be considered officers and employees of the Federal Government except for purposes of the provisions of title 28, United States Code, which relate to Federal tort claims liability, and the provisions of title 5, United States Code, which relate to compensation and benefits, including the following provisions: chapter 51 (relating to classification); subchapters I and III of chapter 53 (relating to pay rates); subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions of title 5 referred to in this section.

(2)<sup>22</sup> The Institute shall not make long-term commitments to employees that are inconsistent with rules and regulations applicable to Federal employees.

(g) No part of the financial resources, income, or assets of the Institute or of any legal entity created by the Institute shall inure to any agent, employee, officer, or director or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this section may be construed to prevent the payment of reasonable compensation for services or expenses to the directors, officers, employees, and agents of the Institute in amounts approved in accordance with the provisions of this title.

(h) The Institute shall not make loans to its directors, officers, employees, or agents, or to any legal entity created by the Institute. A director, officer, employee, or agent who votes for or assents to the making of a loan or who participates in the making of a loan shall be jointly and severally liable to the Institute for the amount of the loan until repayment thereof.

<sup>21</sup>Sec. 1225(c)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-773) struck out “, the Director of the Arms Control and Disarmament Agency” from this point.

<sup>22</sup>Sec. 301(b) of Public Law 100-569 (102 Stat. 2864) struck out “No Federal funds shall be used to pay for private fringe benefit programs.” at this point.

## PROCEDURES AND RECORDS

SEC. 1708.<sup>23</sup> (a) The Institute shall monitor and evaluate and provide for independent evaluation if necessary of programs supported in whole or in part under this title to ensure that the provisions of this title and the bylaws, rules, regulations, and guidelines promulgated pursuant to this title are adhered to.

(b) The Institute shall prescribe procedures to ensure that grants, contracts, and financial support under this title are not suspended unless the grantee, contractor, or person or entity receiving financial support has been given reasonable notice and opportunity to show cause why the action should not be taken.

(c) In selecting persons to participate in Institute activities, the Institute may consider a person's practical experience or equivalency in peace study and activity as well as other formal requirements.

(d) The Institute shall keep correct and complete books and records of account, including separate and distinct accounts of receipts and disbursements of Federal funds. The Institute's annual financial report shall identify the use of such funding and shall present a clear description of the full financial situation of the Institute.

(e) The Institute shall keep minutes of the proceedings of its Board and of any committees having authority under the Board.

(f) The Institute shall keep a record of the names and addresses of its Board members; copies of this title, of any other Acts relating to the Institute, and of all Institute bylaws, rules, regulations, and guidelines; required minutes of proceedings; a record of all applications and proposals and issued or received contracts and grants; and financial records of the Institute. All items required by this subsection may be inspected by any Board member or the member's agent or attorney for any proper purpose at any reasonable time.

(g) The accounts of the Institute shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States.<sup>24</sup> The audit shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, files, and other papers, things, and property belonging to or in use by the Institute and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(h) The Institute shall provide a report of the audit to the President and to each House of Congress no later than six months following the close of the fiscal year for which the audit is made. The

<sup>23</sup> 22 U.S.C. 4607.

<sup>24</sup> Sec. 515 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2003 (division G of Public Law 108-7; 117 Stat. 345) struck out "on or before December 31, 1970" at this point.



report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Institute's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Institute's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of \$5,000 and any payments of compensation, salaries, or fees at a rate in excess of \$5,000 per year. The report shall be produced in sufficient copies for the public.

(i) The Institute and its directors, officers, employees, and agents shall be subject to the provisions of section 552 of title 5, United States Code (relating to freedom of information).

#### INDEPENDENCE AND LIMITATIONS

SEC. 1709.<sup>25</sup> (a) Nothing in this title may be construed as limiting the authority of the Office of Management and Budget to review and submit comments on the Institute's budget request at the time it is transmitted to the Congress.

(b) No political test or political qualification may be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, employee, agent, or recipient of Institute funds or services or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

#### FUNDING

SEC. 1710.<sup>26</sup> (a) <sup>27</sup> AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated \$15,000,000 for fiscal

<sup>25</sup> 22 U.S.C. 4608.

<sup>26</sup> 22 U.S.C. 4609.

<sup>27</sup> Sec. 931(2)(A) of Public Law 105-244 (112 Stat. 1834) struck out "1993" and inserted in lieu thereof "1999". Previously, sec. 1554(a) of Public Law 102-325 (106 Stat. 839) amended and restated subsec. (a) to authorize appropriations for fiscal year 1993.

Previously, sec. 301 of Public Law 100-569 (102 Stat. 2863) authorized appropriations for fiscal year 1989—\$10,000,000; fiscal year 1990—\$10,000,000; fiscal year 1991—\$10,000,000; fiscal year 1992—\$15,000,000; fiscal year 1993—\$15,000,000.

Sec. 1601 of Public Law 99-498 (100 Stat. 1268), replaced the years 1985 and 1986 with 1987 and 1988, authorizing appropriations of \$6,000,000 for fiscal year 1987 and \$10,000,000 for fiscal year 1988.

Title V of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2334), provided the following:

#### "UNITED STATES INSTITUTE OF PEACE

#### "OPERATING EXPENSES

"For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$22,350,000, to remain available until September 30, 2007."

Previous recent appropriations include: fiscal year 1988—\$4,308,000 (Public Law 100-202; 101 Stat. 1329); fiscal year 1989—\$7,000,000 (Public Law 100-436; 102 Stat. 1713); fiscal year 1990—\$7,650,000 (Public Law 101-166; 103 Stat. 1189); fiscal year 1991—\$8,600,000 (Public Law 101-517; 104 Stat. 222); fiscal year 1992—\$11,000,000 (Public Law 102-170; 105 Stat. 1140); fiscal year 1993—\$11,000,000 (Public Law 102-394; 106 Stat. 1825); fiscal year 1994—\$10,912,000 (Public Law 103-112; 107 Stat. 1111); fiscal year 1995—\$11,500,000 (Public Law 103-333; 109 Stat. 2571); fiscal year 1996—\$11,500,000 (Public Law 104-134; 110 Stat. 1321-242); fiscal year 1997—\$11,160,000 (Public Law 104-208; 110 Stat. 3009-268); fiscal year 1998—\$11,160,000 (Public Law 105-78; 111 Stat. 1514); fiscal year 1999—\$12,160,000 (Public Law 105-277; 112 Stat. 2681-383); fiscal year 2000—\$13,000,000 (Public Law 106-113; 113 Stat. 1501); fiscal year 2001—\$15,000,000 (Public Law 106-554; 114 Stat. 2763); fiscal year 2002—\$15,104,000 (Public Law 107-116; 115 Stat. 2217); fiscal year 2003—\$16,362,000 (Public Law 108-7; 117 Stat. 343); fiscal year 2004—\$17,200,000 (Public Law 108-199; 118 Stat. 275); and fiscal year 2005—\$23,000,000 (Public Law 108-447; 118 Stat. 2912).

year 1999<sup>27</sup> and such sums as may be necessary for each of the 4<sup>28</sup> succeeding fiscal years.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

(b) The Board of Directors may transfer to the legal entity authorized to be established under section 1704(c) any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations. Any use by such legal entity of appropriated funds shall be reported to each House of the Congress and to the President of the United States.

(c) Any authority provided by this title to enter into contracts shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

#### DISSOLUTION OR LIQUIDATION

SEC. 1711.<sup>29</sup> Upon dissolution or final liquidation of the Institute or of any legal entity created pursuant to this title, all income and assets of the Institute or other legal entity shall revert to the United States Treasury.

#### REPORTING REQUIREMENT AND REQUIREMENT TO HOLD HEARINGS

SEC. 1712.<sup>30</sup> Beginning two years after the date of enactment of this title, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress and the President a report detailing the progress the Institute has made in carrying out the purposes of this title during the preceding two-year period. The President may<sup>31</sup> prepare and transmit to the Congress within a reasonable time after the receipt of such report the written comments and recommendations of the appropriate agencies of the United States with respect to the contents of such report and their recommendations with respect to any legislation which may be required concerning the Institute. After receipt of such report by the Congress, the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives<sup>10</sup> and the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate may<sup>31</sup> hold hearings to review the findings and recommendations of such report and the written comments received from the President.

<sup>28</sup>Sec. 2(k)(14) of Public Law 103-208 (Higher Education Technical Amendments of 1993; 107 Stat. 2486) amended sec. 1554 of Public Law 102-325, which amended sec. 1710. That amendment inserted "each of the 4 succeeding fiscal years". Public Law 103-208 further amended the amendment to read "each of the 6 succeeding fiscal years". Sec. 931(2)(B) of Public Law 105-244 (112 Stat. 1834) subsequently struck out "6" and inserted "4".

<sup>29</sup>22 U.S.C. 4610.

<sup>30</sup>22 U.S.C. 4611.

<sup>31</sup>Sec. 931(3) of Public Law 105-244 (112 Stat. 1834) struck out "shall" and inserted in lieu thereof "may" in the second and third sentences.

**m. National Academy of Peace and Conflict Resolution**

**Title XV, part B of Public Law 95-561 [Education Amendments of 1978, H.R. 15], 92 Stat. 2143 at 2376, approved November 1, 1978**

TITLE XV—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

PART B—NATIONAL ACADEMY OF PEACE AND CONFLICT  
RESOLUTION<sup>1</sup>

ESTABLISHMENT

SEC. 1511. There is established a commission to be known as the Commission on Proposals for the National Academy of Peace and Conflict Resolution.

DUTIES OF COMMISSION

SEC. 1512. (a) The Commission shall undertake a study to consider—

- (1) whether to establish a National Academy of Peace and Conflict Resolution;
- (2) the size, cost, and location of an Academy;
- (3) the effects which the establishment of an Academy would have on existing institutions of higher education;
- (4) the relationship which would exist between an Academy and the Federal Government;
- (5) the feasibility of making grants and providing other forms of assistance to existing institutions of higher education in lieu of, or in addition to, establishing an Academy; and
- (6) alternative proposals, which may or may not include the establishment of an Academy, which would assist the Federal Government in accomplishing the goal of promoting peace.

(b) In conducting the study required by subsection (a), the Commission shall—

- (1) review the theory and techniques of peaceful resolution of conflict between nations; and
- (2) study existing institutions which assist in resolving conflict in the areas of international relations.

MEMBERSHIP

SEC. 1513. (a) The Commission shall be composed of nine members as follows—

- (1) three appointed by the President pro tempore of the Senate;

<sup>1</sup> 20 U.S.C. 1172 note.

(2) three appointed by the Speaker of the House of Representatives; and

(3) three appointed by the President.

(b) Members shall be appointed for the life of the Commission.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d)(1) Except as provided in paragraph (2), members of the Commission each shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332) for each day during which they are engaged in the actual performance of the duties of the Commission.

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

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

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Five members of the Commission shall constitute a quorum.

(g) The Commission shall meet at the call of the Chairman or a majority of its members.

#### DIRECTORS AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 1514. (a) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, shall have the power to—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (5 U.S.C. 5316);<sup>2</sup>

(2) appoint and fix the compensation of such staff personnel as he considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

#### POWERS OF COMMISSION

SEC. 1515. (a) The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and

<sup>2</sup>The current rate of compensation at level V of the Executive Schedule is \$133,900 per annum (Executive Order 13393; 70 F.R. 76655; December 22, 2005).

places, take such testimony, and receive such evidence as the Commission considers advisable. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman, the head of any such Federal agency shall furnish such information to the Commission.

#### REPORTS

SEC. 1516. The Commission shall transmit to the President and to each House of the Congress such interim reports as it considers appropriate and shall transmit a final report to the President and to each House of the Congress not later than one year after the date on which appropriations first become available to carry out this title. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation as it considers appropriate.

#### TERMINATION

SEC. 1517. The Commission shall cease to exist sixty days after transmitting its final report under section 1516.

#### AUTHORIZATION OF APPROPRIATION

SEC. 1518. There is authorized to be appropriated not to exceed \$500,000 to carry out this title.

#### DEFINITIONS

SEC. 1519. For purposes of this title—

(1) the term “Academy” means the National Academy of Peace and Conflict Resolution;

(2) the term “Chairman” means the Chairman of the Commission selected under section 1513(e);

(3) the term “Commission” means the Commission on Proposals for the National Academy of Peace and Conflict Resolution; and

(4) the term “Federal agency” means any agency, department, or independent establishment in the executive branch of the Federal Government, including any Government corporation.

### 3. Diplomatic Security and Anti-Terrorism<sup>1</sup>

#### a. International Terrorism, Torture, and War Crimes

Partial text of title 18, United States Code, as added by Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; and amended by Public Law 100-690 [Anti-Drug Abuse Act of 1988; H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101-519<sup>2</sup> [Military Construction Appropriations Act, 1991; H.R. 5313], 104 Stat. 2240 at 2250, approved November 5, 1990; Public Law 102-27 [Dire Emergency Supplemental Appropriations For Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991; H.R. 1281], 105 Stat. 130, approved April 10, 1991; Public Law 102-572 [Federal Courts Administration Act of 1992, S. 1569], 106 Stat. 4506, approved October 29, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-322 [Violent Crime Control and Law Enforcement Act of 1994; H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 103-429 [H.R. 4778], 108 Stat. 4377, approved October 31, 1994; Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104-192 [War Crimes Act of 1996; H.R. 3680], 110 Stat. 2104, approved August 21, 1996; Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 104-294 [Economic Espionage Act of 1996; H.R. 3723], 110 Stat. 3488, approved October 11, 1996; Public Law 105-118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105-277 [Chemical Weapons Convention Implementation Act of 1998; division I of H.R. 4328], 112 Stat. 2681-856, approved October 21, 1998; Public Law 107-56 [Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 272, approved October 26, 2001; Public Law 107-188 [Public Health Security and Bioterrorism Preparedness and Response Act of 2002; H.R. 3448], 116 Stat. 594, approved June 12, 2002; Public Law 107-197 [Terrorist Bombings Convention Implementation Act of 2002; H.R. 3275], 116 Stat. 721, approved June 25, 2002; Public Law 107-273 [21st Century Department of Justice Appropriations Authorization Act; H.R. 2215], 116 Stat. 1758, approved November 2, 2002; Public Law 108-375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004; and by Public Law 108-458 [Intelligence Reform and Terrorist Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

<sup>1</sup>See also the establishment of the National Commission on Terrorism, sec. 591 of sec. 101(d) of Public Law 105-277 (112 Stat. 2681), in *Legislation on Foreign Relations Through 2005*, vol. I-A. See also PLO Commitments Compliance Act of 1989, title VIII of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 76), page 488. See also 49 U.S.C. 44901 *et seq.*, relating to aviation security, and other legislation relating to aviation security, in *Legislation on Foreign Relations Through 2005*, vol. IV.

<sup>2</sup>Sec. 132 of Public Law 101-519 (104 Stat. 225) amended sec. 2331 of chapter 113A, title 18, U.S.C., redesignated it as sec. 2332, and added new secs. 2331, and 2333 through 2338. Sec. 132(d) of that Act further provided that "This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section."

CHAPTER 113B—TERRORISM<sup>3</sup>

Sec.

- 2331. Definitions.
- 2332. Criminal penalties.
- 2332a. Use of<sup>4</sup> weapons of mass destruction.
- 2332b. Acts of terrorism transcending national boundaries.
- 2332d. Financial transactions.
- 2332e. Requests for military assistance to enforce prohibition in certain emergencies.
- 2332f. Requests for military assistance to enforce prohibition in certain emergencies.<sup>5</sup>
- 2332g. Missile systems designed to destroy aircraft.<sup>6</sup>
- 2332h. Radiological dispersal devices.<sup>6</sup>
- 2333. Civil remedies.
- 2334. Jurisdiction and venue.
- 2335. Limitation of actions.
- 2336. Other limitations.
- 2337. Suits against Government officials.
- 2338. Exclusive Federal jurisdiction.
- 2339. Harboring or concealing terrorists.<sup>7</sup>
- 2339A. Providing material support to terrorists.
- 2339B. Providing material support or resources to designated foreign terrorist organizations.
- 2339C. Prohibitions against the financing of terrorism.<sup>8</sup>
- 2339D. Receiving military-type training from a foreign terrorist organization<sup>9</sup>

However, sec. 402 of Public Law 102–27 (105 Stat. 155), as amended by sec. 126 of Public Law 102–136 (105 Stat. 643), repealed the amendments of Public Law 101–519, restoring sec. 2332 as sec. 2331. Sec. 402 of Public Law 102–27, as amended, provided as follows:

**“SEC. 402. MILITARY CONSTRUCTION.**

“(a) In Public Law 101–519, the Military Construction Appropriations Act, 1991, sections 131 and 132 are hereby repealed effective November 5, 1990.

“(b) Effective November 5, 1990, chapter 113A of title 18, United States Code, is amended to read as if section 132 of Public Law 101–519 [104 Stat. 2250] had not been enacted.”

Subsequently, sec. 1003(a) of the Federal Courts Administration Act of 1992 (Public Law 102–572; 106 Stat. 4521) redesignated sec. 2331 as sec. 2332, and inserted new secs. 2331, and 2333 through 2338, with such amendments applicable “to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act”, pursuant to sec. 1003(c) of Public Law 102–572 (106 Stat. 4524; 18 U.S.C. 2331 note).

<sup>3</sup>Sec. 250002(a) of Public Law 103–322 (108 Stat. 2082) redesignated this chapter as chapter 113B from chapter 113A, and inserted a new chapter 113A relating to telemarketing fraud.

<sup>4</sup>Sec. 6802(b)(1) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “certain” in the section catchline of sec. 2332a, which had been inserted previously by sec. 201(b)(1)(A) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871). Sec. (c) of that Act repealed sec. 2332c, relating to chemical weapons. See 18 U.S.C. Chapter 11B, as added by sec. 201(a) of the Chemical Weapons Convention Implementation Act of 1998, vol. II–B.

<sup>5</sup>Added by sec. 102 of the Terrorist Bombings Convention Implementation Act of 2002 (Public Law 107–197; 116 Stat. 721), effective “on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States”, pursuant to sec. 102(c) of that Act (116 Stat. 724; 18 U.S.C. 2332f note).

<sup>6</sup>Added by sec. 6911(a) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3775).

<sup>7</sup>Added by sec. 803(b) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377).

<sup>8</sup>Added by sec. 202(a) of the Suppression of the Financing of Terrorism Convention Implementation Act of 2002 (title II of Public Law 107–197; 116 Stat. 724), effective pursuant to sec. 203 of that Act (116 Stat. 727; 18 U.S.C. 2339c note), as follows:

**“SEC. 203. EFFECTIVE DATE.**

“Except for paragraphs (1)(D) and (2)(B) of section 2339C(b) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 202 shall take effect on the date of enactment of this Act.”

<sup>9</sup>Sec. 6602 of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3761) added a new sec. 2339D; however, no amendment to this table of contents was enacted.

**§ 2331.<sup>2</sup> Definitions**

As used in this chapter—

(1) the term “international terrorism” means activities that—

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

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

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping;<sup>10</sup> and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

(2) the term “national of the United States” has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

(3) the term “person” means any individual or entity capable of holding a legal or beneficial interest in property;<sup>11</sup>

(4) the term “act of war” means any act occurring in the course of—

(A) declared war;

(B) armed conflict, whether or not war has been declared, between two or more nations; or

(C) armed conflict between military forces of any origin; and<sup>11</sup>

(5)<sup>11</sup> the term “domestic terrorism” means activities that—

(A) involved acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

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

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily within the territorial jurisdiction of the United States.

<sup>10</sup>Sec. 802(a)(1) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 376) struck out “by assassination or kidnapping” and inserted in lieu thereof “by mass destruction, assassination, or kidnapping”.

<sup>11</sup>Sec. 802(a) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 376) struck out “and” at the end of para. (3), struck out a period at the end of para. (4) and inserted in lieu thereof “; and”, and added a new para. (5).



**§ 2332.<sup>12</sup> Criminal penalties**

(a) **HOMICIDE.**—Whoever kills a national of the United States, while such national is outside the United States, shall—

(1)<sup>13</sup> if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both.

(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both; and

(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than three years, or both.

(b) **ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.**—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

(c) **OTHER CONDUCT.**—Whoever outside the United States engages in physical violence—

(1) with intent to cause serious bodily injury to a national of the United States; or

(2) with the result that serious bodily harm is caused to a national of the United States;

shall be fined under this title or imprisoned not more than ten<sup>14</sup> years, or both.

(d)<sup>15</sup> **LIMITATION ON PROSECUTION.**—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

<sup>12</sup>This section was added as sec. 2331 by sec. 1202(a) of Public Law 99-399 (100 Stat. 896), with a catchline of “**Terrorist acts abroad against United States nationals**”. Sec. 1003(a)(2) of Public Law 102-572 (106 Stat. 4521) redesignated sec. 2331 as 2332, amended and restated the catchline to read “**Criminal penalties**”, with such amendment applicable “to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act”, pursuant to sec. 1003(c) of Public Law 102-572 (106 Stat. 4524; 18 U.S.C. 2331 note).

<sup>13</sup>Sec. 60022 of Public Law 103-322 (108 Stat. 1980) amended and restated sec. 2332(a)(1). It formerly read as follows:

“(1) if the killing is a murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;”.

<sup>14</sup>Sec. 705(a)(6) of Public Law 104-132 (110 Stat. 1295) struck out “five” and inserted in lieu thereof “ten”.

<sup>15</sup>Sec. 1003(a)(1) of Public Law 102-572 (106 Stat. 4521) struck out subsec. (d), and redesignated subsec. (e) as (d), with such amendment applicable “to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act”, pursuant to sec. 1003(c) of Public Law 102-572 (106 Stat. 4524; 18 U.S.C. 2331 note). Subsec. (d) defined “national of the United States” as having the meaning given in sec. 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

§ 2332a.<sup>16</sup> Use of weapons of mass destruction<sup>17</sup>

(a)<sup>18</sup> OFFENSE AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES.—A person who, without lawful authority, uses, threatens, or attempts<sup>19</sup> or conspires to use, a weapon of mass destruction—<sup>20</sup>

(1) against a national of the United States while such national is outside of the United States;

(2)<sup>21</sup> against any person or property within the United States, and

(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

(B) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

(C) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

(D) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;

(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States; or<sup>22</sup>

(4)<sup>23</sup> against any property within the United States that is owned, leased, or used by a foreign government, shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

<sup>16</sup>Sec. 60023(a) of Public Law 103–322 (108 Stat. 1980) added sec. 2332a.

<sup>17</sup>Sec. 201(b)(1)(A) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871) inserted “**certain**” before “**weapons**”. Sec. 6802(b)(1) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “**certain**”.

<sup>18</sup>Sec. 725(1)(A) of Public Law 104–132 (110 Stat. 1300) inserted “AGAINST A NATIONAL OF THE UNITED STATES OR WITHIN THE UNITED STATES” after “OFFENSE” in the subsec. heading.

<sup>19</sup>Sec. 725(1)(B) of Public Law 104–132 (110 Stat. 1300) struck out “uses, or attempts” and inserted in lieu thereof “, without lawful authority, uses, threatens, or attempts”.

<sup>20</sup>Sec. 6802(b)(2) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “(other than a chemical weapon as that term is defined in section 229F)”, text that had been added by sec. 201(b)(1)(B) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871). Previously, sec. 511(c) of Public Law 104–132 (110 Stat. 1284) added “including any biological agent, toxin, or vector (as those terms are defined in section 178)” after “destruction”. Sec. 231(d)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 661) subsequently struck out “section 229F including any biological agent, toxin, or vector (as those terms are defined in section 178)—” and inserted in lieu thereof “section 229F)—”.

<sup>21</sup>Sec. 6802(a)(1) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3766) amended and restated para. (2). It previously read, as amended by sec. 725(1)(C) of Public Law 104–132 (110 Stat. 1300), as follows:

“(2) against any person within the United States, and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce; or”.

<sup>22</sup>Sec. 6802(a)(2) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out a comma at the end of para. (3) and inserted in lieu thereof “; or”.

<sup>23</sup>Sec. 6802(a)(3) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) added para. (4).

(b)<sup>24</sup> OFFENSE BY NATIONAL OF THE UNITED STATES OUTSIDE OF THE UNITED STATES.—Any national of the United States who, without lawful authority, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction<sup>25</sup> outside of the United States shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.

(c)<sup>24</sup> DEFINITIONS.—For purposes of this section—

(1) the term “national of the United States” has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));<sup>26</sup>

(2) the term “weapon of mass destruction” means—

(A) any destructive device as defined in section 921 of this title;<sup>27</sup>

<sup>24</sup> Sec. 725(3) and (4) of Public Law 104–132 (110 Stat. 1300) redesignated subsec. (b) as subsec. (c), and added a new subsec. (b).

<sup>25</sup> Sec. 6802(b)(3) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “(other than a chemical weapon (as that term is defined in section 229F))”, text that had been added by sec. 201(b)(1)(C) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871).

<sup>26</sup> Sec. 6802(a)(4) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “and” at the end of para. (1).

<sup>27</sup> 18 U.S.C. 921(a)(4) provides the following:

“(4) The term ‘destructive device’ means—

“(A) any explosive, incendiary, or poison gas—

“(i) bomb,

“(ii) grenade,

“(iii) rocket having a propellant charge of more than four ounces,

“(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

“(v) mine, or

“(vi) device similar to any of the devices described in the preceding clauses;

“(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

“(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

“The term ‘destructive device’ shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordinance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 [10 USCS 4682(2), 4685, or 4686]; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.”

18 U.S.C. 832, added by sec. 6803(c)(2) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3768), provided the following:

“§ 832. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES

“(a) Whoever, within the United States or subject to the jurisdiction of the United States, willfully participates in or knowingly provides material support or resources (as defined in section 2339A) to a nuclear weapons program or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

“(b) There is extraterritorial Federal jurisdiction over an offense under this section.

“(c) Whoever without lawful authority develops, possesses, or attempts or conspires to develop or possess a radiological weapon, or threatens to use or uses a radiological weapon against any person within the United States, or a national of the United States while such national is outside of the United States or against any property that is owned, leased, funded, or used by the United States, whether that property is within or outside of the United States, shall be imprisoned for any term of years or for life.

“(d) As used in this section—

Continued

(B)<sup>28</sup> any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(C) any weapon involving a biological agent, toxin, or vector (as those terms are defined in section 178 of this title);<sup>29</sup> or

(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life; and<sup>30</sup>

(3)<sup>31</sup> the term “property” includes all real and personal property.

**§ 2332b.<sup>32</sup> Acts of terrorism transcending national boundaries**

(a) PROHIBITED ACTS.—

(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and in a circumstance described in subsection (b)—

(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

(b) JURISDICTIONAL BASES.—

(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

“(1) ‘nuclear weapons program’ means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons;

“(2) ‘weapons of mass destruction program’ means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as defined in section 2332a(c));

“(3) ‘foreign terrorist power’ means a terrorist organization designated under section 219 of the Immigration and Nationality Act, or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 or section 620A of the Foreign Assistance Act of 1961; and

“(4) ‘nuclear weapon’ means any weapon that contains or uses nuclear material as defined in section 831(f)(1).”

<sup>28</sup>Sec. 725(2) of Public Law 104–132 (110 Stat. 1300), as amended by sec. 605(m) of Public Law 104–294 (110 Stat. 3510), amended and restated subpara. (B). It formerly read “(B) poison gas;”

<sup>29</sup>Sec. 231(d)(2) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 662) struck out “a disease organism” and inserted in lieu thereof “a biological agent, toxin, or vector (as those terms are defined in section 178 of this title)”.

<sup>30</sup>Sec. 6802(a)(5) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out a period and inserted in lieu thereof “; and”.

<sup>31</sup>Sec. 6802(a)(6) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) added para. (3).

<sup>32</sup>Added by sec. 702(a) of Public Law 104–132 (110 Stat. 1291).

(A)<sup>33</sup> the mail or any facility of interstate or foreign commerce is used<sup>33</sup> in furtherance of the offense;

(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

(c) PENALTIES.—

(1) PENALTIES.—Whoever violates this section shall be punished—

(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

(B) for kidnapping, by imprisonment for any term of years or for life;

(C) for maiming, by imprisonment for not more than 35 years;

(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term

<sup>33</sup>Sec. 601(s)(1) of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3502) struck out “any of the offenders uses” at the beginning of subpara. (A) and inserted “is used” after “foreign commerce”.

of imprisonment imposed under this section run concurrently with any other term of imprisonment.

(d) **PROOF REQUIREMENTS.**—The following shall apply to prosecutions under this section:

(1) **KNOWLEDGE.**—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

(2) **STATE LAW.**—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

(e) **EXTRATERRITORIAL JURISDICTION.**—There is extraterritorial Federal jurisdiction—

(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

(f) **INVESTIGATIVE AUTHORITY.**—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title,<sup>34</sup> and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

(g) **DEFINITIONS.**—As used in this section—

(1) the term “conduct transcending national boundaries” means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

(2) the term “facility of interstate or foreign commerce” has the meaning given that term in section 1958(b)(2);

(3) the term “serious bodily injury” has the meaning given that term in section 1365(g)(3);

(4) the term “territorial sea of the United States” means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

(5) the term “Federal crime of terrorism” means an offense that—

(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

(B)<sup>35</sup> is a violation of—

<sup>34</sup>Sec. 808(1) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 378) inserted “and any violation of section 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b), 1366(c), 1751(e), 2152, or 2156 of this title,” before “and the Secretary”.

<sup>35</sup>Sec. 808(2) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 378) struck out clauses (i) through (iii) and inserted new clauses (i) through (iii). Previously read as follows:

“(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnaping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 930(c), 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United

(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 175c (relating to variola virus),<sup>36</sup> 229 (relating to chemical weapons), subsection (a), (b), (c), or (d) of section 351 (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)<sup>37</sup> 842(m) or (n) (relating to plastic explosives), 844(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad), 1030(a)(1) (relating to protection of computers), 1030(a)(5)(A)(i) resulting in damage as defined in 1030(a)(5)(B)(ii) through (v) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to government property or contracts),<sup>38</sup> 1362

States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 1992, 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2332c, 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

“(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

“(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.”

<sup>36</sup>Sec. 6908(1)(B) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle I of title VI of Public Law 108-458; 118 Stat. 3774) inserted “175c (relating to variola virus),” after “175 or 175b (relating to biological weapons).”

<sup>37</sup>Sec. 6803(c)(3) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108-458; 118 Stat. 3769) inserted “832 (relating to participation in nuclear and weapons of mass destruction threats to the United States” after “nuclear materials).” The amendment did not include a comma to close the clause.

<sup>38</sup>Sec. 6603(a)(1)(A) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108-458; 118 Stat. 3762) inserted “1361 (relating to government property or contracts),” before “1362”.

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

Continued

(relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to national defense material, premises, or utilities),<sup>39</sup> 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2332f (relating to bombing of public places and facilities),<sup>40</sup> 2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices),<sup>41</sup> 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), 2339C (relating to financing of terrorism,<sup>42</sup> or 2340A (relating to torture) of this title; (ii) sections 92 (relating to prohibitions governing atomic weapons) or<sup>43</sup> 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2122 or<sup>44</sup> 2284); or

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”

<sup>39</sup>Sec. 6603(a)(1)(B) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3762) inserted “2156 (relating to national defense material, premises, or utilities),” before “2280”.

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”

<sup>40</sup>Sec. 301(b)(1) of Public Law 107–197 (116 Stat. 728) inserted “2332f (relating to bombing of public places and facilities),” after “2332b (relating to acts of terrorism transcending national boundaries).”

<sup>41</sup>Sec. 6908(1)(A) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3774) inserted “2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal devices),” before “2339 (relating to harboring terrorists).”

<sup>42</sup>Sec. 301(b)(2) of Public Law 107–197 (116 Stat. 728) inserted “2339C (relating to financing of terrorism,” (resulting in an open parentheses) before “or 2340A (relating to torture).”

<sup>43</sup>Sec. 6908(2)(A) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3774) struck out “section” and inserted in lieu thereof “sections 92 (relating to prohibitions governing atomic weapons) or”.

<sup>44</sup>Sec. 6908(2)(B) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3774) inserted “2122 or” before “2284”.



(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

§ 2332c.<sup>45</sup> \* \* \* [Repealed—1998]

§ 2332d.<sup>46</sup> **Financial transactions**

(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act of 1979<sup>47</sup> (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

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

(1) the term “financial transaction” has the same meaning as in section 1956(c)(4); and

(2) the term “United States person” means any—

(A) United States citizen or national;

(B) permanent resident alien;

(C) juridical person organized under the laws of the United States; or

(D) any person in the United States.

<sup>45</sup> Originally added by sec. 521(a) of Public Law 104–132 (110 Stat. 1286); repealed by sec. 201(c) of the Chemical Weapons Convention Implementation Act of 1998 (division I of Public Law 105–277; 112 Stat. 2681–871). Sec. 2332c formerly read as follows:

“§ 2332c. Use of chemical weapons

“(a) PROHIBITED ACTS.—

“(1) OFFENSE.—A person shall be punished under paragraph (2) if that person, without lawful authority, uses, or attempts or conspires to use, a chemical weapon against—

“(A) a national of the United States while such national is outside of the United States;

“(B) any person within the United States; or

“(C) any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States.

“(2) PENALTIES.—A person who violates paragraph (1)—

“(A) shall be imprisoned for any term of years or for life; or

“(B) if death results from that violation, shall be punished by death or imprisoned for any term of years or for life.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘national of the United States’ has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

“(2) the term ‘chemical weapon’ means any weapon that is designed or intended to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or precursors of toxic or poisonous chemicals.”

<sup>46</sup> Sec. 321(a) of Public Law 104–132 (110 Stat. 1254) added sec. 2332d. Sec. 321(c) of that Act also provided that “The amendments made by this section shall become effective 120 days after the date of enactment of this Act.” [enactment date, April 24, 1996].

<sup>47</sup> Sec. 4002(a)(5) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107–273; 116 Stat. 1806) inserted “of 1979” after “Export Administration Act”.

**§ 2332e.<sup>48</sup> Requests for military assistance to enforce prohibition in certain emergencies**

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332a<sup>48</sup> of this title during an emergency situation involving a<sup>49</sup> weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

**§ Sec. 2332f.<sup>50</sup> Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities**

(a) OFFENSES.—

(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

(A) with the intent to cause death or serious bodily injury, or

(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss, shall be punished as prescribed in subsection (c).

(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

(1) the offense takes place in the United States and—

(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

(C) at the time the offense is committed, it is committed—

(i) on board a vessel flying the flag of another state;

(ii) on board an aircraft which is registered under the laws of another state; or

<sup>48</sup>Sec. 1416(c)(2)(A) of Public Law 104–201 (110 Stat. 2723) added this section as sec. 2332d to “chapter 133B of title 18, United States Code, that relates to terrorism after section 2332c”. There is no chapter 133B; it is assumed the amendment is to chapter 113B. Sec. 605(q) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3510) subsequently redesignated the section as sec. 2332e and moved the section to follow sec. 2332d.

Sec. 104(1) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 277) subsequently struck out “2332c” and inserted in lieu thereof “2332a”.

<sup>49</sup>Sec. 104(2) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 277) struck out “chemical” before “weapon of mass destruction”.

<sup>50</sup>Sec. 102(a) of the Terrorist Bombings Convention Implementation Act of 2002 (Public Law 107–197; 116 Stat. 721) added sec. 2332f, effective “on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States”, pursuant to sec. 102(c) of that Act (116 Stat. 724; 18 U.S.C. 2332f note).

- (iii) on board an aircraft which is operated by the government of another state;
  - (D) a perpetrator is found outside the United States;
  - (E) a perpetrator is a national of another state or a stateless person; or
  - (F) a victim is a national of another state or a stateless person;
- (2) the offense takes place outside the United States and—
- (A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;
  - (B) a victim is a national of the United States;
  - (C) a perpetrator is found in the United States;
  - (D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;
  - (E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;
  - (F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or
  - (G) the offense is committed on board an aircraft which is operated by the United States.
- (c) PENALTIES.—Whoever violates this section shall be punished as provided under section 2332a(a) of this title.
- (d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—
- (1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,
  - (2) activities undertaken by military forces of a state in the exercise of their official duties; or
  - (3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.
- (e) DEFINITIONS.—As used in this section, the term—
- (1) “serious bodily injury” has the meaning given that term in section 1365(g)(3) of this title;
  - (2) “national of the United States” has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));
  - (3) “state or government facility” includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;
  - (4) “intergovernmental organization” includes international organization (as defined in section 1116(b)(5) of this title);

(5) “infrastructure facility” means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

(6) “place of public use” means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

(7) “public transportation system” means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

(8) “explosive” has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

(9) “other lethal device” means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material;

(10) “military forces of a state” means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

(11) “armed conflict” does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

(12) “state” has the same meaning as that term has under international law, and includes all political subdivisions thereof.

### § 2332g. Missile systems designed to destroy aircraft<sup>51</sup>

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

(ii) otherwise direct or guide the rocket or missile to an aircraft;

<sup>51</sup>Sec. 6903 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3770) added sec. 2332g.

- (B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or
- (C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).
- (2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.
- (3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—
- (A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or
- (B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.
- (b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—
- (1) the offense occurs in or affects interstate or foreign commerce;
- (2) the offense occurs outside of the United States and is committed by a national of the United States;
- (3) the offense is committed against a national of the United States while the national is outside the United States;
- (4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or
- (5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.
- (c) CRIMINAL PENALTIES.—
- (1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.
- (2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than \$2,000,000 and imprisoned for not less than 30 years or imprisoned for life.
- (3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by imprisonment for life.
- (d) DEFINITION.—As used in this section, the term "aircraft" has the definition set forth in section 40102(a)(6) of title 49, United States Code.

**§ 2333.<sup>2</sup> Civil remedies**

(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 46314, 46502, 46505, or 46506 of title 49<sup>52</sup> shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

**§ 2334.<sup>2</sup> Jurisdiction and venue**

(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

(2) that foreign court is significantly more convenient and appropriate; and

(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

<sup>52</sup>Sec. 2(1) of Public Law 103-429 (108 Stat. 4377) struck out "section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r))" and inserted in lieu thereof "section 46314, 46502, 46505, or 46506 of title 49".

**§ 2335.<sup>2</sup> Limitation of actions**

(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

**§ 2336.<sup>2</sup> Other limitations**

(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

**§ 2337.<sup>2</sup> Suits against Government officials**

No action shall be maintained under section 2333 of this title against—

(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

**§ 2338.<sup>2</sup> Exclusive Federal jurisdiction**

The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.

**§ 2339.<sup>53</sup> Harboring or concealing terrorists**

(a) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under section 32 (relating to destruction of aircraft or aircraft facilities), section 175 (relating to biological weapons), section 229 (relating to chemical weapons), section 831 (relating to nuclear materials), paragraph (2) or (3) of section 844(f) (relating to arson and bombing of government property risking or causing injury or death), section 1366(a) (relating to the destruction of an energy facility), section 2280 (relating to violence against maritime navigation), section 2332a (relating to weapons of mass destruction), or section 2332b (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relating to aircraft piracy) of title 49, shall be fined under this title or imprisoned not more than ten years, or both.

(b) A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.

<sup>53</sup>Sec. 803(a) of the USA PATRIOT ACT (Public Law 107-56; 115 Stat. 376) added sec. 2339. Sec. 4005(d)(2) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107-273; 116 Stat. 1813) subsequently struck out a closed quotation mark at the end of subsec. (b), as a technical correction.



**§ 2339A.<sup>54</sup> Providing material support to terrorists**

(a) OFFENSE.—Whoever<sup>55</sup> provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 81, 175, 229,<sup>56</sup> 351, 831, 842 (m) or (n), 844 (f) or (i), 930(c),<sup>57</sup> 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992,<sup>57</sup> 1993,<sup>58</sup> 2155, 2156, 2280, 2281, 2332, 2332a, 2332b,<sup>57</sup> 2332f,<sup>59</sup> or 2340A of this title<sup>60</sup> section 46502 or 60123(b)<sup>61</sup> of title

<sup>54</sup>No sec. 2339 is enacted. Sec. 2339A was added by sec. 12005(a) of Public Law 103–322 (108 Stat. 2022), and amended and restated by sec. 323 of Public Law 104–132 (110 Stat. 1255). It formerly read as follows:

**“§ 2339A. Providing material support to terrorists**

“(a) DEFINITION.—In this section, ‘material support or resources’ means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

“(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844(f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 46502 of title 49, or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

**“(c) INVESTIGATIONS.—**

“(1) IN GENERAL.—Within the United States, an investigation may be initiated or continued under this section only when facts reasonably indicate that—

“(A) in the case of an individual, the individual knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law; and

“(B) in the case of a group of individuals, the group knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law.

“(2) ACTIVITIES PROTECTED BY THE FIRST AMENDMENT.—An investigation may not be initiated or continued under this section based on activities protected by the First Amendment to the Constitution, including expressions of support or the provision of financial support for the nonviolent political, religious, philosophical, or ideological goals or beliefs of any person or group.”

Sec. 601(b)(2) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3498) made several amendments to language in sec. 2339A(b) that was no longer in law. Sec. 4002(c)(1) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107–273; 116 Stat. 1808) subsequently repealed sec. 601(b)(2) of Public Law 104–294.

<sup>55</sup>Sec. 805(a)(1)(A) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377) struck out “, within the United States,” after “Whoever”.

<sup>56</sup>Sec. 805(a)(1)(B) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377) inserted “229” after “175.”

<sup>57</sup>Sec. 601(s)(3) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3502) inserted reference to secs. 930(c), 1992, and 2332c. Sec. 4002(e)(11) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107–273; 116 Stat. 1811) subsequently struck out “2332c” following “2332b”.

<sup>58</sup>Sec. 805(a)(1)(C) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377) inserted “1993,” after “1992.”

<sup>59</sup>Sec. 301(c) of Public Law 107–197 (116 Stat. 728) inserted “2332f,” before “or 2340A”.

<sup>60</sup>Sec. 6603(a)(2)(A) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3762) struck out “or” before “section 46502”. It probably should read “of this title.”

Sec. 6603(g) of that Act, however, provided the following:

**“(g) SUNSET PROVISION.—**

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”.

<sup>61</sup>Sec. 805(a)(1)(E) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377) inserted “or 60123(b)” after “46502”.

49, or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B)<sup>62</sup> or in preparation for, or in carrying out, the concealment of an escape<sup>63</sup> from the commission of any such violation, or attempts or conspires to do such an act,<sup>64</sup> shall be fined under this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284),<sup>65</sup> imprisoned not more than 15<sup>66</sup> years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life.<sup>67</sup> A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.<sup>68</sup>

(b)<sup>69</sup> DEFINITIONS.—As used in this section—

(1) the term “material support or resources” means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

<sup>62</sup>Sec. 6603(a)(2)(B) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3762) inserted “or any offense listed in section 2332b(g)(5)(B) (except for sections 2339A and 2339B)” after “section 60123(b) of title 49.”

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”

<sup>63</sup>Sec. 601(s)(2) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3502) inserted “or an escape” after “concealment”. Sec. 4002(a)(7) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107–273; 116 Stat. 1807) subsequently struck out “or an escape” and inserted in lieu thereof “of an escape”.

<sup>64</sup>Sec. 811(f) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 381) inserted “or attempts or conspires to do such an act,” before “shall be fined”.

<sup>65</sup>Sec. 805(a)(1)(D) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377) inserted “section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284),” [resulting in a double comma] after “of this title”.

<sup>66</sup>Sec. 810(c)(1) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 380) struck out “10” and inserted in lieu thereof “15”.

<sup>67</sup>Sec. 810(c)(2) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 380) struck out a period and inserted in lieu thereof “and, if the death of any person results, shall be imprisoned for any term of years or for life.”

<sup>68</sup>Sec. 805(a)(1)(F) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377) added “A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.”

<sup>69</sup>Sec. 6603(b) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3762) amended and restated subsec. (b), which had read as follows, as amended by sec. 805 of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 377):

“(b) DEFINITION.—In this section, the term ‘material support or resources’ means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.”

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”

(2) the term “training” means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

(3) the term “expert advice or assistance” means advice or assistance derived from scientific, technical or other specialized knowledge.

**§ 2339B.<sup>70</sup> Providing material support or resources to designated foreign terrorist organizations**

(a) PROHIBITED ACTIVITIES.—

(1) UNLAWFUL CONDUCT.—Whoever<sup>71</sup> knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 15<sup>72</sup> years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life.<sup>73</sup> To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).<sup>74</sup>

(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

(A) retain possession of, or maintain control over, such funds; and

(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

<sup>70</sup> Sec. 303(a) of Public Law 104–132 (110 Stat. 1250) added sec. 2339B.

<sup>71</sup> Sec. 6603(c)(1) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3762) struck out “, within the United States or subject to the jurisdiction of the United States,” after “Whoever”.

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”.

<sup>72</sup> Sec. 810(d)(1) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 380) struck out “10” and inserted in lieu thereof “15”.

<sup>73</sup> Sec. 810(d)(2) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 380) struck out a period and inserted in lieu thereof “and, if the death of any person results, shall be imprisoned for any term of years or for life.”.

<sup>74</sup> Sec. 6603(c)(2) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3762) added this sentence.

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”.

- (A) \$50,000 per violation; or
- (B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

(d) EXTRATERRITORIAL JURISDICTION.—(1)<sup>75</sup> IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

(B) an offender is a stateless person whose habitual residence is in the United States;

(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

(D) the offense occurs in whole or in part within the United States;

(E) the offense occurs in or affects interstate or foreign commerce; or

(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

(2)<sup>75</sup> EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(e) INVESTIGATIONS.—

(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

(B) civil penalty proceedings authorized under subsection (b).

<sup>75</sup>Sec. 6603(d) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108-458; 118 Stat. 3763) struck out “There” and inserted in lieu thereof “(1) IN GENERAL.—” through “(2) There”.

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”

(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

(ii) substitute a summary of the information for such classified documents; or

(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

(i) Copies of items from which classified information has been redacted.

(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

(iii) A declassified summary of the specific classified information.

(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

(3) TAKING OF TRIAL TESTIMONY.—

(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

(5) INTERLOCUTORY APPEAL.—

(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

(i) authorizing the disclosure of classified information;

(ii) imposing sanctions for nondisclosure of classified information; or

(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

(B) EXPEDITED CONSIDERATION.—

(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

(III) shall render its decision not later than 4 days after argument on appeal; and

(IV) may dispense with the issuance of a written opinion in rendering its decision.

(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

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

(1) the term “classified information” has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term “financial institution” has the same meaning as in section 5312(a)(2) of title 31, United States Code;

(3) the term “funds” includes coin or currency of the United States or any other country, traveler’s checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

(4)<sup>76</sup> the term “material support or resources” has the same meaning given that term in section 2339A (including the definitions of “training” and “expert advice or assistance” in that section);

(5) the term “Secretary” means the Secretary of the Treasury; and

(6) the term “terrorist organization” means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

(h)<sup>77</sup> PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term “personnel” unless

<sup>76</sup>Sec. 6603(e) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3763 ) amended and restated para. (4), which had read as follows:

“(4) the term ‘material support or resources’ has the same meaning as in section 2339A;”.

Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

“(2) EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”.

<sup>77</sup>Sec. 6603(f) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3763) added subsecs. (h), (i), and (j). Sec. 6603(g) of that Act, however, provided the following:

“(g) SUNSET PROVISION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall cease to be effective on December 31, 2006.

that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

(i) <sup>77</sup> RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

(j) <sup>77</sup> EXCEPTION.—No person may be prosecuted under this section in connection with the term “personnel”, “training”, or “expert advice or assistance” if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act).

### § 2339C. <sup>78</sup> Prohibitions against the financing of terrorism

#### (a) OFFENSES.—

(1) IN GENERAL.—Whoever, in a circumstance described in subsection (b),<sup>79</sup> by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be

<sup>(2)</sup> EXCEPTION.—This section and the amendments made by this section shall continue in effect with respect to any particular offense that—

“(A) is prohibited by this section or amendments made by this section; and

“(B) began or occurred before December 31, 2006.”

<sup>78</sup> Sec. 202(a) of the Suppression of the Financing of Terrorism Convention Implementation Act of 2002 (title II of Public Law 107–197; 116 Stat. 721) added sec. 2339C.

<sup>79</sup> Sec. 4006 of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107–273; 116 Stat. 1813) struck out “described in subsection (c)” and inserted in lieu thereof “described in subsection (b)”.



necessary that the funds were actually used to carry out a predicate act.

(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

(1) the offense takes place in the United States and—

(A) a perpetrator was a national of another state or a stateless person;

(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

(C) on board an aircraft which is operated by the government of another state;

(D) a perpetrator is found outside the United States;

(E) was directed toward or resulted in the carrying out of a predicate act against—

(i) a national of another state; or

(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

(G) was directed toward or resulted in the carrying out of a predicate act—

(i) outside the United States; or

(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

(2) the offense takes place outside the United States and—

(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

(B) a perpetrator is found in the United States; or

(C) was directed toward or resulted in the carrying out of a predicate act against—

(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

(ii) any person or property within the United States;

(iii) any national of the United States or the property of such national; or

(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

(4) the offense is committed on board an aircraft which is operated by the United States; or

(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

(c) CONCEALMENT.—Whoever—

(1)(A) is in the United States; or

(B) is outside the United States and is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support or resources, or any funds or proceeds of such funds—<sup>80</sup>

(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided,<sup>81</sup> in violation of section 2339B of this title; or

(B) knowing or intending that any such funds<sup>82</sup> are to be provided or collected, or knowing that the funds were provided or collected,<sup>83</sup> in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).

(d) PENALTIES.—

(1) SUBSECTION (a).—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

(2) SUBSECTION (c).—Whoever violates subsection (c) shall be fined under this title, imprisoned for not more than 10 years, or both.

(e) DEFINITIONS.—In this section—

(1) the term “funds” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

(2) the term “government facility” means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

<sup>80</sup>Sec. 6604(a)(1) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3764) struck out “, resources, or funds” and inserted in lieu thereof “or resources, or any funds or proceeds of such funds”.

<sup>81</sup>Sec. 6604(a)(2) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3764) struck out “were provided” and inserted in lieu thereof “are to be provided, or knowing that the support or resources were provided.”

<sup>82</sup>Sec. 6604(a)(3)(A) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3764) struck out “or any proceeds of such funds” after “any such funds”.

<sup>83</sup>Sec. 6604(a)(3)(B) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3764) struck out “were provided or collected” and inserted in lieu thereof “are to be provided or collected, or knowing that the funds were provided or collected.”

(3) the term “proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

(4) the term “provides” includes giving, donating, and transmitting;

(5) the term “collects” includes raising and receiving;

(6) the term “predicate act” means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

(7) the term “treaty” means—

(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

(8) the term “intergovernmental organization” includes international organizations;

(9) the term “international organization” has the same meaning as in section 1116(b)(5) of this title;

(10) the term “armed conflict” does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

(11) the term “serious bodily injury” has the same meaning as in section 1365(g)(3) of this title;

(12) the term “national of the United States” has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));<sup>84</sup>

<sup>84</sup>Sec. 6604(b) of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (subtitle G of title VI of Public Law 108–458; 118 Stat. 3764) struck out “and” at the end of para. (12), redesignated para. (13) as para. (14), and added a new para. (13).

(13)<sup>84</sup> the term “material support or resources” has the same meaning given that term in section 2339B(g)(4) of this title; and

(14)<sup>84</sup> the term “state” has the same meaning as that term has under international law, and includes all political subdivisions thereof.

(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least \$10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).

**§ 2339D.<sup>85</sup> Receiving military-type training from a foreign terrorist organization**

(a) OFFENSE.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be fined under this title or imprisoned for ten years, or both. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section. There is jurisdiction over an offense under subsection (a) if—

(1) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act);

(2) an offender is a stateless person whose habitual residence is in the United States;

(3) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

(4) the offense occurs in whole or in part within the United States;

(5) the offense occurs in or affects interstate or foreign commerce; or

(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom

<sup>85</sup>Sec. 6602 of the Material Support to Terrorism Prohibition Enhancement Act of 2004 (sub-title G of title VI of Public Law 108-458; 118 Stat. 3761) added sec. 2339D.

jurisdiction exists under this paragraph to commit an offense under subsection (a).

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

(1) the term “military-type training” includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2));

(2) the term “serious bodily injury” has the meaning given that term in section 1365(h)(3);

(3) the term “critical infrastructure” means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

(4) the term “foreign terrorist organization” means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.

#### CHAPTER 113C—TORTURE<sup>86</sup>

Sec.  
2340. Definitions.  
2340A. Torture.  
2340B. Exclusive remedies.

#### § 2340. Definitions

As used in this chapter—

(1) “torture” means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his<sup>87</sup> custody or physical control;

(2) “severe mental pain or suffering” means the prolonged mental harm caused by or resulting from—

<sup>86</sup>Originally designated as a second chapter 113B, added by sec. 506(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 463). Sec. 303(c) of Public Law 104–132 (110 Stat. 1253) redesignated the chapter as “Chapter 113C”. Sec. 601(j)(1) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3501) made the same amendment; sec. 4002(c)(1) of the Criminal Law Technical Amendments Act of 2002 (title IV of Public Law 107–273; 116 Stat. 1808) subsequently repealed sec. 601(j)(1).

Sec. 506(c) of Public Law 103–236 (108 Stat. 464) further provided:

“(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

“(1) the date of enactment of this Act; or

“(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.” [not yet entered into force for the United States].

<sup>87</sup>Sec. 1(k) of Public Law 103–415 (108 Stat. 4301) struck out “with” and inserted in lieu thereof “within his”.

- (A) the intentional infliction or threatened infliction of severe physical pain or suffering;
  - (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
  - (C) the threat of imminent death; or
  - (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and
- (3)<sup>88</sup> “United States” means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

#### § 2340A. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or<sup>89</sup> imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

- (1) the alleged offender is a national of the United States; or
- (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c)<sup>90</sup> CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

#### § 2340B. Exclusive remedies

Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.

\* \* \* \* \*

<sup>88</sup>Sec. 1089 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2067) amended and restated para. (3), which had provided, as amended by sec. 1(2) of Public Law 103–429 (108 Stat. 4377), the following:

“(3) ‘United States’ includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 40102(a) of title 49.”

<sup>89</sup>Sec. 60020 of Public Law 103–322 (108 Stat. 1979) inserted “punished by death or” before “imprisoned for any term”.

<sup>90</sup>Sec. 811(g) of the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 381) added subsec. (c).

CHAPTER 118—WAR CRIMES<sup>91</sup>

Sec.

2441. War crimes.

§ 2441.<sup>92</sup> War crimes

(a) OFFENSE.—Whoever, whether inside or outside the United States, commits a war crime,<sup>93</sup> in any of the circumstances described in subsection (b), shall be fined under this title or imprisoned for life or any term of years, or both, and if death results to the victim, shall also be subject to the penalty of death.

(b) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are that the person committing such war crime<sup>94</sup> or the victim of such war crime<sup>94</sup> is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

(c)<sup>95</sup> DEFINITION.—As used in this section the term “war crime” means any conduct—

(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

(2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.

<sup>91</sup>Added by sec. 2(a) of the War Crimes Act of 1996 (Public Law 104–192; 110 Stat. 2104).

<sup>92</sup>Redesignated from sec. 2401 to sec. 2441 by 605(p)(1) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3510).

<sup>93</sup>Sec. 583(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2436), as amended by sec. 4002(e)(7) of Public Law 197–273 (116 Stat. 1810), struck out “grave breach of the Geneva Conventions” and inserted in lieu thereof “war crime”.

<sup>94</sup>Sec. 583(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2436), as amended by sec. 4002(e)(7) of Public Law 197–273 (116 Stat. 1810), struck out “breach” and inserted in lieu thereof “war crime”.

<sup>95</sup>Sec. 583(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2436), as amended by sec. 4002(e)(7) of Public Law 197–273 (116 Stat. 1810), amended and restated subsec. (c), which had formerly read as follows:

“(c) DEFINITIONS.—As used in this section, the term “grave breach of the Geneva Conventions” means conduct defined as a grave breach in any of the international conventions relating to the laws of warfare signed at Geneva 12 August 1949 or any protocol to any such convention, to which the United States is a party.”.

**b. Intelligence Reform and Terrorism Prevention Act of 2004**

**Partial text of Public Law 108-458 [S. 2845], 118 Stat. 3638, approved  
December 17, 2004**

AN ACT To reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Reform and Terrorism Prevention Act of 2004”.

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

**TITLE IV—TRANSPORTATION SECURITY**

\* \* \* \* \*

**SUBTITLE B—AVIATION SECURITY**

**SEC. 4012. ADVANCED AIRLINE PASSENGER PRESCREENING.**

(a) \* \* \*

(b) \* \* \*

(c) REPORT ON CRITERIA FOR CONSOLIDATED TERRORIST WATCH LIST.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Homeland Security, the Secretary of State, and the Attorney General, shall submit to Congress a report on the Terrorist Screening Center consolidated screening watch list.

(2) CONTENTS.—The report shall include—

(A) the criteria for placing the name of an individual on the watch list;

(B) the minimum standards for reliability and accuracy of identifying information;

(C) the degree of information certainty and the range of threat levels that are to be identified for an individual; and

(D) the range of applicable consequences that are to apply to an individual, if located.

(3) FORM.—To the greatest extent consistent with the protection of law enforcement-sensitive information and classified information and the administration of applicable law, the report shall be submitted in unclassified form and shall be available

<sup>1</sup> 50 U.S.C. 401 note.



to the public. The report may contain a classified annex if necessary.

\* \* \* \* \*

**SEC. 4017. INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL AIR MARSHALS.**

The President is encouraged to pursue aggressively international agreements with foreign governments to allow the maximum deployment of Federal air marshals on international flights.

\* \* \* \* \*

**SEC. 4026.<sup>2</sup> MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS).**

**(a) UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.—**

(1) **TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.**—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

(2) **TO LIMIT THE PROLIFERATION OF MANPADS.**—The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—

(A) prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

(B) prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and

(C) prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

(3) **TO ACHIEVE DESTRUCTION OF MANPADS.**—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

(4) **REPORTING AND BRIEFING REQUIREMENT.**—

(A) **PRESIDENT'S REPORT.**—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under paragraphs (1), (2), and (3) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting

<sup>2</sup> 22 U.S.C. 2751 note.

Office set forth in its report GAO–04–519, entitled “Non-proliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems”.

(B) ANNUAL BRIEFINGS.—Annually after the date of submission of the report under subparagraph (A) and until completion of the diplomatic and compliance efforts referred to in subparagraph (A), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

(b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

(1) IN GENERAL.—As soon as practicable, but not later than the date of completion of Phase II of the Department of Homeland Security’s counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

(2) CERTIFICATION ACCEPTANCE.—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

(3) EXPEDITIOUS CERTIFICATION.—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

(4) REPORTS.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

(c) PROGRAMS TO REDUCE MANPADS.—

(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary

of State shall brief the appropriate congressional committees on the status of programs.

(3) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

(d) MANPADS VULNERABILITY ASSESSMENTS REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security’s plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

(2) MATTERS TO BE ADDRESSED.—The Secretary’s report shall address, at a minimum, the following:

(A) The status of the Department’s efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

(B) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

(C) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

(D) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

(E) Any other issues that the Secretary deems relevant.

(3) FORMAT.—The report required by this subsection may be submitted in a classified format.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Armed Services, the Committee on International Relations, and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) MANPADS.—The term “MANPADS” means—

(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

\* \* \* \* \*

TITLE VI—TERRORISM PREVENTION

SUBTITLE A—INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS<sup>3</sup>

\* \* \* \* \*

SUBTITLE B—MONEY LAUNDERING AND TERRORIST FINANCING<sup>4</sup>

\* \* \* \* \*

SUBTITLE C—MONEY LAUNDERING ABATEMENT AND FINANCIAL ANTITERRORISM TECHNICAL CORRECTIONS

SEC. 6201.<sup>5</sup> SHORT TITLE.

This subtitle may be cited as the “International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004”.

SEC. 6202. TECHNICAL CORRECTIONS TO PUBLIC LAW 107–56.<sup>6</sup>

\* \* \* \* \*

SUBTITLE D—ADDITIONAL ENFORCEMENT TOOLS

\* \* \* \* \*

SEC. 6303. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations;

(D) the effectiveness and efficiency of efforts to protect the critical infrastructure of the United States financial

<sup>3</sup> Subtitle A amended the Foreign Intelligence Surveillance Act of 1978; for amended text see beginning at page 915.

<sup>4</sup> Subtitle B amended 31 U.S.C. at secs. 310 and 5341.

<sup>5</sup> 31 U.S.C. 5301 note.

<sup>6</sup> For amended text of the USA PATRIOT ACT (Public Law 107–56), see beginning at page 1082.

system, and ways to improve the effectiveness of financial institutions;

(E) ways to improve multilateral and international governmental cooperation on terrorist financing, including the adequacy of agency coordination within the United States related to participating in international cooperative efforts and implementing international treaties and compacts; and

(F) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, additional resources, or use of appropriated funds.

(b) **POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.**—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following: \* \* \*

(c) **POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.**—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following: \* \* \*

(d)<sup>7</sup> **EFFECTIVE DATE.**—Notwithstanding any other effective date established pursuant to this Act, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

SUBTITLE E—CRIMINAL HISTORY BACKGROUND CHECKS

\* \* \* \* \*

SUBTITLE F—GRAND JURY INFORMATION SHARING

\* \* \* \* \*

SUBTITLE G—PROVIDING MATERIAL SUPPORT TO TERRORISM

**SEC. 6601.<sup>8</sup> SHORT TITLE.**

This subtitle may be cited as the “Material Support to Terrorism Prohibition Enhancement Act of 2004”.

**SEC. 6602. RECEIVING MILITARY-TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.**

Chapter 113B of title 18, United States Code, is amended by adding after section 2339C the following new section: \* \* \*<sup>9</sup>

<sup>7</sup> 12 U.S.C. 1786 note.

<sup>8</sup> 18 U.S.C. 2331 note.

<sup>9</sup> Sec. 6602 added a new sec. 2339D to 18 U.S.C.

**SEC. 6603. ADDITIONS TO OFFENSE OF PROVIDING MATERIAL SUPPORT TO TERRORISM.** \* \* \*<sup>10</sup>

**SEC. 6604. FINANCING OF TERRORISM.** \* \* \*<sup>10</sup>

SUBTITLE H—STOP TERRORIST AND MILITARY HOAXES ACT OF 2004<sup>11</sup>

\* \* \* \* \*

SUBTITLE I—WEAPONS OF MASS DESTRUCTION PROHIBITION IMPROVEMENT ACT OF 2004

**SEC. 6801.**<sup>12</sup> **SHORT TITLE.**

This subtitle may be cited as the “Weapons of Mass Destruction Prohibition Improvement Act of 2004”.

**SEC. 6802. WEAPONS OF MASS DESTRUCTION.** \* \* \*<sup>13</sup>

**SEC. 6803. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.** \* \* \*<sup>14</sup>

SUBTITLE J—PREVENTION OF TERRORIST ACCESS TO DESTRUCTIVE WEAPONS ACT OF 2004

**SEC. 6901.**<sup>15</sup> **SHORT TITLE.**

This subtitle may be cited as the “Prevention of Terrorist Access to Destructive Weapons Act of 2004”.

**SEC. 6902.**<sup>16</sup> **FINDINGS AND PURPOSE.**

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

(1) The criminal use of man-portable air defense systems (referred to in this section as “MANPADS”) presents a serious threat to civil aviation worldwide, especially in the hands of terrorists or foreign states that harbor them.

(2) Atomic weapons or weapons designed to release radiation (commonly known as “dirty bombs”) could be used by terrorists to inflict enormous loss of life and damage to property and the environment.

(3) Variola virus is the causative agent of smallpox, an extremely serious, contagious, and sometimes fatal disease. Variola virus is classified as a Category A agent by the Centers for Disease Control and Prevention, meaning that it is believed to pose the greatest potential threat for adverse public health impact and has a moderate to high potential for large-scale dissemination. The last case of smallpox in the United States was in 1949. The last naturally occurring case in the world was in Somalia in 1977. Although smallpox has been officially eradicated after a successful worldwide vaccination program, there remain two official repositories of the variola virus for research purposes. Because it is so dangerous, the variola virus may appeal to terrorists.

<sup>10</sup> Secs. 6603 and 6604 amended 18 U.S.C. at chapter 113B, relating to terrorism; see beginning at page 1020.

<sup>11</sup> 18 U.S.C. 1 note.

<sup>12</sup> 18 U.S.C. 1 note.

<sup>13</sup> Sec. 6802 amended 18 U.S.C.

<sup>14</sup> Sec. 6803 amended the Atomic Energy Act of 1954 and 18 U.S.C.

<sup>15</sup> 18 U.S.C. 1 note.

<sup>16</sup> 18 U.S.C. 175c note.

(4) The use, or even the threatened use, of MANPADS, atomic or radiological weapons, or the variola virus, against the United States, its allies, or its people, poses a grave risk to the security, foreign policy, economy, and environment of the United States. Accordingly, the United States has a compelling national security interest in preventing unlawful activities that lead to the proliferation or spread of such items, including their unauthorized production, construction, acquisition, transfer, possession, import, or export. All of these activities markedly increase the chances that such items will be obtained by terrorist organizations or rogue states, which could use them to attack the United States, its allies, or United States nationals or corporations.

(5) There is no legitimate reason for a private individual or company, absent explicit government authorization, to produce, construct, otherwise acquire, transfer, receive, possess, import, export, or use MANPADS, atomic or radiological weapons, or the variola virus.

(b) PURPOSE.—The purpose of this subtitle is to combat the potential use of weapons that have the ability to cause widespread harm to United States persons and the United States economy (and that have no legitimate private use) and to threaten or harm the national security or foreign relations of the United States.

**SEC. 6903. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.**

Chapter 113B of title 18, United States Code, is amended by adding after section 2332f the following: \* \* \*

**SEC. 6904. ATOMIC WEAPONS.** \* \* \*<sup>17</sup>

**SEC. 6905. RADIOLOGICAL DISPERSAL DEVICES.**

Chapter 113B of title 18, United States Code, is amended by adding after section 2332g the following: \* \* \*

**SEC. 6906. VARIOLA VIRUS.**

Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following: \* \* \*

**SEC. 6907. INTERCEPTION OF COMMUNICATIONS.**

Section 2516(1) of title 18, United States Code, is amended—\* \* \*

**SEC. 6908. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.** \* \* \*

**SEC. 6909. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.** \* \* \*

**SEC. 6910. EXPORT LICENSING PROCESS.**

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—\* \* \*

<sup>17</sup>Sec. 6904 amended the Atomic Energy Act of 1954.

SEC. 6911. CLERICAL AMENDMENTS. \* \* \*

SUBTITLE K—PRETRIAL DETENTION OF TERRORISTS

SEC. 6951.<sup>18</sup> SHORT TITLE.

This subtitle may be cited as the “Pretrial Detention of Terrorists Act of 2004”.

SEC. 6952. PRESUMPTION FOR PRETRIAL DETENTION IN CASES INVOLVING TERRORISM.

Section 3142 of title 18, United States Code, is amended—\* \* \*

TITLE VII—IMPLEMENTATION OF 9/11 COMMISSION RECOMMENDATIONS

SEC. 7001.<sup>19</sup> SHORT TITLE.

This title may be cited as the “9/11 Commission Implementation Act of 2004”.

\* \* \* \* \*

TITLE VIII—OTHER MATTERS

SUBTITLE A—INTELLIGENCE MATTERS

SEC. 8101.<sup>20</sup> INTELLIGENCE COMMUNITY USE OF NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.

(a) IN GENERAL.—The Director of National Intelligence shall establish a formal relationship, including information sharing, between the elements of the intelligence community and the National Infrastructure Simulation and Analysis Center.

(b) PURPOSE.—The purpose of the relationship under subsection (a) shall be to permit the intelligence community to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

SUBTITLE B—DEPARTMENT OF HOMELAND SECURITY MATTERS

\* \* \* \* \*

SUBTITLE C—HOMELAND SECURITY CIVIL RIGHTS AND CIVIL LIBERTIES PROTECTION

\* \* \* \* \*

SUBTITLE D—OTHER MATTERS

\* \* \* \* \*

<sup>18</sup> 18 U.S.C. 3141 note.

<sup>19</sup> 6 U.S.C. 101 note. For freestanding text of the 9/11 Commission Implementation Act of 2004, see page 94.

<sup>20</sup> 50 U.S.C. 403–1 note.



**c. Enhanced Border Security and Visa Entry Reform Act of 2002**

Partial text of Public Law 107-173 [H.R. 3525], 116 Stat. 543, approved May 14, 2002; as amended by Public Law 108-177 [Intelligence Authorization Act for Fiscal Year 2004; H.R. 2417], 117 Stat. 2599, approved December 13, 2003; Public Law 108-293 [Coast Guard and Maritime Transportation Act of 2004; H.R. 2443], 118 Stat. 1028, approved August 9, 2004; Public Law 108-299 [H.R. 4417], 118 Stat. 1100, approved August 9, 2004; and Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

AN ACT To enhance the border security of the United States, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE.**

(a) SHORT TITLE.—This Act may be cited as the “Enhanced Border Security and Visa Entry Reform Act of 2002”.

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

**SEC. 2.<sup>2</sup> DEFINITIONS.**

In this Act:

(1) ALIEN.—The term “alien” has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means the following:

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

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

(3) CHIMERA SYSTEM.—The term “Chimera system” means the interoperable electronic data system required to be developed and implemented by section 202(a)(2).

(4) FEDERAL LAW ENFORCEMENT AGENCIES.—The term “Federal law enforcement agencies” means the following:

(A) The United States Secret Service.

(B) The Drug Enforcement Administration.

(C) The Federal Bureau of Investigation.

(D) The Immigration and Naturalization Service.

(E) The United States Marshall Service.

(F) The Naval Criminal Investigative Service.

<sup>1</sup>8 U.S.C. 1701 note.

<sup>2</sup>8 U.S.C. 1701.

- (G)<sup>3</sup> The Coast Guard.
- (H) The Diplomatic Security Service.
- (I) The United States Postal Inspection Service.
- (J) The Bureau of Alcohol, Tobacco, and Firearms.
- (K) The United States Customs Service.
- (L) The National Park Service.

(5) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(6) PRESIDENT.—The term “President” means the President of the United States, acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the Commissioner of Immigration and Naturalization, the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Secretary of Transportation, the Commissioner of Customs, and the Secretary of the Treasury.

(7) USA PATRIOT ACT.—The term “USA PATRIOT Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56).

## TITLE I—FUNDING

### SEC. 101.<sup>4</sup> AUTHORIZATION OF APPROPRIATIONS FOR HIRING AND TRAINING GOVERNMENT PERSONNEL.

- (a) ADDITIONAL PERSONNEL.—\* \* \*
- (b) AUTHORIZATION OF APPROPRIATIONS FOR INS STAFFING.—\* \* \*
- (c) AUTHORIZATION OF APPROPRIATIONS FOR TRAINING.—\* \* \*
- (d) AUTHORIZATION OF APPROPRIATIONS FOR CONSULAR FUNCTIONS.—
  - (1) RESPONSIBILITIES.—The Secretary of State shall—
    - (A) implement enhanced security measures for the review of visa applicants;
    - (B) staff the facilities and programs associated with the activities described in subparagraph (A); and
    - (C) provide ongoing training for consular officers and diplomatic security agents.
  - (2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of State such sums as may be necessary to carry out paragraph (1).

### SEC. 102.<sup>5</sup> AUTHORIZATION OF APPROPRIATIONS FOR IMPROVEMENTS IN TECHNOLOGY AND INFRASTRUCTURE.

- (a) FUNDING OF TECHNOLOGY.—
  - (1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated \$150,000,000 to the Immigration and Naturalization Service for purposes of—

<sup>3</sup>Sec. 619 of Public Law 108-293 (118 Stat. 1062) struck out “(G) The Coastal Security Service.” and inserted in lieu thereof “(G) The Coast Guard.”

<sup>4</sup>8 U.S.C. 1711.

<sup>5</sup>8 U.S.C. 1712.

(A) making improvements in technology (including infrastructure support, computer security, and information technology development) for improving border security;

(B) expanding, utilizing, and improving technology to improve border security; and

(C) facilitating the flow of commerce and persons at ports of entry, including improving and expanding programs for preenrollment and preclearance.

(2) **WAIVER OF FEES.**—Federal agencies involved in border security may waive all or part of enrollment fees for technology-based programs to encourage participation by United States citizens and aliens in such programs. Any agency that waives any part of any such fee may establish its fees for other services at a level that will ensure the recovery from other users of the amounts waived.

(3) **OFFSET OF INCREASES IN FEES.**—The Attorney General may, to the extent reasonable, increase land border fees for the issuance of arrival-departure documents to offset technology costs.

(b) **IMPROVEMENT AND EXPANSION OF INS, STATE DEPARTMENT, AND CUSTOMS FACILITIES.**—There are authorized to be appropriated to the Immigration and Naturalization Service and the Department of State such sums as may be necessary to improve and expand facilities for use by the personnel of those agencies.

**SEC. 103.<sup>6</sup> MACHINE-READABLE VISA FEES.**

(a) **RELATION TO SUBSEQUENT AUTHORIZATION ACTS.**—Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking paragraph (3).

(b) **FEE AMOUNT.**—The machine-readable visa fee charged by the Department of State shall be the higher of \$65 or the cost of the machine-readable visa service, as determined by the Secretary of State after conducting a study of the cost of such service.

(c) **SURCHARGE.**—The Department of State is authorized to charge a surcharge of \$10, in addition to the machine-readable visa fee, for issuing a machine-readable visa in a nonmachine-readable passport.

(d) **AVAILABILITY OF COLLECTED FEES.**—Notwithstanding any other provision of law, amounts collected as fees described in this section shall be credited as an offsetting collection to any appropriation for the Department of State to recover costs of providing consular services. Amounts so credited shall be available, until expended, for the same purposes as the appropriation to which credited.

<sup>6</sup>8 U.S.C. 1713.

**TITLE II—INTERAGENCY INFORMATION SHARING****SEC. 201.<sup>7</sup> INTERIM MEASURES FOR ACCESS TO AND COORDINATION OF LAW ENFORCEMENT AND OTHER INFORMATION.**

(a) **INTERIM DIRECTIVE.**—Until the plan required by subsection (c) is implemented, Federal law enforcement agencies and the intelligence community shall, to the maximum extent practicable, share any information with the Department of State and the Immigration and Naturalization Service relevant to the admissibility and deportability of aliens, consistent with the plan described in subsection (c).

(b) **REPORT IDENTIFYING LAW ENFORCEMENT AND INTELLIGENCE INFORMATION.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report identifying Federal law enforcement and the intelligence community information needed by the Department of State to screen visa applicants, or by the Immigration and Naturalization Service to screen applicants for admission to the United States, and to identify those aliens inadmissible or deportable under the Immigration and Nationality Act.

(2) **REPEAL.**—Section 414(d) of the USA PATRIOT Act is hereby repealed.

(c) **COORDINATION PLAN.**—

(1) **REQUIREMENT FOR PLAN.**—Not later than one year after the date of enactment of the USA PATRIOT Act, the President shall develop and implement a plan based on the findings of the report under subsection (b) that requires Federal law enforcement agencies and the intelligence community to provide to the Department of State and the Immigration and Naturalization Service all information identified in that report as expeditiously as practicable.

(2) **CONSULTATION REQUIREMENT.**—In the preparation and implementation of the plan under this subsection, the President shall consult with the appropriate committees of Congress.

(3) **PROTECTIONS REGARDING INFORMATION AND USES THEREOF.**—The plan under this subsection shall establish conditions for using the information described in subsection (b) received by the Department of State and Immigration and Naturalization Service—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely to determine whether to issue a visa to an alien or to determine the admissibility or deportability of an alien to the United States, except as otherwise authorized under Federal law;

(C) to ensure the accuracy, security, and confidentiality of such information;

(D) to protect any privacy rights of individuals who are subjects of such information;

<sup>7</sup>8 U.S.C. 1721.

(E) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information; and

(F) in a manner that protects the sources and methods used to acquire intelligence information as required by section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(7)).<sup>8</sup>

(4) **CRIMINAL PENALTIES FOR MISUSE OF INFORMATION.**—Any person who obtains information under this subsection without authorization or exceeding authorized access (as defined in section 1030(e) of title 18, United States Code), and who uses such information in the manner described in any of the paragraphs (1) through (7) of section 1030(a) of such title, or attempts to use such information in such manner, shall be subject to the same penalties as are applicable under section 1030(c) of such title for violation of that paragraph.

(5) **ADVANCING DEADLINES FOR A TECHNOLOGY STANDARD AND REPORT.**—Section 403(c) of the USA PATRIOT Act is amended—\* \* \*

**SEC. 202.<sup>9</sup> INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE DATA SYSTEM WITH NAME-MATCHING CAPACITY AND TRAINING.**

(a) **INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE ELECTRONIC DATA SYSTEM.**—

(1) **REQUIREMENT FOR INTEGRATED IMMIGRATION AND NATURALIZATION DATA SYSTEM.**—The Immigration and Naturalization Service shall fully integrate all databases and data systems maintained by the Service that process or contain information on aliens. The fully integrated data system shall be an interoperable component of the electronic data system described in paragraph (2).

(2) **REQUIREMENT FOR INTEROPERABLE DATA SYSTEM.**—Upon the date of commencement of implementation of the plan required by section 201(c), the President shall develop and implement an interoperable electronic data system to provide current and immediate access to information in databases of Federal law enforcement agencies and the intelligence community that is relevant to determine whether to issue a visa or to determine the admissibility or deportability of an alien (also known as the “Chimera system”).

(3) **CONSULTATION REQUIREMENT.**—In the development and implementation of the data system under this subsection, the President shall consult with the Director of the National Institute of Standards and Technology (NIST) and any such other agency as may be deemed appropriate.

(4) **TECHNOLOGY STANDARD.**—

(A) **IN GENERAL.**—The data system developed and implemented under this subsection, and the databases referred to in paragraph (2), shall utilize the technology standard

<sup>8</sup>Sec. 377(f) of Public Law 108-177 (117 Stat. 2631) struck out “section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6))” and inserted in lieu thereof “section 103(c)(7) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(7))”.

<sup>9</sup>8 U.S.C. 1722.

established pursuant to section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5) and subparagraph (B).

(B) CONFORMING AMENDMENT.—Section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5), is further amended—\* \* \*

(5) ACCESS TO INFORMATION IN DATA SYSTEM.—Subject to paragraph (6), information in the data system under this subsection shall be readily and easily accessible—

(A) to any consular officer responsible for the issuance of visas;

(B) to any Federal official responsible for determining an alien's admissibility to or deportability from the United States; and

(C) to any Federal law enforcement or intelligence officer determined by regulation to be responsible for the investigation or identification of aliens.

(6) LIMITATION ON ACCESS.—The President shall, in accordance with applicable Federal laws, establish procedures to restrict access to intelligence information in the data system under this subsection, and the databases referred to in paragraph (2), under circumstances in which such information is not to be disclosed directly to Government officials under paragraph (5).

(b) NAME-SEARCH CAPACITY AND SUPPORT.—

(1) IN GENERAL.—The interoperable electronic data system required by subsection (a) shall—

(A) have the capacity to compensate for disparate name formats among the different databases referred to in subsection (a);

(B) be searchable on a linguistically sensitive basis;

(C) provide adequate user support;

(D) to the extent practicable, utilize commercially available technology; and

(E) be adjusted and improved, based upon experience with the databases and improvements in the underlying technologies and sciences, on a continuing basis.

(2) LINGUISTICALLY SENSITIVE SEARCHES.—

(A) IN GENERAL.—To satisfy the requirement of paragraph (1)(B), the interoperable electronic database shall be searchable based on linguistically sensitive algorithms that—

(i) account for variations in name formats and transliterations, including varied spellings and varied separation or combination of name elements, within a particular language; and

(ii) incorporate advanced linguistic, mathematical, statistical, and anthropological research and methods.

(B) LANGUAGES REQUIRED.—

(i) PRIORITY LANGUAGES.—Linguistically sensitive algorithms shall be developed and implemented for no fewer than 4 languages designated as high priorities by the Secretary of State, after consultation with the

Attorney General and the Director of Central Intelligence.

(ii) IMPLEMENTATION SCHEDULE.—Of the 4 linguistically sensitive algorithms required to be developed and implemented under clause (i)—

(I) the highest priority language algorithms shall be implemented within 18 months after the date of enactment of this Act; and

(II) an additional language algorithm shall be implemented each succeeding year for the next three years.

(3) ADEQUATE USER SUPPORT.—The Secretary of State and the Attorney General shall jointly prescribe procedures to ensure that consular and immigration officers can, as required, obtain assistance in resolving identity and other questions that may arise about the names of aliens seeking visas or admission to the United States that may be subject to variations in format, transliteration, or other similar phenomenon.

(4) INTERIM REPORTS.—Six months after the date of enactment of this Act, the President shall submit a report to the appropriate committees of Congress on the progress in implementing each requirement of this section.

(5) REPORTS BY INTELLIGENCE AGENCIES.—

(A) CURRENT STANDARDS.—Not later than 60 days after the date of enactment of this Act, the Director of Central Intelligence shall complete the survey and issue the report previously required by section 309(a) of the Intelligence Authorization Act for Fiscal Year 1998 (50 U.S.C. 403-3 note).

(B) GUIDELINES.—Not later than 120 days after the date of enactment of this Act, the Director of Central Intelligence shall issue the guidelines and submit the copy of those guidelines previously required by section 309(b) of the Intelligence Authorization Act for Fiscal Year 1998 (50 U.S.C. 403-3 note).

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subsection.

**SEC. 203.<sup>10</sup> COMMISSION ON INTEROPERABLE DATA SHARING.**

(a) ESTABLISHMENT.—Not later than one year after the date of enactment of the USA PATRIOT Act, the President shall establish a Commission on Interoperable Data Sharing (in this section referred to as the “Commission”). The purposes of the Commission shall be to—

(1) monitor the protections described in section 201(c)(3);

(2) provide oversight of the interoperable electronic data system described in section 202; and

(3) report to Congress annually on the Commission’s findings and recommendations.

(b) COMPOSITION.—The Commission shall consist of nine members, who shall be appointed by the President, as follows:

<sup>10</sup> 8 U.S.C. 1723.

- (1) One member, who shall serve as Chair of the Commission.
- (2) Eight members, who shall be appointed from a list of nominees jointly provided by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.
- (c) **CONSIDERATIONS.**—The Commission shall consider recommendations regarding the following issues:
- (1) Adequate protection of privacy concerns inherent in the design, implementation, or operation of the interoperable electronic data system.
- (2) Timely adoption of security innovations, consistent with generally accepted security standards, to protect the integrity and confidentiality of information to prevent the risks of accidental or unauthorized loss, access, destruction, use modification, or disclosure of information.
- (3) The adequacy of mechanisms to permit the timely correction of errors in data maintained by the interoperable data system.
- (4) Other protections against unauthorized use of data to guard against the misuse of the interoperable data system or the data maintained by the system, including recommendations for modifications to existing laws and regulations to sanction misuse of the system.
- (d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

**SEC. 204.<sup>11</sup> PERSONNEL MANAGEMENT AUTHORITIES FOR POSITIONS INVOLVED IN THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM (“CHIMERA SYSTEM”). \* \* \***

### **TITLE III—VISA ISSUANCE**

**SEC. 301. ELECTRONIC PROVISION OF VISA FILES.**

Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended—\* \* \*

**SEC. 302.<sup>12</sup> IMPLEMENTATION OF AN INTEGRATED ENTRY AND EXIT DATA SYSTEM.**

(a) **DEVELOPMENT OF SYSTEM.**—In developing the integrated entry and exit data system for the ports of entry, as required by the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106-215), the Attorney General and the Secretary of State shall—

- (1) implement, fund, and use a technology standard under section 403(c) of the USA PATRIOT Act (as amended by sections 201(c)(5) and 202(a)(4)(B)) at United States ports of entry and at consular posts abroad;
- (2) establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; and

<sup>11</sup> 8 U.S.C. 1724.

<sup>12</sup> 8 U.S.C. 1731.



(3) make interoperable all security databases relevant to making determinations of admissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182).

(b) IMPLEMENTATION.—In implementing the provisions of subsection (a), the Immigration and Naturalization Service and the Department of State shall—

(1) utilize technologies that facilitate the lawful and efficient cross-border movement of commerce and persons without compromising the safety and security of the United States; and

(2) consider implementing the North American National Security Program described in section 401.

**SEC. 303.<sup>13</sup> MACHINE-READABLE, TAMPER-RESISTANT ENTRY AND EXIT DOCUMENTS.**

(a) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of State, and the National Institute of Standards and Technology (NIST), acting jointly, shall submit to the appropriate committees of Congress a comprehensive report assessing the actions that will be necessary, and the considerations to be taken into account, to achieve fully, not later than October 26, 2004—

(A) implementation of the requirements of subsections (b) and (c); and

(B) deployment of the equipment and software to allow biometric comparison and authentication of the documents described in subsections (b) and (c).

(2) ESTIMATES.—In addition to the assessment required by paragraph (1), the report required by that paragraph shall include an estimate of the costs to be incurred, and the personnel, man-hours, and other support required, by the Department of Justice, the Department of State, and NIST to achieve the objectives of subparagraphs (A) and (B) of paragraph (1).

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than October 26, 2004, the Attorney General and the Secretary of State shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers. The Attorney General and the Secretary of State shall jointly establish document authentication standards and biometric identifiers standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations.

(2) READERS AND SCANNERS AT PORTS OF ENTRY.—

(A) IN GENERAL.—Not later than October 26, 2005,<sup>14</sup> the Attorney General, in consultation with the Secretary of State, shall install at all ports of entry of the United States equipment and software to allow biometric comparison and authentication of all United States visas and other travel and entry documents issued to aliens, and passports issued pursuant to subsection (c)(1).

<sup>13</sup> 8 U.S.C. 1732.

<sup>14</sup> Sec. 1 of Public Law 108-299 (118 Stat. 1100) struck out “2004,” and inserted in lieu thereof “2005,” in subsecs. (b)(2)(A), (c)(1), and (c)(2).

(B) USE OF READERS AND SCANNERS.—The Attorney General, in consultation with the Secretary of State, shall utilize biometric data readers and scanners that—

(i) domestic and international standards organizations determine to be highly accurate when used to verify identity;

(ii) can read the biometric identifiers utilized under subsections (b)(1) and (c)(1); and

(iii) can authenticate the document presented to verify identity.

(3) USE OF TECHNOLOGY STANDARD.—The systems employed to implement paragraphs (1) and (2) shall utilize the technology standard established pursuant to section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5) and 202(a)(4)(B).

(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

(1) CERTIFICATION REQUIREMENT.—Not later than October 26, 2005,<sup>14</sup> the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act shall certify, as a condition for designation or continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with applicable biometric and document identifying standards established by the International Civil Aviation Organization. This paragraph shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act.

(2) USE OF TECHNOLOGY STANDARD.—On and after October 26, 2005,<sup>14</sup> any alien applying for admission under the visa waiver program under section 217 of the Immigration and Nationality Act shall present a passport that meets the requirements of paragraph (1) unless the alien's passport was issued prior to that date.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including reimbursement to international and domestic standards organizations.

**SEC. 304.<sup>15</sup> TERRORIST LOOKOUT COMMITTEES.**

(a) ESTABLISHMENT.—The Secretary of State shall require a terrorist lookout committee to be maintained within each United States mission to a foreign country.

(b) PURPOSE.—The purpose of each committee established under subsection (a) shall be—

(1) to utilize the cooperative resources of all elements of the United States mission in the country in which the consular post is located to identify known or potential terrorists and to develop information on those individuals;

<sup>15</sup> 8 U.S.C. 1733.

(2) to ensure that such information is routinely and consistently brought to the attention of appropriate United States officials for use in administering the immigration laws of the United States; and

(3) to ensure that the names of known and suspected terrorists are entered into the appropriate lookout databases.

(c) COMPOSITION; CHAIR.—The Secretary shall establish rules governing the composition of such committees.

(d) MEETINGS.—Each committee established under subsection (a) shall meet at least monthly to share information pertaining to the committee's purpose as described in subsection (b)(2).

(e) PERIODIC REPORTS TO THE SECRETARY OF STATE.—Each committee established under subsection (a) shall submit monthly reports to the Secretary of State describing the committee's activities, whether or not information on known or suspected terrorists was developed during the month.

(f) REPORTS TO CONGRESS.—The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.

**SEC. 305.<sup>16</sup> IMPROVED TRAINING FOR CONSULAR OFFICERS.**

(a) TRAINING.—The Secretary of State shall require that all consular officers responsible for adjudicating visa applications, before undertaking to perform consular responsibilities, receive specialized training in the effective screening of visa applicants who pose a potential threat to the safety or security of the United States. Such officers shall be specially and extensively trained in the identification of aliens inadmissible under section 212(a)(3) (A) and (B) of the Immigration and Nationality Act, interagency and international intelligence sharing regarding terrorists and terrorism, and cultural-sensitivity toward visa applicants. In accordance with section 7201(d) of the 9/11 Commission Implementation Act of 2004, and as part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.<sup>17</sup>

(b) USE OF FOREIGN INTELLIGENCE INFORMATION.—As an ongoing component of the training required in subsection (a), the Secretary of State shall coordinate with the Assistant to the President for Homeland Security, Federal law enforcement agencies, and the intelligence community to compile and disseminate to the Bureau of Consular Affairs reports, bulletins, updates, and other current unclassified information relevant to terrorists and terrorism and to screening visa applicants who pose a potential threat to the safety or security of the United States.

<sup>16</sup> 8 U.S.C. 1734.

<sup>17</sup> Sec. 7203(d) of the 9/11 Commission Implementation Act of 2004 (title VII of Public Law 108-458; 118 Stat. 3814) added this sentence.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to implement this section.

**SEC. 306.<sup>18</sup> RESTRICTION ON ISSUANCE OF VISAS TO NONIMMIGRANTS FROM COUNTRIES THAT ARE STATE SPONSORS OF INTERNATIONAL TERRORISM.**

(a) **IN GENERAL.**—No nonimmigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) shall be issued to any alien from a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety or national security of the United States. In making a determination under this subsection, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Attorney General and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

(b) **STATE SPONSOR OF INTERNATIONAL TERRORISM DEFINED.**—

(1) **IN GENERAL.**—In this section, the term “state sponsor of international terrorism” means any country the government of which has been determined by the Secretary of State under any of the laws specified in paragraph (2) to have repeatedly provided support for acts of international terrorism.

(2) **LAWS UNDER WHICH DETERMINATIONS WERE MADE.**—The laws specified in this paragraph are the following:

(A) Section 6(j)(1)(A) of the Export Administration Act of 1979 (or successor statute).

(B) Section 40(d) of the Arms Export Control Act.

(C) Section 620A(a) of the Foreign Assistance Act of 1961.

**SEC. 307. DESIGNATION OF PROGRAM COUNTRIES UNDER THE VISA WAIVER PROGRAM.**

(a) **REPORTING PASSPORT THEFTS.**—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—\* \* \*

(b)<sup>19</sup> **CHECK OF LOOKOUT DATABASES.**—Prior to the admission of an alien under the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), the Immigration and Naturalization Service shall determine that the applicant for admission does not appear in any of the appropriate lookout databases available to immigration inspectors at the time the alien seeks admission to the United States.

**SEC. 308.<sup>20</sup> TRACKING SYSTEM FOR STOLEN PASSPORTS.**

(a) **ENTERING STOLEN PASSPORT IDENTIFICATION NUMBERS IN THE INTEROPERABLE DATA SYSTEM.**—

(1) **IN GENERAL.**—Beginning with implementation under section 202 of the law enforcement and intelligence data system, not later than 72 hours after receiving notification of the loss or theft of a United States or foreign passport, the Attorney General and the Secretary of State, as appropriate, shall enter

<sup>18</sup> 8 U.S.C. 1735.

<sup>19</sup> 8 U.S.C. 1736.

<sup>20</sup> 8 U.S.C. 1737.

into such system the corresponding identification number for the lost or stolen passport.

(2) ENTRY OF INFORMATION ON PREVIOUSLY LOST OR STOLEN PASSPORTS.—To the extent practicable, the Attorney General, in consultation with the Secretary of State, shall enter into such system the corresponding identification numbers for the United States and foreign passports lost or stolen prior to the implementation of such system.

(b) TRANSITION PERIOD.—Until such time as the law enforcement and intelligence data system described in section 202 is fully implemented, the Attorney General shall enter the data described in subsection (a) into an existing data system being used to determine the admissibility or deportability of aliens.

**SEC. 309.<sup>21</sup> IDENTIFICATION DOCUMENTS FOR CERTAIN NEWLY ADMITTED ALIENS.**

Not later than 180 days after the date of enactment of this Act, the Attorney General shall ensure that, immediately upon the arrival in the United States of an individual admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or immediately upon an alien being granted asylum under section 208 of such Act (8 U.S.C. 1158), the alien will be issued an employment authorization document. Such document shall, at a minimum, contain the fingerprint and photograph of such alien.

**TITLE IV—INSPECTION AND ADMISSION OF ALIENS**

**SEC. 401.<sup>22</sup> STUDY OF THE FEASIBILITY OF A NORTH AMERICAN NATIONAL SECURITY PROGRAM.**

(a) IN GENERAL.—The President shall conduct a study of the feasibility of establishing a North American National Security Program to enhance the mutual security and safety of the United States, Canada, and Mexico.

(b) STUDY ELEMENTS.—In conducting the study required by subsection (a), the President shall consider the following:

(1) PRECLEARANCE.—The feasibility of establishing a program enabling foreign national travelers to the United States to submit voluntarily to a preclearance procedure established by the Department of State and the Immigration and Naturalization Service to determine whether such travelers are admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182). Consideration shall be given to the feasibility of expanding the preclearance program to include the preclearance both of foreign nationals traveling to Canada and foreign nationals traveling to Mexico.

(2) PREINSPECTION.—The feasibility of expanding preinspection facilities at foreign airports as described in section 235A of the Immigration and Nationality Act (8 U.S.C. 1225). Consideration shall be given to the feasibility of expanding preinspections to foreign nationals on air flights destined for Canada and Mexico, and the cross training and funding of inspectors from Canada and Mexico.

<sup>21</sup> 8 U.S.C. 1738.

<sup>22</sup> 8 U.S.C. 1751.

(3) CONDITIONS.—A determination of the measures necessary to ensure that the conditions required by section 235A(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(5)) are satisfied, including consultation with experts recognized for their expertise regarding the conditions required by that section.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report setting forth the findings of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 402. PASSENGER MANIFESTS.**

(a) IN GENERAL.—Section 231 of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended—\* \* \*

(b)<sup>23</sup> EXTENSION TO LAND CARRIERS.—

(1) STUDY.—The President shall conduct a study regarding the feasibility of extending the requirements of subsections (a) and (b) of section 231 of the Immigration and Nationality Act (8 U.S.C. 1221), as amended by subsection (a), to any commercial carrier transporting persons by land to or from the United States. The study shall focus on the manner in which such requirement would be implemented to enhance the national security of the United States and the efficient cross-border flow of commerce and persons.

(2) REPORT.—Not later than two years after the date of enactment of this Act, the President shall submit to Congress a report setting forth the findings of the study conducted under paragraph (1).

(c)<sup>23</sup> EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of this Act.

**SEC. 403. TIME PERIOD FOR INSPECTIONS.**

(a) REPEAL OF TIME LIMITATION ON INSPECTIONS.—Section 286(g) of the Immigration and Nationality Act (8 U.S.C. 1356(g)) is amended\* \* \*

(b)<sup>24</sup> STAFFING LEVELS AT PORTS OF ENTRY.—The Immigration and Naturalization Service shall staff ports of entry at such levels that would be adequate to meet traffic flow and inspection time objectives efficiently without compromising the safety and security of the United States. Estimated staffing levels under workforce models for the Immigration and Naturalization Service shall be based on the goal of providing immigration services described in section 286(g) of such Act within 45 minutes of a passenger's presentation for inspection.

**SEC. 404.<sup>25</sup> JOINT UNITED STATES-CANADA PROJECTS FOR ALTERNATIVE INSPECTIONS SERVICES.**

(a) IN GENERAL.—United States border inspections agencies, including the Immigration and Naturalization Service, acting jointly

<sup>23</sup> 8 U.S.C. 1221 note.

<sup>24</sup> 8 U.S.C. 1752.

<sup>25</sup> 8 U.S.C. 1753.

and under an agreement of cooperation with the Government of Canada, may conduct joint United States-Canada inspections projects on the international border between the two countries. Each such project may provide alternative inspections services and shall undertake to harmonize the criteria for inspections applied by the two countries in implementing those projects.

(b) ANNUAL REPORT.—The Attorney General and the Secretary of the Treasury shall prepare and submit annually to Congress a report on the joint United States-Canada inspections projects conducted under subsection (a).

(c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT AND PAPERWORK REDUCTION ACT.—Subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the “Administrative Procedure Act”) and chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”) shall not apply to fee setting for services and other administrative requirements relating to projects described in subsection (a), except that fees and forms established for such projects shall be published as a notice in the Federal Register.

## TITLE V—FOREIGN STUDENTS AND EXCHANGE VISITORS

### SEC. 501.<sup>26</sup> FOREIGN STUDENT MONITORING PROGRAM.

(a) STRENGTHENING REQUIREMENTS FOR IMPLEMENTATION OF MONITORING PROGRAM.—

(1) MONITORING AND VERIFICATION OF INFORMATION.—Section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)) is amended \* \* \*

(2) ADDITIONAL REQUIREMENTS FOR DATA TO BE COLLECTED.—Section 641(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)(1)) is amended—\* \* \*

(3) REPORTING REQUIREMENTS.—Section 641(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)) is amended by adding at the end the following new paragraph: \* \* \*

(b) INFORMATION REQUIRED OF THE VISA APPLICANT.—Prior to the issuance of a visa under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), each alien applying for such visa shall provide to a consular officer the following information:

(1) The alien’s address in the country of origin.

(2) The names and addresses of the alien’s spouse, children, parents, and siblings.

(3) The names of contacts of the alien in the alien’s country of residence who could verify information about the alien.

(4) Previous work history, if any, including the names and addresses of employers.

(c) TRANSITIONAL PROGRAM.—

<sup>26</sup> 8 U.S.C. 1761.

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act and until such time as the system described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (as amended by subsection (a)) is fully implemented, the following requirements shall apply:

(A) RESTRICTIONS ON ISSUANCE OF VISAS.—A visa may not be issued to an alien under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), unless—

(i) the Department of State has received from an approved institution of higher education or other approved educational institution electronic evidence of documentation of the alien's acceptance at that institution; and

(ii) the consular officer has adequately reviewed the applicant's visa record.

(B) NOTIFICATION UPON VISA ISSUANCE.—Upon the issuance of a visa under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)) to an alien, the Secretary of State shall transmit to the Immigration and Naturalization Service a notification of the issuance of that visa.

(C) NOTIFICATION UPON ADMISSION OF ALIEN.—The Immigration and Naturalization Service shall notify the approved institution of higher education or other approved educational institution that an alien accepted for such institution or program has been admitted to the United States.

(D) NOTIFICATION OF FAILURE OF ENROLLMENT.—Not later than 30 days after the deadline for registering for classes for an academic term, the approved institution of higher education or other approved educational institution shall inform the Immigration and Naturalization Service through data-sharing arrangements of any failure of any alien described in subparagraph (C) to enroll or to commence participation.

(2) REQUIREMENT TO SUBMIT LIST OF APPROVED INSTITUTIONS.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall provide the Secretary of State with a list of all approved institutions of higher education and other approved educational institutions that are authorized to receive nonimmigrants under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.



**SEC. 502.<sup>27</sup> REVIEW OF INSTITUTIONS AND OTHER ENTITIES AUTHORIZED TO ENROLL OR SPONSOR CERTAIN NON-IMMIGRANTS.**

(a) PERIODIC REVIEW OF COMPLIANCE.—Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review of the institutions certified to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)). Each review shall determine whether the institutions are in compliance with—

(1) recordkeeping and reporting requirements to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of that Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)); and

(2) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(b) PERIODIC REVIEW OF SPONSORS OF EXCHANGE VISITORS.—

(1) REQUIREMENT FOR REVIEWS.—Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review of the entities designated to sponsor exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)).

(2) DETERMINATIONS.—On the basis of reviews of entities under paragraph (1), the Secretary shall determine whether the entities are in compliance with—

(A) recordkeeping and reporting requirements to receive nonimmigrant exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)); and

(B) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

<sup>27</sup> 8 U.S.C. 1762.

**TITLE VI—MISCELLANEOUS PROVISIONS****SEC. 601. EXTENSION OF DEADLINE FOR IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARDS.**

Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended\* \* \*

**SEC. 602.<sup>28</sup> GENERAL ACCOUNTING OFFICE STUDY.**

(a) REQUIREMENT FOR STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the feasibility and utility of implementing a requirement that each nonimmigrant alien in the United States submit to the Commissioner of Immigration and Naturalization each year a current address and, where applicable, the name and address of an employer.

(2) NONIMMIGRANT ALIEN DEFINED.—In paragraph (1), the term “nonimmigrant alien” means an alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study under subsection (a). The report shall include the Comptroller General’s findings, together with any recommendations that the Comptroller General considers appropriate.

**SEC. 603.<sup>29</sup> INTERNATIONAL COOPERATION.**

(a) INTERNATIONAL ELECTRONIC DATA SYSTEM.—The Secretary of State and the Commissioner of Immigration and Naturalization, in consultation with the Assistant to the President for Homeland Security, shall jointly conduct a study of the alternative approaches (including the costs of, and procedures necessary for, each alternative approach) for encouraging or requiring Canada, Mexico, and countries treated as visa waiver program countries under section 217 of the Immigration and Nationality Act to develop an intergovernmental network of interoperable electronic data systems that—

(1) facilitates real-time access to that country’s law enforcement and intelligence information that is needed by the Department of State and the Immigration and Naturalization Service to screen visa applicants and applicants for admission into the United States to identify aliens who are inadmissible or deportable under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(2) is interoperable with the electronic data system implemented under section 202; and

(3) performs in accordance with implementation of the technology standard referred to in section 202(a).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of State and the Attorney General shall submit to the appropriate committees of Congress a report setting forth the findings of the study conducted under subsection (a).

<sup>28</sup> 8 U.S.C. 1771.

<sup>29</sup> 8 U.S.C. 1772.

**SEC. 604.<sup>30</sup> STATUTORY CONSTRUCTION.**

Nothing in this Act shall be construed to impose requirements that are inconsistent with the North American Free Trade Agreement or to require additional documents for aliens for whom documentary requirements are waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

**SEC. 605.<sup>31</sup> ANNUAL REPORT ON ALIENS WHO FAIL TO APPEAR AFTER RELEASE ON OWN RECOGNIZANCE.**

(a) **REQUIREMENT FOR REPORT.**—Not later than January 15 of each year, the Attorney General shall submit to the appropriate committees of Congress a report on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under section 239(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1229(a)(1)), and released on the alien's own recognizance. The report shall also take into account the number of cases in which there were defects in notices of hearing or the service of notices of hearing, together with a description and analysis of the effects, if any, that the defects had on the attendance of aliens at the proceedings.

(b) **INITIAL REPORT.**—Notwithstanding the time for submission of the annual report provided in subsection (a), the report for 2001 shall be submitted not later than 6 months after the date of enactment of this Act.

**SEC. 606.<sup>32</sup> RETENTION OF NONIMMIGRANT VISA APPLICATIONS BY THE DEPARTMENT OF STATE.**

The Department of State shall retain, for a period of seven years from the date of application, every application for a nonimmigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) in a form that will be admissible in the courts of the United States or in administrative proceedings, including removal proceedings under such Act, without regard to whether the application was approved or denied.

<sup>30</sup> 8 U.S.C. 1773.

<sup>31</sup> 8 U.S.C. 1774.

<sup>32</sup> 8 U.S.C. 1775.

**d. Uniting and Strengthening America by Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001**

Partial text of Public Law 107-56 [H.R. 3162], 115 Stat. 272, approved October 26, 2001; as amended by Public Law 107-173 [Enhanced Border Security and Visa Entry Reform Act of 2002; H.R. 3525], 116 Stat. 543, approved May 14, 2002; Public Law 107-296 [Homeland Security Act of 2002; H.R. 5005], 116 Stat. 2135, approved November 25, 2002; and Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3738, approved December 17, 2004

AN ACT To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001”.

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

**SEC. 2.<sup>1</sup> CONSTRUCTION; SEVERABILITY.**

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

**TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM**

**SEC. 101.<sup>2</sup> COUNTERTERRORISM FUND.**

(a) ESTABLISHMENT; AVAILABILITY.—There is hereby established in the Treasury of the United States a separate fund to be known as the “Counterterrorism Fund”, amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

<sup>1</sup> 18 U.S.C. 1 note.  
<sup>2</sup> 28 U.S.C. 524 note.

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States.

(b) NO EFFECT ON PRIOR APPROPRIATIONS.—Subsection (a) shall not be construed to affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of the enactment of this Act.

\* \* \* \* \*

**SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUPPORT CENTER AT THE FEDERAL BUREAU OF INVESTIGATION.**

There are authorized to be appropriated for the Technical Support Center established in section 811 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) to help meet the demands for activities to combat terrorism and support and enhance the technical support and tactical operations of the FBI, \$200,000,000 for each of the fiscal years 2002, 2003, and 2004.

\* \* \* \* \*

**SEC. 105.<sup>3</sup> EXPANSION OF NATIONAL ELECTRONIC CRIME TASK FORCE INITIATIVE.**

The Director of the United States Secret Service shall take appropriate actions to develop a national network of electronic crime task forces, based on the New York Electronic Crimes Task Force model, throughout the United States, for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems.

**SEC. 106. PRESIDENTIAL AUTHORITY.**

Section 203 of the International Emergency Powers Act (50 U.S.C. 1702) is amended—\* \* \*<sup>4</sup>

**TITLE II—ENHANCED SURVEILLANCE PROCEDURES**

\* \* \* \* \*

**SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE INFORMATION.**

(a) \* \* \*

(b) \* \* \*

(c)<sup>5</sup> PROCEDURES.—The Attorney General shall establish procedures for the disclosure of information pursuant to paragraphs (6)

<sup>3</sup> 18 U.S.C. 3056 note.

<sup>4</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. III.

<sup>5</sup> 18 U.S.C. 2517 note.

and (8) of section 2517 of title 18, United States Code,<sup>6</sup> and Rule 6(e)(3)(D)<sup>7</sup> of the Federal Rules of Criminal Procedure that identifies a United States person, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(d)<sup>8</sup> FOREIGN INTELLIGENCE INFORMATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, it shall be lawful for foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)) or foreign intelligence information obtained as part of a criminal investigation to be disclosed to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official in order to assist the official receiving that information in the performance of his official duties. Any Federal official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information. Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.<sup>9</sup>

(2) DEFINITION.—In this subsection, the term “foreign intelligence information” means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

<sup>6</sup>Sec. 897(b)(1) of the Homeland Security Information Sharing Act (title VIII of Public Law 107-296; 116 Stat. 2258) struck out “section 2517(6)” and inserted in lieu thereof “paragraphs (6) and (8) of section 2517 of title 18, United States Code.”

<sup>7</sup>Sec. 6501(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3760) struck out “Rule 6(e)(3)(C)(i)(V) and (VI)” and inserted in lieu thereof “Rule 6(e)(3)(D)”. Previously, sec. 897(b)(2) of the Homeland Security Information Sharing Act (title VIII of Public Law 107-296; 116 Stat. 2258) inserted “and (VI)” after “Rule 6(e)(3)(C)(i)(V)”.

<sup>8</sup>50 U.S.C. 403-5d.

<sup>9</sup>Sec. 897(a) of the Homeland Security Information Sharing Act (title VIII of Public Law 107-296; 116 Stat. 2257) added text beginning at “Consistent with the responsibility of the Director of Central Intelligence”.

- (i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;
- (ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or
- (iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or
- (B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—
  - (i) the national defense or the security of the United States; or
  - (ii) the conduct of the foreign affairs of the United States.

\* \* \* \* \*

**SEC. 221. TRADE SANCTIONS.**

(a) **IN GENERAL.**—The Trade Sanctions Reform and Export Enhancement Act of 2000 (Public Law 106-387; 114 Stat. 1549A-67) is amended—\* \* \*<sup>10</sup>

(b)<sup>11</sup> **APPLICATION OF THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT.**—Nothing in the Trade Sanctions Reform and Export Enhancement Act of 2000 shall limit the application or scope of any law establishing criminal or civil penalties, including any Executive order or regulation promulgated pursuant to such laws (or similar or successor laws), for the unlawful export of any agricultural commodity, medicine, or medical device to—

- (1) a foreign organization, group, or person designated pursuant to Executive Order No. 12947 of January 23, 1995, as amended;
- (2) a Foreign Terrorist Organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132);
- (3) a foreign organization, group, or person designated pursuant to Executive Order No. 13224 (September 23, 2001);
- (4) any narcotics trafficking entity designated pursuant to Executive Order No. 12978 (October 21, 1995) or the Foreign Narcotics Kingpin Designation Act (Public Law 106-120); or
- (5) any foreign organization, group, or persons subject to any restriction for its involvement in weapons of mass destruction or missile proliferation.

\* \* \* \* \*

**SEC. 224.<sup>12</sup> SUNSET.**

(a) **IN GENERAL.**—Except as provided in subsection (b), this title and the amendments made by this title (other than sections 203(a), 203(c), 205, 208, 210, 211, 213, 216, 219, 221, and 222, and the amendments made by those sections) shall cease to have effect on December 31, 2005.

<sup>10</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. III.

<sup>11</sup> 22 U.S.C. 7210.

<sup>12</sup> 18 U.S.C. 2510 note.

(b) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in subsection (a) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.

\* \* \* \* \*

**TITLE III—INTERNATIONAL MONEY LAUNDERING  
ABATEMENT AND FINANCIAL ANTITERRORISM ACT  
OF 2001**<sup>13</sup>

**SEC. 301.**<sup>14</sup> **SHORT TITLE.**

This title may be cited as the “International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001”.

**SEC. 302.**<sup>15</sup> **FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least \$600,000,000,000 annually, provides the financial fuel that permits transnational criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;

(2) money laundering, and the defects in financial transparency on which money launderers rely, are critical to the financing of global terrorism and the provision of funds for terrorist attacks;

(3) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and the financing of crime and terrorism, and, by so doing, can threaten the safety of United States citizens and undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;

(4) certain jurisdictions outside of the United States that offer “offshore” banking and related facilities designed to provide anonymity, coupled with weak financial supervisory and enforcement regimes, provide essential tools to disguise ownership and movement of criminal funds<sup>16</sup> derived from, or used to commit, offenses ranging from narcotics trafficking, terrorism, arms smuggling, and trafficking in human beings, to financial frauds that prey on law-abiding citizens;

(5) transactions involving such offshore jurisdictions make it difficult for law enforcement officials and regulators to follow

<sup>13</sup> Sec. 6202(a) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3745) amended and restated the title heading, which previously read “INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001”.

<sup>14</sup> 31 U.S.C. 5301 note.

<sup>15</sup> 31 U.S.C. 5311 note.

<sup>16</sup> Sec. 6202(c)(1) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3745) struck out a comma after “movement of criminal funds”.



the trail of money earned by criminals, organized international criminal enterprises, and global terrorist organizations;

(6) correspondent banking facilities are one of the banking mechanisms susceptible in some circumstances to manipulation by foreign banks to permit the laundering of funds by hiding the identity of real parties in interest to financial transactions;

(7) private banking services can be susceptible to manipulation by money launderers, for example corrupt foreign government officials, particularly if those services include the creation of offshore accounts and facilities for large personal funds transfers to channel funds into accounts around the globe;

(8) United States anti-money laundering efforts are impeded by outmoded and inadequate statutory provisions that make investigations, prosecutions, and forfeitures more difficult, particularly in cases in which money laundering involves foreign persons, foreign banks, or foreign countries;

(9) the ability to mount effective counter-measures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

(10) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

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

(1) to increase the strength of United States measures to prevent, detect, and prosecute international money laundering and the financing of terrorism;

(2) to ensure that—

(A) banking transactions and financial relationships and the conduct of such transactions and relationships, do not contravene the purposes of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act, or chapter 2 of title I of Public Law 91-508 (84 Stat. 1116), or facilitate the evasion of any such provision; and

(B) the purposes of such provisions of law continue to be fulfilled, and such provisions of law are effectively and efficiently administered;

(3) to strengthen the provisions put into place by the Money Laundering Control Act of 1986 (18 U.S.C. 981 note), especially with respect to crimes by non-United States nationals and foreign financial institutions;

(4) to provide a clear national mandate for subjecting to special scrutiny those foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts that pose particular, identifiable opportunities for criminal abuse;

(5) to provide the Secretary of the Treasury (in this title referred to as the “Secretary”) with broad discretion, subject to the safeguards provided by the Administrative Procedure Act under title 5, United States Code, to take measures tailored to

the particular money laundering problems presented by specific foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts;

(6) to ensure that the employment of such measures by the Secretary permits appropriate opportunity for comment by affected financial institutions;

(7) to provide guidance to domestic financial institutions on particular foreign jurisdictions, financial institutions operating outside of the United States, and classes of international transactions or types of accounts<sup>17</sup> that are of primary money laundering concern to the United States Government;

(8) to ensure that the forfeiture of any assets in connection with the anti-terrorist efforts of the United States permits for adequate challenge consistent with providing due process rights;

(9) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;

(10) to strengthen the authority of the Secretary to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91-508 and subchapter II<sup>18</sup> of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;

(11) to ensure that all appropriate elements of the financial services industry are subject to appropriate requirements to report potential money laundering transactions to proper authorities, and that jurisdictional disputes do not hinder examination of compliance by financial institutions with relevant reporting requirements;

(12) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

(13) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.

**SEC. 303.**<sup>19</sup> \* \* \* [Repealed—2004]

### **Subtitle A—International Counter Money Laundering and Related Measures**

\* \* \* \* \*

<sup>17</sup>Sec. 6202(c)(2) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3745) inserted “or types of accounts” after “classes of international transactions”.

<sup>18</sup>Sec. 6202(c)(3) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3745) struck out “subchapters II and III” and inserted in lieu thereof “subchapter II”.

<sup>19</sup>Formerly at 31 U.S.C. 5311 note. Repealed by sec. 6202 of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3747). Sec. 303, as amended by the same Act that repealed it, had read as follows:

**“SEC. 303. 4-YEAR CONGRESSIONAL REVIEW; EXPEDITED CONSIDERATION.**

“(a) IN GENERAL.—Effective on and after the first day of fiscal year 2005, the provisions of this title and the amendments made by this title shall terminate if the Congress enacts a joint

**SEC. 314.<sup>20</sup> COOPERATIVE EFFORTS TO DETER MONEY LAUNDERING.**

(a) COOPERATION AMONG FINANCIAL INSTITUTIONS, REGULATORY AUTHORITIES, AND LAW ENFORCEMENT AUTHORITIES.—

(1) REGULATIONS.—The Secretary shall, within 120 days after the date of enactment of this Act, adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in,<sup>21</sup> or reasonably suspected based on credible evidence of engaging in,<sup>21</sup> terrorist acts or money laundering activities.

(2) COOPERATION AND INFORMATION SHARING PROCEDURES.—The regulations adopted under paragraph (1) may include or create procedures for cooperation and information sharing focusing on—

(A) matters specifically related to the finances of terrorist groups, the means by which terrorist groups transfer funds around the world and within the United States, including through the use of charitable organizations, nonprofit organizations, and nongovernmental organizations,<sup>22</sup> the extent to which financial institutions in the United States are unwittingly involved in such finances,<sup>23</sup> and the extent to which such institutions are at risk as a result;

(B) the relationship, particularly the financial relationship, between international narcotics traffickers and foreign terrorist organizations, the extent to which their memberships overlap and engage in joint activities, and the extent to which they cooperate with each other in raising and transferring funds for their respective purposes; and

(C) means of facilitating the identification of accounts and transactions involving terrorist groups and facilitating the exchange of information concerning such accounts and transactions between financial institutions and law enforcement organizations.

(3) CONTENTS.—The regulations adopted pursuant to paragraph (1) may—

resolution, the text after the resolving clause of which is as follows: ‘That provisions of the International Money Laundering Abatement and Financial Antiterrorism Act and the amendments made thereby, shall no longer have the force of law.’.

“(b) EXPEDITED CONSIDERATION.—Any joint resolution submitted pursuant to this section should be considered by the Congress expeditiously. In particular, it shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Control Act of 1976.”.

<sup>20</sup> 31 U.S.C. 5311 note.

<sup>21</sup> Sec. 6202(f)(1) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3745) inserted a comma after “organizations engaged in”, and a comma after “credible evidence of engaging in”.

<sup>22</sup> Sec. 6202(f)(2)(A) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3746) struck out “and” after “nongovernmental organizations”.

<sup>23</sup> Sec. 6202(f)(2)(B) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3746) inserted a comma after “unwittingly involved in such finances”.

(A) require that each financial institution designate 1 or more persons to receive information concerning, and monitor accounts of,<sup>24</sup> individuals, entities, and organizations identified<sup>25</sup> pursuant to paragraph (1); and

(B) further establish procedures for the protection of the shared information, consistent with the capacity, size, and nature of the financial<sup>26</sup> institution to which the particular procedures apply.

(4) **RULE OF CONSTRUCTION.**—The receipt of information by a financial institution pursuant to this section shall not relieve or otherwise modify the obligations of the financial institution with respect to any other person or account.

(5) **USE OF INFORMATION.**—Information received by a financial institution pursuant to this section shall not be used for any purpose other than identifying and reporting on activities that may involve terrorist acts or money laundering activities.

(b) **COOPERATION AMONG FINANCIAL INSTITUTIONS.**—Upon notice provided to the Secretary, 2 or more financial institutions and any association of financial institutions may share information with one another regarding individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities. A financial institution or association that transmits, receives, or shares such information for the purposes of identifying and reporting activities that may involve terrorist acts or money laundering activities shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision thereof, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure, or any other person identified in the disclosure, except where such transmission, receipt, or sharing violates this section or regulations promulgated pursuant to this section.

(c) **RULE OF CONSTRUCTION.**—Compliance with the provisions of this title requiring or allowing financial institutions and any association of financial institutions to disclose or share information regarding individuals, entities, and organizations engaged in or suspected of engaging in terrorist acts or money laundering activities shall not constitute a violation of the provisions of title V of the Gramm-Leach-Bliley Act (Public Law 106-102).

(d) **REPORTS TO THE FINANCIAL SERVICES INDUSTRY ON SUSPICIOUS FINANCIAL ACTIVITIES.**—At least semiannually, the Secretary shall—

(1) publish a report containing a detailed analysis identifying patterns of suspicious activity and other investigative insights

<sup>24</sup>Sec. 6202(f)(3)(A) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3746) struck out “to monitor accounts of” and inserted in lieu thereof “monitor accounts of.”

<sup>25</sup>Sec. 6202(f)(3)(B) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3746) struck out a comma after “organizations identified”.

<sup>26</sup>Sec. 6202(f)(4) of the International Money Laundering Abatement and Financial Antiterrorism Technical Corrections Act of 2004 (subtitle C of title VI of Public Law 108-458; 118 Stat. 3746) inserted “financial” after “size, and nature of the”.

derived from suspicious activity reports and investigations conducted by Federal, State, and local law enforcement agencies to the extent appropriate; and

(2) distribute such report to financial institutions (as defined in section 5312 of title 31, United States Code).

\* \* \* \* \*

**SEC. 316. ANTI-TERRORIST FORFEITURE PROTECTION.**

(a)<sup>27</sup> **RIGHT TO CONTEST.**—An owner of property that is confiscated under any provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that—

(1) the property is not subject to confiscation under such provision of law; or

(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

(b)<sup>27</sup> **EVIDENCE.**—In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

(c)<sup>27</sup> **CLARIFICATIONS.**—

(1) **PROTECTION OF RIGHTS.**—The exclusion of certain provisions of Federal law from the definition of the term “civil forfeiture statute” in section 983(i) of title 18, United States Code, shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under—

(A) subsection (a) of this section;

(B) the Constitution; or

(C) subchapter II of chapter 5 of title 5, United States Code (commonly known as the “Administrative Procedure Act”).

(2) **SAVINGS CLAUSE.**—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 of title 18, United States Code, or any other provision of law.

(d) **TECHNICAL CORRECTION.**—Section 983(i)(2)(D) of title 18, United States Code, is amended by inserting “or the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.)” before the semicolon.

\* \* \* \* \*

**SEC. 328.<sup>28</sup> INTERNATIONAL COOPERATION ON IDENTIFICATION OF ORIGINATORS OF WIRE TRANSFERS.**

The Secretary shall—

(1) in consultation with the Attorney General and the Secretary of State, take all reasonable steps to encourage foreign

<sup>27</sup> 18 U.S.C. 983 note.

<sup>28</sup> 31 U.S.C. 5311 note.

governments to require the inclusion of the name of the originator in wire transfer instructions sent to the United States and other countries, with the information to remain with the transfer from its origination until the point of disbursement; and

(2) report annually to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on—

(A) progress toward the goal enumerated in paragraph (1), as well as impediments to implementation and an estimated compliance rate; and

(B) impediments to instituting a regime in which all appropriate identification, as defined by the Secretary, about wire transfer recipients shall be included with wire transfers from their point of origination until disbursement.

\* \* \* \* \*

**SEC. 330. INTERNATIONAL COOPERATION IN INVESTIGATIONS OF MONEY LAUNDERING, FINANCIAL CRIMES, AND THE FINANCES OF TERRORIST GROUPS.**

(a) **NEGOTIATIONS.**—It is the sense of the Congress that the President should direct the Secretary of State, the Attorney General, or the Secretary of the Treasury, as appropriate, and in consultation with the Board of Governors of the Federal Reserve System, to seek to enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business with United States financial institutions or which may be utilized by any foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act), any person who is a member or representative of any such organization, or any person engaged in money laundering or financial or other crimes.

(b) **PURPOSES OF NEGOTIATIONS.**—It is the sense of the Congress that, in carrying out any negotiations described in paragraph (1), the President should direct the Secretary of State, the Attorney General, or the Secretary of the Treasury, as appropriate, to seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, mutual legal assistance treaties, and international agreements to—

(1) ensure that foreign banks and other financial institutions maintain adequate records of transaction and account information relating to any foreign terrorist organization (as designated under section 219 of the Immigration and Nationality Act), any person who is a member or representative of any such organization, or any person engaged in money laundering or financial or other crimes; and

(2) establish a mechanism whereby such records may be made available to United States law enforcement officials and domestic financial institution supervisors, when appropriate.

**Subtitle B—Bank Secrecy Act Amendments and Related Improvements**

\* \* \* \* \*

**SEC. 360.<sup>29</sup> USE OF AUTHORITY OF UNITED STATES EXECUTIVE DIRECTORS.**

(a) ACTION BY THE PRESIDENT.—If the President determines that a particular foreign country has taken or has committed to take actions that contribute to efforts of the United States to respond to, deter, or prevent acts of international terrorism, the Secretary may, consistent with other applicable provisions of law, instruct the United States Executive Director of each international financial institution to use the voice and vote of the Executive Director to support any loan or other utilization of the funds of the<sup>30</sup> respective institutions for such country, or any public or private entity within such country.

(b) USE OF VOICE AND VOTE.—The Secretary may instruct the United States Executive Director of each international financial institution to aggressively use the voice and vote of the Executive Director to require an auditing of disbursements at such institution<sup>31</sup> to ensure that no funds are paid to persons who commit, threaten to commit, or support terrorism.

(c) DEFINITION.—For purposes of this section, the term “international financial institution” means an institution described in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

\* \* \* \* \*

**Subtitle C—Currency Crimes and Protection**

\* \* \* \* \*

**TITLE IV—PROTECTING THE BORDER**

**Subtitle A—Protecting the Northern Border**

\* \* \* \* \*

**SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND THE INS TO CERTAIN IDENTIFYING INFORMATION IN THE CRIMINAL HISTORY RECORDS OF VISA APPLICANTS AND APPLICANTS FOR ADMISSION TO THE UNITED STATES.**

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended—\* \* \*

(b) REPORTING REQUIREMENT.—\* \* \*

(c)<sup>32</sup> TECHNOLOGY STANDARD TO CONFIRM IDENTITY.—

(1) IN GENERAL.—The Attorney General and the Secretary of State jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies the Attorney General or Secretary of State deems appropriate and in consultation with Congress, shall

<sup>29</sup>22 U.S.C. 262p-4r.  
<sup>30</sup>Sec. 6202(l)(1) of Public Law 108-458 (118 Stat. 3746) inserted “the” after “utilization of the funds of”.  
<sup>31</sup>Sec. 6202(l)(2) of Public Law 108-458 (118 Stat. 3746) struck out “at such institutions” and inserted in lieu thereof “at such institution”.  
<sup>32</sup>8 U.S.C. 1379.

within 15 months<sup>33</sup> after the date of the enactment of this section, develop and certify a technology standard, including appropriate biometric identifier standards,<sup>34</sup> that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name or such person seeking to enter the United States pursuant to a visa.

(2)<sup>35</sup> INTEROPERABLE.—The technology standard developed pursuant to paragraph (1), shall be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully interoperable<sup>36</sup> means to share law enforcement and intelligence information necessary to confirm the identity of such persons applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(3) ACCESSIBLE.—The electronic system described in paragraph (2), once implemented, shall be readily and easily accessible to—

(A) all consular officers responsible for the issuance of visas;

(B) all Federal inspection agents at all United States border inspection points; and

(C) all law enforcement and intelligence officers as determined by regulation to be responsible for investigation or identification of aliens admitted to the United States pursuant to a visa.

(4) REPORT.—Not later than one year<sup>37</sup> after the date of the enactment of this Act, and every 2 years thereafter, the Attorney General and the Secretary of State shall jointly, in consultation with the Secretary of Treasury, report to Congress describing the development, implementation, efficacy, and privacy implications of the technology standard and electronic database system described in this subsection.

(5) FUNDING.—There is authorized to be appropriated to the Secretary of State, the Attorney General, and the Director of the National Institute of Standards and Technology such sums as may be necessary to carry out the provisions of this subsection.

<sup>33</sup> Sec. 201(c)(5)(A) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 548) struck out “2 years” and inserted in lieu thereof “15 months”.

<sup>34</sup> Sec. 202(a)(4)(B)(i) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 549) inserted “, including appropriate biometric identifier standards,” after “technology standard”.

<sup>35</sup> Sec. 202(a)(4)(B)(ii)(I) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 549) struck out “INTEGRATED” and inserted in lieu thereof “INTEROPERABLE”.

<sup>36</sup> Sec. 202(a)(4)(B)(ii)(II) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 549) struck out “integrated” and inserted in lieu thereof “interoperable”.

<sup>37</sup> Sec. 201(c)(5)(B) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 548) struck out “18 months” and inserted in lieu thereof “one year”.



(d)<sup>38</sup> **STATUTORY CONSTRUCTION.**—Nothing in this section, or in any other law, shall be construed to limit the authority of the Attorney General or the Director of the Federal Bureau of Investigation to provide access to the criminal history record information contained in the National Crime Information Center's (NCIC) Interstate Identification Index (NCIC-III), or to any other information maintained by the NCIC, to any Federal agency or officer authorized to enforce or administer the immigration laws of the United States, for the purpose of such enforcement or administration, upon terms that are consistent with the National Crime Prevention and Privacy Compact Act of 1998 (subtitle A of title II of Public Law 105-251; 42 U.S.C. 14611-16) and section 552a of title 5, United States Code.

\* \* \* \* \*

**SEC. 405.<sup>39</sup> REPORT ON THE INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM FOR PORTS OF ENTRY AND OVERSEAS CONSULAR POSTS.**

(a) **IN GENERAL.**—The Attorney General, in consultation with the appropriate heads of other Federal agencies, including the Secretary of State, Secretary of the Treasury, and the Secretary of Transportation, shall report to Congress on the feasibility of enhancing the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation and other identification systems in order to better identify a person who holds a foreign passport or a visa and may be wanted in connection with a criminal investigation in the United States or abroad, before the issuance of a visa to that person or the entry or exit from the United States by that person.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated not less than \$2,000,000 to carry out this section.

**Subtitle B—Enhanced Immigration Provisions**

\* \* \* \* \*

**SEC. 414.<sup>40</sup> VISA INTEGRITY AND SECURITY.**

(a) **SENSE OF CONGRESS REGARDING THE NEED TO EXPEDITE IMPLEMENTATION OF INTEGRATED ENTRY AND EXIT DATA SYSTEM.**—

(1) **SENSE OF CONGRESS.**—In light of the terrorist attacks perpetrated against the United States on September 11, 2001, it is the sense of the Congress that—

(A) the Attorney General, in consultation with the Secretary of State, should fully implement the integrated entry and exit data system for airports, seaports, and land border ports of entry, as specified in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), with all deliberate speed and as expeditiously as practicable; and

(B) the Attorney General, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of the Treasury, and the Office of Homeland Security,

<sup>38</sup> 8 U.S.C. 1105 note.

<sup>39</sup> 8 U.S.C. 1379 note.

<sup>40</sup> 8 U.S.C. 1365a note.

should immediately begin establishing the Integrated Entry and Exit Data System Task Force, as described in section 3 of the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106-215).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to fully implement the system described in paragraph (1)(A).

(b) DEVELOPMENT OF THE SYSTEM.—In the development of the integrated entry and exit data system under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), the Attorney General and the Secretary of State shall particularly focus on—

(1) the utilization of biometric technology; and

(2) the development of tamper-resistant documents readable at ports of entry.

(c) INTERFACE WITH LAW ENFORCEMENT DATABASES.—The entry and exit data system described in this section shall be able to interface with law enforcement databases for use by Federal law enforcement to identify and detain individuals who pose a threat to the national security of the United States.

(d)<sup>41</sup> \* \* \* [Repealed—2002]

\* \* \* \* \*

#### SEC. 416. FOREIGN STUDENT MONITORING PROGRAM.

(a)<sup>42</sup> FULL IMPLEMENTATION AND EXPANSION OF FOREIGN STUDENT VISA MONITORING PROGRAM REQUIRED.—The Attorney General, in consultation with the Secretary of State, shall fully implement and expand the program established by section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).

(b)<sup>42</sup> INTEGRATION WITH PORT OF ENTRY INFORMATION.—For each alien with respect to whom information is collected under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), the Attorney General, in consultation with the Secretary of State, shall include information on the date of entry and port of entry.

(c) EXPANSION OF SYSTEM TO INCLUDE OTHER APPROVED EDUCATIONAL INSTITUTIONS.—Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.1372) is amended—\* \* \*

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Justice \$36,800,000 for the period beginning on the date of enactment of this Act and ending on January 1, 2003, to fully implement and expand prior to January 1, 2003, the program established by section 641(a) of the Illegal

<sup>41</sup> Sec. 201(b)(2) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 116 Stat. 547) repealed subsec. (d). It had read as follows:

“(d) REPORT ON SCREENING INFORMATION.—Not later than 12 months after the date of enactment of this Act, the Office of Homeland Security shall submit a report to Congress on the information that is needed from any United States agency to effectively screen visa applicants and applicants for admission to the United States to identify those affiliated with terrorist organizations or those that pose any threat to the safety or security of the United States, including the type of information currently received by United States agencies and the regularity with which such information is transmitted to the Secretary of State and the Attorney General.”

<sup>42</sup> 8 U.S.C. 1372 note.

Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).

**SEC. 417. MACHINE READABLE PASSPORTS.**

(a)<sup>43</sup> AUDITS.—The Secretary of State shall, each fiscal year until September 30, 2007—

(1) perform annual audits of the implementation of section 217(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(B));

(2) check for the implementation of precautionary measures to prevent the counterfeiting and theft of passports; and

(3) ascertain that countries designated under the visa waiver program have established a program to develop tamper-resistant passports.

(b)<sup>43</sup> PERIODIC REPORTS.—Beginning one year after the date of enactment of this Act, and every year thereafter until 2007, the Secretary of State shall submit a report to Congress setting forth the findings of the most recent audit conducted under subsection (a)(1).

(c) ADVANCING DEADLINE FOR SATISFACTION OF REQUIREMENT.—Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended \* \* \*

(d) WAIVER.—Section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is amended—\* \* \*

**SEC. 418.<sup>44</sup> PREVENTION OF CONSULATE SHOPPING.**

(a) REVIEW.—The Secretary of State shall review how consular officers issue visas to determine if consular shopping is a problem.

(b) ACTIONS TO BE TAKEN.—If the Secretary of State determines under subsection (a) that consular shopping is a problem, the Secretary shall take steps to address the problem and shall submit a report to Congress describing what action was taken.

**Subtitle C—Preservation of Immigration Benefits for Victims of Terrorism**

\* \* \* \* \*

**TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM**

\* \* \* \* \*

**SEC. 502. SECRETARY OF STATE'S AUTHORITY TO PAY REWARDS.**

Section 36 of the State Department Basic Authorities Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C. 2708) is amended—  
\* \* \*<sup>45</sup>

\* \* \* \* \*

**TITLE X—MISCELLANEOUS**

\* \* \* \* \*

<sup>43</sup> 8 U.S.C. 1187 note.

<sup>44</sup> 8 U.S.C. 1201 note.

<sup>45</sup> For amended text, see page 38.

**SEC. 1008. FEASIBILITY STUDY ON USE OF BIOMETRIC IDENTIFIER SCANNING SYSTEM WITH ACCESS TO THE FBI INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM AT OVERSEAS CONSULAR POSTS AND POINTS OF ENTRY TO THE UNITED STATES.**

(a) **IN GENERAL.**—The Attorney General, in consultation with the Secretary of State and the Secretary of Transportation, shall conduct a study on the feasibility of utilizing a biometric identifier (fingerprint) scanning system, with access to the database of the Federal Bureau of Investigation Integrated Automated Fingerprint Identification System, at consular offices abroad and at points of entry into the United States to enhance the ability of State Department and immigration officials to identify aliens who may be wanted in connection with criminal or terrorist investigations in the United States or abroad prior to the issuance of visas or entry into the United States.

(b) **REPORT TO CONGRESS.**—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit a report summarizing the findings of the study authorized under subsection (a) to the Committee on International Relations and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

\* \* \* \* \*

### e. Condemnation of Terrorist Attacks

**Public Law 107-39 [S.J. Res. 22], 115 Stat. 222, approved September 18, 2001**

JOINT RESOLUTION Expressing the sense of the Senate and House of Representatives regarding the terrorist attacks launched against the United States on September 11, 2001.

Whereas on September 11, 2001, terrorists hijacked and destroyed four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York City, and a third into the Pentagon outside Washington, D.C.;

Whereas thousands of innocent Americans were killed and injured as a result of these attacks, including the passengers and crew of the four aircraft, workers in the World Trade Center and in the Pentagon, rescue workers, and bystanders;

Whereas these attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon; and

Whereas these attacks were by far the deadliest terrorist attacks ever launched against the United States, and, by targeting symbols of American strength and success, clearly were intended to intimidate our Nation and weaken its resolve: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—*

(1) condemns in the strongest possible terms the terrorists who planned and carried out the September 11, 2001, attacks against the United States, as well as their sponsors;

(2) extends its deepest condolences to the victims of these heinous and cowardly attacks, as well as to their families, friends, and loved ones;

(3) is certain that the people of the United States will stand united as our Nation begins the process of recovering and rebuilding in the aftermath of these tragic acts;

(4) commends the heroic actions of the rescue workers, volunteers, and State and local officials who responded to these tragic events with courage, determination, and skill;

(5) declares that these premeditated attacks struck not only at the people of America, but also at the symbols and structures of our economic and military strength, and that the United States is entitled to respond under international law;

(6) thanks those foreign leaders and individuals who have expressed solidarity with the United States in the aftermath of the attacks, and asks them to continue to stand with the United States in the war against international terrorism;

(7) commits to support increased resources in the war to eradicate terrorism;

(8) supports the determination of the President, in close consultation with Congress, to bring to justice and punish the perpetrators of these attacks as well as their sponsors; and

(9) declares that September 12, 2001, shall be a National Day of Unity and Mourning, and that when Congress adjourns today, it stands adjourned out of respect to the victims of the terrorist attacks.

**f. Omnibus Diplomatic Security and Antiterrorism Act of 1986**

Partial text of Public Law 99-399 [H.R. 4151], 100 Stat. 853, approved August 27, 1986, as amended by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100-202 [Continuing Appropriations Act, 1988; H.J. Res. 395], 101 Stat. 1329, approved December 22, 1987; Public Law 100-461 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; H.R. 4637], 102 Stat. 2268, approved October 1, 1988; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; H.R. 3194], 113 Stat. 1536, approved November 29, 1999; Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and Public Law 109-140 [H.R. 4436], 119 Stat. 2650, approved December 22, 2005

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*<sup>1</sup>

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Omnibus Diplomatic Security and Antiterrorism Act of 1986”.

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**TITLE I—DIPLOMATIC SECURITY**

**SEC. 101. SHORT TITLE.**

Titles I through IV of this Act may be cited as the "Diplomatic Security Act".

**SEC. 102.<sup>2</sup> FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) **PURPOSES.**—The purposes of titles I through IV are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2)<sup>3</sup> to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(3)<sup>3</sup> to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities;<sup>4</sup>

(4)<sup>3,4</sup> to set forth the responsibility of the Secretary of State with respect to the safe and efficient evacuation of United States Government personnel, their dependents, and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster; and

(5)<sup>3,4</sup> to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

**SEC. 103.<sup>5</sup> RESPONSIBILITY OF THE SECRETARY OF STATE**

(a) **SECURITY FUNCTIONS.**—(1)<sup>6</sup> The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a

<sup>2</sup>22 U.S.C. 4801.

<sup>3</sup>Sec. 162(g)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 406), struck out para. (2) and redesignated paras. (3) through (6) as paras. (2) through (5), respectively. Para. (2) had provided:

“(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;”.

<sup>4</sup>Sec. 115(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 2), struck out “and” at the end of para. (4); redesignated para. (5) as para. (6); and added a new para. (5). Paras. (5) and (6) were subsequently redesignated as paras. (4) and (5); see also above note.

<sup>5</sup>22 U.S.C. 4802.

<sup>6</sup>Sec. 162(g)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 406), inserted para. (1), redesignated former paras. (1) through (4) as subparas. (A) through (D), and added new para. (2).

diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(A)<sup>6</sup> protection of all United States Government personnel on official duty abroad (other than Voice of America correspondents on official assignment and<sup>7</sup> those personnel under the command of a United States area military commander) and their accompanying dependents;

(B)<sup>6</sup> establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(C)<sup>6</sup> establishment and operation of security functions at all Department of State facilities in the United States; and

(D)<sup>6</sup> protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(2)<sup>6,8</sup> Security responsibilities shall include the following:

(A) FORMER OFFICE OF SECURITY FUNCTIONS.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

(B) SECURITY AND PROTECTIVE OPERATIONS.—

(i) Establishment and operation<sup>9</sup> of post security and protective functions abroad.

(ii) Development and implementation of communications, computer, and information security.

(iii) Emergency planning.

(iv) Establishment and operation of local guard services abroad.

(v) Supervision of the United States Marine Corps security guard program.

(vi) Liaison with American overseas private sector security interests.

(vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.

(viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

(ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.

(x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

<sup>7</sup>Sec. 505(a) of Public Law 107-228 (116 Stat. 1393) inserted “Voice of America correspondents on official assignment and” after “other than”.

<sup>8</sup>The Secretary of State delegated functions authorized under this subsec. to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>9</sup>Sec. 1(f)(4)(A)(i) of Public Law 103-415 (108 Stat. 4300) struck out “operations” and inserted in lieu thereof “operation”.

- (xi) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956.
- (xii) Performance of other security, investigative, and protective matters as authorized by law.
- (C) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.
- (D) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.
- (E) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.
- (F) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.
- (G) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).
- (b)<sup>10</sup> OVERSEAS EVACUATIONS.—The Secretary of State shall develop and implement policies and programs to provide for the safe and efficient evacuation of United States Government personnel, dependents, and private United States citizens when their lives are endangered. Such policies shall include measures to identify high risk areas where evacuation may be necessary and, where appropriate, providing staff to United States Government missions abroad to assist in those evacuations. In carrying out these responsibilities, the Secretary shall—
- (1) develop a model contingency plan for evacuation of personnel, dependents, and United States citizens from foreign countries;
  - (2) develop a mechanism whereby United States citizens can voluntarily request to be placed on a list in order to be contacted in the event of an evacuation, or which, in the event of an evacuation, can maintain information on the location of United States citizens in high risk areas submitted by their relatives;
  - (3) assess the transportation and communications resources in the area being evacuated and determine the logistic support needed for the evacuation; and
  - (4) develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of United States citizens abroad regarding the whereabouts of those citizens.

<sup>10</sup>Sec. 115(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 22), redesignated subsecs. (b) and (c) as subsecs. (c) and (d), respectively, and added a new subsec. (b).

(c)<sup>10</sup> OVERSIGHT OF POSTS ABROAD.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander);

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander or regional inspector general offices under the jurisdiction of the Inspector General, Agency for International Development).<sup>11</sup>

(d)<sup>10</sup> FEDERAL AGENCY.—As used in this title and title III, the term “Federal agency” includes any department or agency of the United States Government.

SEC. 104.<sup>12</sup> \* \* \* [Repealed—1994]

SEC. 105.<sup>13</sup> \* \* \* [Repealed—1994]

**SEC. 106.<sup>14</sup> COOPERATION OF OTHER FEDERAL AGENCIES.**

(a) ASSISTANCE.—In order to facilitate fulfillment of the responsibilities described in section 103(a), other Federal agencies shall cooperate (through agreements) to the maximum extent possible with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary’s authority as set forth in section 103(a). The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

(b) OTHER AGENCIES.—Nothing contained in titles I through IV shall be construed to limit or impair the authority or responsibility

<sup>11</sup>Sec. 201 of The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461; 102 Stat. 2268), inserted “or regional inspector general offices under the jurisdiction of the Inspector General, Agency for International Development” after “commander”, and struck out para. (3), which had been added by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988. Para. (3) formerly read as follows:

“(3) establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided*, That the authority of the Secretary of State shall be exercised only by the Secretary and shall not be delegated to a subordinate officer of the Department of State: *Provided further*, That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further*, That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the Inspector General within the limitation of the appropriations level provided.”

<sup>12</sup>Formerly at 22 U.S.C. 4803. Sec. 162(g)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), repealed sec. 104, which established the Bureau of Diplomatic Security, overseen by the Assistant Secretary for Diplomatic Security.

<sup>13</sup>Formerly at 22 U.S.C. 4804. Sec. 162(g)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), repealed sec. 105, which stated the responsibilities of the Assistant Secretary for Diplomatic Security.

<sup>14</sup>22 U.S.C. 4805.

of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease (to such extent or in cash amounts as are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department of State to accommodate the personnel required to carry out this title. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

**SEC. 107.<sup>15</sup> PROTECTION OF FOREIGN CONSULATES.**

The Secretary of State shall take into account security considerations<sup>16</sup> in making determinations with respect to accreditation of all foreign consular personnel in the United States.

TITLE II—PERSONNEL<sup>17</sup>

**SEC. 201.<sup>18</sup> DIPLOMATIC SECURITY SERVICE.**

The Secretary of State may establish a Diplomatic Security Service, which shall perform such functions as the Secretary may determine.

**SEC. 202.<sup>19</sup> DIRECTOR OF DIPLOMATIC SECURITY SERVICE.**

Any such<sup>20</sup> Diplomatic Security Service should<sup>20</sup> be headed by a Director designated by the Secretary of State. The Director should be a career member of the Senior Foreign Service or the Senior Executive Service and shall be qualified for the position by virtue of demonstrated ability in the areas of security, law enforcement, management, and public administration. Experience in management or operations abroad should<sup>20</sup> be considered an affirmative factor in the selection of the Director.

**SEC. 203.<sup>21</sup> SPECIAL AGENTS.**

Special agent positions<sup>22</sup> shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5, United States Code. In filling such positions, the

<sup>15</sup> 22 U.S.C. 4806. The Secretary of State delegated functions authorized under sec. 107 to the Chief of Protocol (Department of State Public Notice 2086; sec. 15 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>16</sup> Sec. 162(g)(5) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security" and inserted in lieu thereof "The Secretary of State shall take into account security considerations".

<sup>17</sup> Sec. 162(g)(6) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "DIPLOMATIC SECURITY SERVICE" and inserted in lieu thereof "PERSONNEL".

<sup>18</sup> 22 U.S.C. 4821. Sec. 162(g)(7) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), amended and restated sec. 201.

<sup>19</sup> 22 U.S.C. 4822.

<sup>20</sup> Sec. 162(g)(8)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "The" and inserted in lieu thereof "Any such" in the first sentence of sec. 202. Sec. 162(g)(8)(B) of that Act struck out "shall" in the first, third, and fourth sentences and inserted in lieu thereof "should". Sec. 162(g)(8)(C) of that Act subsequently struck out the last [fourth] sentence, which had provided that: "The Director should act under the supervision and direction of the Assistant Secretary for Diplomatic Security."

<sup>21</sup> 22 U.S.C. 4823. Sec. 162(g)(9)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), amended and restated the sec. catchline, which formerly read "POSITIONS IN THE DIPLOMATIC SECURITY SERVICE."

<sup>22</sup> Sec. 162(g)(9)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "Positions in the Diplomatic Security Service" and inserted in lieu thereof "Special agent positions".

Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. The<sup>23</sup> qualifications may include minimum and maximum entry age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities, as are available by law to special agents of the Department of State and the Foreign Service.

**SEC. 206.<sup>24</sup> CONTRACTING AUTHORITY.**

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

**TITLE III—PERFORMANCE AND ACCOUNTABILITY**

**SEC. 301.<sup>25</sup> ACCOUNTABILITY REVIEW BOARDS.**

**(a) IN GENERAL.—**

<sup>23</sup> Sec. 162(g)(9)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “In the case of positions designated for special agents, the” and inserted in lieu thereof “The”.

<sup>24</sup> 22 U.S.C. 4824. Added by sec. 104 of division C of Public Law 105-277 (112 Stat. 2681-586). As enacted; no sec. 204 or sec. 205.

<sup>25</sup> 22 U.S.C. 4831. Sec. 608 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-458), amended and restated sec. 301. It formerly read, as previously amended, as follows:

**“SEC. 301. ACCOUNTABILITY REVIEW.**

“In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereafter in this title referred to as the “Board”). With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board. The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.”

Sec. 140(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 399; 8 U.S.C. 1182 note), as amended, provides the following:

**“(c) PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.—**

“(1)(A) Beginning 24 months after the date of the enactment of this Act, whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the Automated Visa Lookout System, or any other

Continued

(1) CONVENING A BOARD.—Except as provided in paragraphs (2) and (3),<sup>26</sup> in any case of serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (in this title referred to as the “Board”). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

(2) DEPARTMENT OF DEFENSE FACILITIES AND PERSONNEL.—The Secretary of State is not required to convene a Board in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 106 of this Act. In any such case, the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with

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system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, has been made and that there is no basis under such system for the exclusion of such alien.

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

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

The Secretary of State convened an Accountability Review Board in each of the following instances:

—September 2005 attacks on two official motorcades in Iraq resulting in the deaths of Diplomatic Security Special Agent Stephen Sullivan and seven security contractors (Department of State Public Notice 5240; 70 F.R. 73056; December 1, 2005);

—January 29, 2005, rocket attack on U.S. Embassy, Baghdad, Iraq, which caused the deaths of LCDR Keith Taylor, USN, and Barbara Heald, embassy staff (Department of State Public Notice 5083; 70 F.R. 28593; May 10, 2005);

—December 6, 2004, attack on the U.S. Consulate in Jeddah, Saudi Arabia (Department of State Public Notice 5015; 70 F.R. 12264; March 4, 2005);

—November 24, 2004 murder of James C. Mollen, employee of U.S. Embassy, Baghdad, Iraq (Department of State Public Notice 5008; 70 F.R. 11042; February 28, 2005);

—October 28, 2002 murder of Laurence Foley of the Agency for International Development in Amman, Jordan (Department of State Public Notice 4250; 68 F.R. 3926; January 6, 2003);

—August 7, 1998 bomb attacks on the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania (Department of State Public Notice 2905; 63 F.R. 58807; October 13, 1998);

—November 13, 1995, car-bomb attack on the headquarters of the Office of Program Manager, Saudi Arabian National Guard in Riyadh, Saudi Arabia (Department of State Public Notice 2349; 61 F.R. 8322; February 22, 1996);

—March 8, 1995, terrorist attack on the Consulate shuttle bus in Karachi, Pakistan (Department of State Public Notice 2191; 60 F.R. 21020; April 28, 1995); and

—April 1992 explosion at the U.S. ambassador’s residence in Lima, Peru (Department of State Public Notice 1587; April 15, 1992; 57 F.R. 14744).

<sup>26</sup>Sec. 3(1) of Public Law 109-140 (119 Stat. 2650) struck out “paragraph (2)” and inserted in lieu thereof “paragraphs (2) and (3)”.



respect to such recommendations, to the Secretary of State and Congress.

(3)<sup>27</sup> FACILITIES IN AFGHANISTAN AND IRAQ.—

(A) LIMITED EXEMPTIONS FROM REQUIREMENT TO CONVENE BOARD.—The Secretary of State is not required to convene a Board in the case of an incident that—

(i) involves serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission in Afghanistan or Iraq; and

(ii) occurs during the period beginning on October 1, 2005, and ending on September 30, 2009.

(B) REPORTING REQUIREMENTS.—In the case of an incident described in subparagraph (A), the Secretary shall—

(i) promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of the incident;

(ii) conduct an inquiry of the incident; and

(iii) upon completion of the inquiry required by clause (ii), submit to each such Committee a report on the findings and recommendations related to such inquiry and the actions taken with respect to such recommendations.

(b) DEADLINES FOR CONVENING BOARDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of State shall convene a Board not later than 60 days after the occurrence of an incident described in subsection (a)(1), except that such 60-day period may be extended for one additional 60-day period if the Secretary determines that the additional period is necessary for the convening of the Board.

(2) DELAY IN CASES INVOLVING INTELLIGENCE ACTIVITIES.—With respect to breaches of security involving intelligence activities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that the establishment of a Board would compromise intelligence sources or methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

(c) NOTIFICATION TO CONGRESS.—Whenever the Secretary of State convenes a Board, the Secretary shall promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives—

(1) that a Board has been convened;

(2) of the membership of the Board; and

(3) of other appropriate information about the Board.

<sup>27</sup>Sec. 3(2) of Public Law 109-140 (119 Stat. 2650) added para. (3).

**SEC. 302.<sup>28</sup> ACCOUNTABILITY REVIEW BOARD.**

(a) **MEMBERSHIP.**—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) **FACILITIES, SERVICES, SUPPLIES, AND STAFF.**—

(1) **SUPPLIED BY DEPARTMENT OF STATE.**—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code or other applicable law.

(2) **DETAIL.**—At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

(3) **EXPERTS AND CONSULTANTS.**—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

**SEC. 303.<sup>29</sup> PROCEDURES.**

(a) **EVIDENCE.**—

(1) **UNITED STATES GOVERNMENT PERSONNEL AND CONTRACTORS.**—

(A) With respect to any individual described in subparagraph (B), a Board may—

- (i) administer oaths and affirmations;
- (ii) require that depositions be given and interrogatories answered; and
- (iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

- (i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);
- (ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;

<sup>28</sup> 22 U.S.C. 4832.

<sup>29</sup> 22 U.S.C. 4833.

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) OTHER PERSONS.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) SUBPOENAS.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy of refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5, United States Code (relating to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 304(c) to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

(d) STATUS OF BOARDS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

**SEC. 304.<sup>30</sup> FINDINGS AND RECOMMENDATIONS BY A BOARD.**

(a) FINDINGS.—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)<sup>31</sup> and shall make written findings determining—

- (1) the extent to which the incident or incidents with respect to which the Board was convened was security related;
- (2) whether the security systems and security procedures at that mission were adequate;
- (3) whether the security systems and security procedures were properly implemented;
- (4) the impact of intelligence and information availability; and
- (5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

(b) PROGRAM RECOMMENDATIONS.—A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

(c) PERSONNEL RECOMMENDATIONS.—Whenever a Board finds reasonable cause to believe that an individual described in section 303(a)(1)(B) has breached the duty of that individual, the Board shall—

- (1) notify the individual concerned,
- (2) transmit the finding of reasonable cause, together with all information relevant to such finding, to the head of the appropriate Federal agency or instrumentality, and
- (3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has breached a duty of that individual, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent to the performance of the duties of that individual.

(d) REPORTS.—

- (1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90

<sup>30</sup> 22 U.S.C. 4834.

<sup>31</sup> Sec. 156(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1354) inserted “or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)”.

days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality, to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

**SEC. 305.<sup>32</sup> RELATION TO OTHER PROCEEDINGS.**

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

**TITLE IV—DIPLOMATIC SECURITY PROGRAM**

**SEC. 401.<sup>33</sup> AUTHORIZATION.**

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated for fiscal years 1986 and 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year for "Administration of Foreign Affairs," as follows:

(A) For "Salaries and Expenses," \$308,104,000.

(B) For "Acquisition and Maintenance of Buildings Abroad," \$857,806,000.

(C) For "Counterterrorism Research and Development," \$15,000,000.

(2) ANTITERRORISM ASSISTANCE.—\* \* \*

(3)<sup>34</sup> \* \* \* [Repealed—1995]

<sup>32</sup> 22 U.S.C. 4835.

<sup>33</sup> 22 U.S.C. 4851. Sec. 302 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2207; 22 U.S.C. 4851 note), provided the following:

"The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month."

<sup>34</sup> Sec. 101(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 388), repealed para. (3), effective October 1, 1995. It had read, as amended, as follows:

"(3) CAPITAL CONSTRUCTION, FISCAL YEARS 1988 THROUGH 1990.—There is authorized to be appropriated for the Department of State for "Acquisition and Maintenance of Buildings Abroad" for each of the fiscal years 1988 through 1990, \$417,962,000 to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental

(4) ALLOCATION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED.—Amounts authorized to be appropriated by this subsection, and by the amendment made by paragraph (2), shall be allocated as provided in the table entitled “Diplomatic Security Program” relating to this section which appears in the Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986).

(b) NOTIFICATION TO AUTHORIZING COMMITTEES OF REQUESTS FOR APPROPRIATIONS.—In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations to carry out the program described in subsection (a), the Secretary shall notify the Committee on Foreign Affairs<sup>35</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate of such request, together with a justification of each item listed in such request.

(c)<sup>36</sup> \* \* \* [Repealed—1994]

(d) PROHIBITION ON REALLOCATIONS OF AUTHORIZATIONS.—Section 24(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2692(d)) shall not apply with respect to any amounts authorized to be appropriated under this section.

(e) SECURITY REQUIREMENTS OF OTHER FOREIGN AFFAIRS AGENCIES.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(f) INSUFFICIENCY OF FUNDS.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State’s Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

(g) ALLOCATION OF FUNDS FOR CERTAIN SECURITY PROGRAMS.—Of the amount of funds authorized to be appropriated by subsection (a)(1)(A), \$34,537,000 shall be available to the Secretary of State only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

(h) FURNITURE, FURNISHINGS, AND EQUIPMENT.—

(1) USE OF EXISTING FURNITURE, FURNISHINGS, AND EQUIPMENT.—If physically possible, facilities constructed or acquired pursuant to subsection (a) shall be furnished and equipped

Diplomatic Security Program. Authorizations of appropriations under this paragraph shall remain available until the appropriations are made.”

<sup>35</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>36</sup>Sec. 122(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), repealed subsec. (c). Subsec. (c) formerly read as follows:

“(c) REPROGRAMMING TREATMENT.—Amounts made available for capital projects pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.”

with the furniture, furnishings, and equipment that were being used in the facilities being replaced, rather than with newly acquired furniture, furnishings, and equipment.

(2)<sup>37</sup> \* \* \*

(3)<sup>37</sup> \* \* \* [Repealed—1994]

**SEC. 402.<sup>38</sup> DIPLOMATIC CONSTRUCTION PROGRAM.**

(a)<sup>39</sup> PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may—

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding \$10,000,000;<sup>40</sup> and

(2)<sup>41</sup> bid on a diplomatic construction or design project which involves technical security, unless the project involves low-level technology, as determined by the Secretary of State.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs<sup>42</sup> and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the “Foreign Missions Act”).

(c) DEFINITIONS.—For the purposes of this section—

<sup>37</sup> Para. (2) amended sec. 9 of the Foreign Service Buildings Act of 1926. Sec. 122(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 392), repealed para. (3), which read as follows:

“(3) REPROGRAMMING TREATMENT.—Amounts made available for furniture, furnishings, and equipment pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.”.

<sup>38</sup> 22 U.S.C. 4852.

<sup>39</sup> Sec. 125 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 27) provided that “Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852(a)) shall not apply to the construction or renovation of the United States Embassy in Ottawa, Canada.”.

<sup>40</sup> Sec. 131(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 662), struck out “\$5,000,000” and inserted in lieu thereof “\$10,000,000”.

<sup>41</sup> Sec. 131(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 662), amended and restated para. (2). It had previously been rewritten by sec. 132 of Public Law 101-246 (104 Stat. 32). Subsequently, sec. 162(g)(10) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “Assistant Secretary for Diplomatic Security” and inserted in lieu thereof “Secretary of State” at the close of the sentence.

The Secretary of State delegated functions authorized under this subsection to the Assistant Secretary for Diplomatic Security (Department of State Public Notice 2086; sec. 8 of Delegation of Authority No. 214; 59 F.R. 50790).

<sup>42</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(1) the term “adequate competition” means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term “United States person” means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States or at a United States diplomatic or consular establishment abroad<sup>43</sup> administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United State citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

(3) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for

<sup>43</sup>Sec. 206(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1364), inserted “or at a United States diplomatic or consular establishment abroad” after “United States”.



diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) **LIMITATION ON SUBCONTRACTING.**—With respect to a diplomatic construction project, a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

**SEC. 403.<sup>44</sup> SECURITY REQUIREMENTS FOR CONTRACTORS.**

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen the security procedures applicable to contractors and subcontractors involved in any way with any diplomatic construction or design project; and

(2) permit a contractor or subcontractor to have access to any design or blueprint relating to such a project only in accordance with those procedures.

**SEC. 404.<sup>45</sup> QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.**

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

**SEC. 405.<sup>46</sup> COST OVERRUNS.**

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project pursuant to section 401(a) (1) or (3) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

**SEC. 406.<sup>47</sup> EFFICIENCY IN CONTRACTING.**

(a) **BONUSES AND PENALTIES.**—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the Director shall submit a report to the Congress on the implementation of this section.

(b) **SURETY BONDS AND GUARANTEES.**—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

<sup>44</sup> 22 U.S.C. 4853.

<sup>45</sup> 22 U.S.C. 4854.

<sup>46</sup> 22 U.S.C. 4855.

<sup>47</sup> 22 U.S.C. 4856.

(c) **DISQUALIFICATION OF CONTRACTORS.**—No person doing business with Libya may be eligible for any contract awarded pursuant to this Act.

**SEC. 407.<sup>48</sup> ADVISORY PANEL ON OVERSEAS SECURITY.**

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on the implementation of the 91 recommendations contained in the final report of the Advisory Panel on Overseas Security. If any such recommendation has been rejected, the Secretary shall provide the reasons why that recommendation was rejected.

**SEC. 408.<sup>49</sup> TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.**

(a) **TRAINING.**—It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

(b) \* \* \* [Repealed—1994]

**SEC. 409.<sup>50</sup> PROTECTION OF PUBLIC ENTRANCES OF UNITED STATES DIPLOMATIC MISSIONS ABROAD.**

The Secretary of State shall install and maintain a walk-through metal detector or other advanced screening system at public entrances of each United States diplomatic mission abroad.

**SEC. 410. CERTAIN PROTECTIVE FUNCTIONS.**

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: “In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.”

**SEC. 411.<sup>51</sup> REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY.**

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state during fiscal years 1986 and 1987.

**SEC. 412. INSPECTOR GENERAL FOR THE UNITED STATES INFORMATION AGENCY.**

(a) \* \* \*

(b) **EARMARK.**—Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than \$3,000,000 shall be available only for the operation of the office of the Inspector General established by the amendment made by subsection (a).

<sup>48</sup> 22 U.S.C. 4857.

<sup>49</sup> 22 U.S.C. 4858. Sec. 139(20) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed subsec. (b) of this section, which had required that the President report annually “on the progress and problems of improving perimeter security of United States diplomatic missions abroad.”

<sup>50</sup> 22 U.S.C. 4859.

<sup>51</sup> 22 U.S.C. 4860.

(c) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

“Inspector General, United States Information Agency.”.

**SEC. 413.<sup>52</sup> INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.**

(a) DIRECTION TO ESTABLISH.—The Congress directs the Secretary of State to proceed immediately to establish an Office of Inspector General of the Department of State not later than October 1, 1986. Not later than January 31, 1987, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>53</sup> of the House of Representatives on the progress of establishing that office. Such report shall include an accounting of the obligation of funds for fiscal year 1987 for that office.

(b) DUTIES AND RESPONSIBILITIES.—The Inspector General of the Department of State (as established by the amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is authorized to perform all duties and responsibilities, and to exercise the authorities, stated in section 209 of the Foreign Service Act of 1980 (22 U.S.C. 3929) and in the Inspector General Act of 1978.

(c) EARMARK.—Of the amounts made available for fiscal year 1987 for salaries and expenses under the heading “Administration of Foreign Affairs”, not less than \$6,500,000 shall be used for the sole purpose of establishing and maintaining the Office of Inspector General of the Department of State.

(d) LIMITATION ON APPOINTMENT.—No career member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980 (22 U.S.C. 3903), may be appointed Inspector General of the Department of State.

(e) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code (as amended by section 412), is amended by adding at the end thereof the following:

“Inspector General, Department of State.”.

(6)<sup>54</sup> \* \* \* [Repealed—1986]

(b)<sup>55</sup> \* \* \* [Repealed—1987]

(c) \* \* \*

**SEC. 414.<sup>56</sup> PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.**

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

<sup>52</sup> 22 U.S.C. 4861. Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331), redesignated former paras. (1) through (5) as subsecs. (a) through (e).

<sup>53</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>54</sup> Sec. 405 of Public Law 99-529 (100 Stat. 3010) repealed para. (6).

<sup>55</sup> Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1344) repealed subsec. (b), which had established an Office of Policy and Program Review.

<sup>56</sup> 22 U.S.C. 4862. Sec. 305 of the Department of State Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2208), provided the following:

**SEC. 415.<sup>57</sup> USE OF CLEARED PERSONNEL TO ENSURE SECURE MAINTENANCE AND REPAIR OF DIPLOMATIC FACILITIES ABROAD.**

(a) **POLICIES AND REGULATIONS.**—The Secretary of State shall develop and implement policies and regulations to provide for the use of persons who have been granted an appropriate United States security clearance to ensure that the security of areas intended for the storage of classified materials or the conduct of classified activities in a United States diplomatic mission or consular post abroad is not compromised in the performance of maintenance and repair services in those areas.

(b) **STUDY AND REPORT.**—The Secretary of State shall conduct a study of the feasibility and necessity of requiring that, in the case of certain United States diplomatic facilities abroad, no contractor shall be hired to perform maintenance or repair services in an area intended for the storage of classified materials or the conduct of classified activities unless such contractor has been granted an appropriate United States security clearance. Such study shall include, but is not limited to, United States facilities located in Cairo, New Delhi, Riyadh, and Tokyo. Not later than 180 days after the date of the enactment of this section, the Secretary of State shall report the results of such study to the Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>58</sup> of the House of Representatives.

**TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM**

**SEC. 501.<sup>59</sup> REWARDS FOR INTERNATIONAL TERRORISTS.**

It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards

<sup>57</sup>Sec. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988–89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United States policy; (B) shall not be denominated as the United States Embassy or Consulate until after the construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.”

<sup>58</sup>Sec. 133 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 32), added sec. 415.

<sup>59</sup>Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>59</sup>22 U.S.C. 2708 note. Sec. 12 of the International Narcotics Control Act of 1989 (Public Law 101–231; 103 Stat. 1963), amended sec. 36(c) of the State Department Basic Authorities Act of 1956, to increase the amount available for rewards for information leading to the arrest and conviction in any country of any individual involved in the commission of an act of international terrorism from \$500,000 to \$2,000,000.

available under present law so that major international terrorist figures may be brought to justice.

\* \* \* \* \*

**SEC. 505.<sup>60</sup> TERRORISM-RELATED TRAVEL ADVISORIES.**

The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

\* \* \* \* \*

**SEC. 508. NONLETHAL AIRPORT SECURITY EQUIPMENT AND COMMODITIES FOR EGYPT.**

In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such chapter) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised by the Department of State's office responsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961, in coordination with the Agency for International Development.

\* \* \* \* \*

**TITLE VI—INTERNATIONAL NUCLEAR TERRORISM**

**SEC. 601.<sup>61</sup> ACTIONS TO COMBAT INTERNATIONAL NUCLEAR TERRORISM.**

(a) **ACTIONS TO BE TAKEN BY THE PRESIDENT.**—The Congress hereby directs the President—

(1) to seek universal adherence to the Convention on the Physical Protection of Nuclear Material;

(2) to—

(A) conduct a review, enlisting the participation of all relevant departments and agencies of the Government, to determine whether the recommendations on Physical Protection of Nuclear Material published by the International Atomic Energy Agency are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism, and

(B) transmit the results of this review to the Director-General of the International Atomic Energy Agency;

(3) to take, in concert with United States allies and other countries, such steps as may be necessary—

(A) to keep to a minimum the amount of weapons-grade nuclear material in international transit, and

(B) to ensure that when any such material is transported internationally, it is under the most effective means

<sup>60</sup> 22 U.S.C. 2656e.

<sup>61</sup> 22 U.S.C. 3244.

for adequately protecting it from acts or attempted acts of sabotage or theft by terrorist groups or nations; and  
 (4) to seek agreement in the United Nations Security Council to establish—

(A) an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international nuclear terrorism, and

(B) measures for coordinating responses to all acts of international nuclear terrorism, including measures for the recovery of stolen nuclear material and the clean-up of nuclear releases.

(b) REPORTS TO THE CONGRESS.—The President shall report to the Congress annually, in the reports required by section 601 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281), on the progress made during the preceding year in achieving the objectives described in this section.

\* \* \* \* \*

**SEC. 604. REVIEW OF PHYSICAL SECURITY STANDARDS.**

(a) REVIEWS.—The Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Controls and Disarmament Agency, and the Nuclear Regulatory Commission shall each review the adequacy of the physical security standards currently applicable with respect to the shipment and storage (outside the United States) of plutonium, and uranium enriched to more than 20 percent in the isotope 233 or the isotope 235, which is subject to United States prior consent rights, with special attention to protection against risks of seizure or other terrorist acts.

(b) REPORTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Defense, the Secretary of State, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall each submit a written report to the Committee on Foreign Affairs<sup>58</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth the results of the review conducted pursuant to this section, together with appropriate recommendations.

**SEC. 605. INTERNATIONAL REVIEW OF THE NUCLEAR TERRORISM PROBLEM.**

The Congress strongly urges the President to seek a comprehensive review of the problem of nuclear terrorism by an international conference.

\* \* \* \* \*

**TITLE VII—MULTILATERAL COOPERATION TO COMBAT INTERNATIONAL TERRORISM**

**SEC. 701. INTERNATIONAL ANTITERRORISM COMMITTEE.**

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only be met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight against terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the 1986 Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) **INTERNATIONAL ANTITERRORISM COMMITTEE.**—The Congress hereby directs the President to continue to seek the establishment of an international committee, to be known as the International Antiterrorism Committee. As a first step in establishing such committee, the President should propose to the North Atlantic Treaty Organization the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations. After the establishment of this committee, the President should invite such other countries who may choose to participate. The purpose of the International Antiterrorism Committee should be to focus the attention and secure the cooperation of the governments and the public of the participating countries and of other countries on the problems and responses to international terrorism (including nuclear terrorism), by serving as a forum at both the political and law enforcement levels.

**SEC. 702. INTERNATIONAL ARRANGEMENTS RELATING TO PASSPORTS AND VISAS.**

The Congress strongly urges the President to seek the negotiation of international agreements (or other appropriate arrangements) to provide for the sharing of information relating to passports and visas in order to enhance cooperation among countries in combating international terrorism.

**SEC. 703. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.**

(a) **FINDINGS.**—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passport.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the implications of deleting the place of birth as a required item of information on passports.

**SEC. 704. USE OF DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR TERRORISM PURPOSES.**

The Congress strongly urges the President to instruct the Permanent Representative of the United States to the United Nations to seek the adoption of a resolution in the United Nations condemning the use for terrorist purposes of diplomatic privileges and immunities under the Vienna Convention on Diplomatic Relations, especially the misuse of diplomatic pouches and diplomatic missions.

**SEC. 705. REPORTS ON PROGRESS IN INCREASING MULTILATERAL COOPERATION.**

Not later than February 1, 1987, the President shall submit a report to the Congress on the steps taken to carry out each of the preceding sections of this title (except for section 703) and the

progress being made in achieving the objectives described in these sections.

#### TITLE VIII—VICTIMS OF TERRORISM COMPENSATION

##### SEC. 801. SHORT TITLE.

This title may be cited as the “Victims of Terrorism Compensation Act.”

##### SEC. 802. PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981.

The amount of the payment for individuals in the Civil Service referred to in section 5569(d) of title 5, United States Code (as added by section 803 of this title), or for individuals in the uniformed services referred to in section 559(c) of title 37, United States Code (as added by section 806 of this title), as the case may be, shall be \$50 for each day any such individual was held in captive status during a period commencing on or after November 4, 1979, and ending on or before January 21, 1981.

##### SEC. 803. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end therefore the following:

###### “§ 5569.<sup>62</sup> Benefits for captives

“(a) For the purpose of this section—

“(1) ‘captive’ means any individual in a captive status commencing while such individual is—

“(A) in the Civil Service, or

“(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services);

“(2) ‘captive status’ means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual’s relationship with the Government;

“(3) ‘missing status’—

“(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

“(B) in the case of an individual other than an employee, has a similar meaning; and

“(4) ‘family member,’ as used with respect to a person, means—

“(A) any dependent of such person; and

“(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person’s family or household.

“(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such

<sup>62</sup>Functions vested in the President by this section were delegated to the Secretary of State by Executive Order 12598 (July 17, 1987; 52 F.R. 23421).



pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

“(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

“(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

“(4) Any interest accruing under this subsection on—

“(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

“(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

“(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

“(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

“(1) is incident to such individual being a captive; and

“(2) is not covered—

“(A) by any Government medical or health program; or

“(B) by insurance.

“(d)(1) Except as provided in paragraph (3), the President shall make a cash payment, computed under paragraph (2), to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

“(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act, the amount of the payment under this subsection with respect to an individual held as a captive shall be not less than one-half of the amount of the world-wide average per diem rate under section 5702 of this title which was in effect for each day that individual was so held.

“(3) The President—

“(A) may refer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

“(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

“(i) during the period of captivity of such individual; and

“(ii) related to the captive status of such individual.

“(4) A payment under this subsection shall be in addition to any other amount provided by law.

“(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual’s death.

“(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

“(e)(1) Under regulations prescribed by the President, the benefits provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act<sup>63</sup> shall be provided in the case of any individual who is a captive.

“(2) In applying such Act under this subsection—

“(A) the term ‘servicemember’<sup>64</sup> is deemed to include any such captive;

“(B) the term ‘period of military service’ is deemed to include the period during which the individual is in a captive status; and

“(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

“(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

“(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

“(i) after that individual has been in captive status for 90 days or more, and

“(ii) on or before—

“(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

“(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

<sup>63</sup>Sec. 2(b)(2)(A) of Public Law 108-189 (117 Stat. 2865) struck out “provided by the Soldiers’ and Sailors’ Civil Relief Act of 1940 including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act” and inserted in lieu thereof “provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act”.

<sup>64</sup>Sec. 2(b)(2)(B) of Public Law 108-189 (117 Stat. 2866) struck out “person in the military service” and inserted in lieu thereof “servicemember”.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

“(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual’s death.

“(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

“(E) For the purpose of this paragraph, ‘child’ means a dependent under section 5561(3)(B) of this title.

“(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

“(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

“(i) after the termination of that individual’s captive status, and

“(ii) on or before—

“(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

“(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

“(3) Assistance under this subsection—

“(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

“(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than fulltime education or training).

“(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

“(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

“(1) such family member is held in captive status; and

“(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

“(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

“(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

“(j) The President may prescribe regulations necessary to administer this section.

“(k) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.

**“§ 5570.<sup>65</sup> Compensation for disability or death**

“(a) For the purpose of this section—

“(1) ‘employee’ means—

“(A) any individual in the Civil Service; and

“(B) any individual rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services); and

“(2) ‘family member’, as used with respect to an employee, means—

“(A) any dependent of such employee; and

“(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee’s family or household.

“(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual’s relationship with the Government.

“(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

“(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

“(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

“(f) This section applies with respect to any disability or death resulting from an injury which occurs after January 21, 1981.

“(g) Any benefit or payment pursuant to this section shall be paid out of funds available for salaries and expenses of the relevant agency of the United States.”

<sup>65</sup> Functions vested in the President by this section were delegated to the Secretary of State to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

“5569. Benefits for captives.

“5570. Compensation for disability or death.”

**SEC. 804. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.**

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: “The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.”

**SEC. 805. TRANSITION PROVISIONS.**

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 803(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, “pay and allowances” has the meaning provided under section 5561 of title 5, United States Code.

**SEC. 806. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.**

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code is amended by adding at the end thereof the following new section:

**“§ 559.<sup>66</sup> Benefits for members held as captives**

“(a) In this section:<sup>67</sup>

“(1) The term ‘captive status’ means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986,<sup>68</sup> monetary payment in respect of such period of captivity.

<sup>66</sup>Functions vested in the President by this section were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

<sup>67</sup>Sec. 8(e)(11) of Public Law 100-26 (101 Stat. 287) amended 37 U.S.C. 559 by striking out “In this section —” and inserting in lieu thereof “In this section:”; inserting “The term” in paras. (1) and (2); and ending para. (1) with a period.

<sup>68</sup>Sec. 1484(d)(4) of Public Law 101-510 (104 Stat. 1717) amended 37 U.S.C. 559 by striking out “the date of the enactment of the Victims of Terrorism Compensation Act” and inserting in lieu thereof “August 27, 1986”.

“(2) The term ‘former captive’ means a person who, as a member of the uniformed services, was held in a captive status.

“(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

“(2) Amounts so allotted shall bear interest at a rate which for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

“(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

“(4) Any interest accruing under this subsection on—

“(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

“(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

“(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

“(c)(1) Except as provided in paragraph (3),<sup>69</sup> the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

“(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C. 5569 note),<sup>70</sup> the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

“(3)(A) The President—

“(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

“(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

“(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

“(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

“(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

<sup>69</sup>Sec. 702(b)(2) of Public Law 102-25 (105 Stat. 117) struck out “of this subsection” throughout 37 U.S.C. (other than in sections 305a(d)(3), 431(a), and 501(f)).

<sup>70</sup>Sec. 1484(e)(2) of Public Law 101-510 (104 Stat. 1717) amended 37 U.S.C. 559 by inserting the parenthetical citation.

“(i) committed by a person while the person is in a captive status; and

“(ii) related to the captive status of the person.

“(4) A payment under this subsection is in addition to any other amount provided by law.

“(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

“(6) Any payment made under paragraph (1)<sup>69</sup> that is later denied under paragraph (3)(A)(ii)<sup>69</sup> is a claim of the United States Government for purposes of section 3711 of title 31.

“(d) A determination by the President under subsection (a)(1) or (c)<sup>71</sup> is final and is not subject to judicial review.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“559. Benefits for members held as captives.”

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**“§ 1032.<sup>72</sup> Disability and death compensation: dependents of members held as captives**

“(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

“(1) was caused by hostile action; and

“(2) was a result of the relationship of the dependent to the member of the uniformed services.

“(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program

<sup>71</sup>Sec. 702(b)(1) of Public Law 102-25 (105 Stat. 117) struck out “of this section” throughout 37 U.S.C. (other than in sections listed in sec. 702(c) of that Public Law).

<sup>72</sup>Originally enacted as 10 U.S.C. 1051, this sec. was recodified as sec. 1032 by sec. 7(e)(1)(A) of Public Law 100-26 (101 Stat. 281).

Functions vested in the President by this section were delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor, by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

“(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

“(d) In this section:

“(1) The term ‘dependent’<sup>73</sup> has the meaning given that term in section 551 of title 37.<sup>74</sup>

“(2) The term<sup>73</sup> ‘Secretary concerned’ has the meaning given that term<sup>74</sup> in section 101 of that title.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1032. Disability and death compensation: dependents of members held as captives.”.

(3) Section 1032 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**“§ 1095a.<sup>75</sup> Medical care: members held as captives and their dependents**

“(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

“(1) is incident to the captive status; and

“(2) is not covered—

“(A) by any other Government medical or health program; or

“(B) by insurance.

“(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

“(c) In this section:

“(1) ‘captive status’<sup>76</sup> and ‘former captive’ have the meanings given those terms in section 559 of title 37.

“(2) ‘dependent’<sup>76</sup> has the meaning given that term in section 551 of that title.”.

<sup>73</sup>Sec. 1622(e)(2) of Public Law 101-189 (103 Stat. 1605) struck out “Dependent” and inserted in lieu thereof “The term ‘dependent’”, and inserted “The term” in para. (2).

<sup>74</sup>Sec. 1343(a)(25) of Public Law 99-661 struck out “that title” and inserted in lieu thereof “title 37” in para. (1); and struck out “and ‘uniformed services’ have the meanings given those terms” and inserted “has the meaning given that term” in para. (2).

<sup>75</sup>Originally enacted as 10 U.S.C. 1095, this sec. was recodified as 10 U.S.C. 1095a by sec. 7(e)(2) of Public Law 100-26 (101 Stat. 281).

Functions vested in the President by this section were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

<sup>76</sup>Sec. 106(b)(1) of Public Law 100-526 (102 Stat. 2625) struck out “Captive status” and “Dependent” and inserted in lieu thereof “captive status” and “dependent”.



(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1095a.<sup>75</sup> Medical care: members held as captives and their dependents.”.

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

**“CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS<sup>77</sup>**

“Sec.

“2181. Definitions.

“2182. Educational assistance: dependents of captives.

“2183. Educational assistance: former captives.

“2184. Termination of assistance.

“2185. Programs to be consistent with programs administered by the Department of Veterans Affairs.<sup>78</sup>

**“§ 2181. Definitions**

“In this chapter:

“(1)<sup>79</sup> The terms ‘captive status’ and ‘former captive’ have the meanings given those terms in section 559 of title 37.

“(2)<sup>79</sup> The term ‘dependent’ has the meaning given that term in section 551 of that title.

**“§ 2182. Educational assistance: dependents of captives**

“(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

“(1) substance;

“(2) tuition;

“(3) fees;

“(4) supplies;

“(5) books;

“(6) equipment; and

“(7) other educational expenses.

“(b) Except as provided in section 2184 of this title, payments shall be available under this section for dependent of a person who is in a captive status for education or training that occurs—

<sup>77</sup> Functions vested in the President by this chapter of 10 U.S.C. were delegated to the Secretary of Defense by Executive Order 12598 (June 17, 1987; 52 F.R. 23421).

<sup>78</sup> Sec. 1621(a)(7)(A) of Public Law 101-189 (103 Stat. 1603) struck out “Veterans’ Administration” and inserted in lieu thereof “Department of Veterans Affairs”. The Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2635) established the Department of Veterans Affairs.

<sup>79</sup> Sec. 7(k)(6) of Public Law 100-26 (101 Stat. 284) inserted “The terms” and “the term” in paras. (1) and (2), and struck out “Captive” and “Dependent” and inserted in lieu thereof “captive” and “dependent”, respectively.

“(1) after that person is in a captive status for not less than 90 days; and

“(2) on or before—

“(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

“(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the education or training institution is not operated on a semester or quarter system; or

“(C) a date specified by the Secretary concerned in order to respond to special circumstances.

“(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

“(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

**“§ 2183. Educational assistance: former captives**

“(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

“(1) substance;

“(2) tuition;

“(3) fees;

“(4) supplies;

“(5) books;

“(6) equipment; and

“(7) other educational expenses.

“(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

“(1) after the termination of the status of that person as a captive; and

“(2) on or before—

“(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

“(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

“(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

**“§ 2184. Termination of assistance**

“Assistance under this chapter—

“(1) shall be discounted for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 3524<sup>80</sup> of title 38; and

“(2) may not be provided for any person for more than 45 months (for the equivalent in other than full-time education or training).

**“§ 2185. Programs to be consistent with programs administered by the Department of Veterans Affairs<sup>78</sup>**

“Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.”.

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

“110. Educational Assistance for Members Held as Captives and Their Dependents.”.

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1) shall apply with respect to persons whose captive status begins after January 21, 1981.

(e) ACCOUNT USED FOR PAYMENT OF COMPENSATION FOR VICTIMS OF TERRORISM.—(1) Chapter 19 of title 37, United States Code, is amended by adding at the end thereof the following new section:

**“§ 1013. Payment of compensation for victims of terrorism**

“Any benefit or payment pursuant to section 559 of this title, or section 1051 or 1095a<sup>81</sup> or chapter 110 of title 10, shall be paid out of funds available to the Secretary concerned for military personnel.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

“1013. Payment of compensation for victims of terrorism.”.

**SEC. 807. REGULATIONS.**

Any regulation required by this title or by any amendment made by this title shall take effect not later than 6 months after the date of enactment of this Act.

**SEC. 808. EFFECTIVE DATE OF ENTITLEMENTS.**

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

**TITLE IX—MARITIME SECURITY**

**SEC. 901. SHORT TITLE.**

This title may be cited as the “International Maritime and Port Security Act”.

<sup>80</sup>Sec. 1070(e)(7) of Public Law 103-337 (108 Stat. 2859) amended 10 U.S.C. 2184(1) by striking out “sec. 1724” and inserting in lieu thereof “section 3524”.

<sup>81</sup>Sec. 1484(h)(6) of Public Law 101-510 (104 Stat. 1718) amended 37 U.S.C. 1013 by striking out “or 1095” and inserting in lieu thereof “or 1095a”.

**SEC. 902.<sup>82</sup> INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY.**

The Congress encourages the President to continue to seek agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security measures and could include—

- (1) seaport screening of cargo and baggage similar to that done at airports;
- (2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;
- (3) additional security on board vessels;
- (4) licensing or certification of compliance with appropriate security standards; and
- (5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

**SEC. 903. MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.**

(a) **REPORT ON PROGRESS OF IMO.**—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by February 28, 1987, on the progress of the International Maritime Organization in developing recommendations on Measures to prevent Unlawful Acts Against Passengers and Crews On Board Ships.

(b) **CONTENT OF REPORT.**—The report required by subsection (a) shall include the following information—

- (1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;
- (2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee of the International Maritime Organization in regard to the proposed recommendations; and
- (3) the security measures specified in the recommendations.

(c) **SECURITY MEASURES AT UNITED STATES PORTS.**—If the member nations of the International Maritime Organization have not finalized and accepted the proposed recommendations by February 28, 1987, the Secretary of Transportation shall include in the report required by this section a proposed plan of action (including proposed legislation if necessary) for the implementation of security measures at United States ports and on vessels operating from those parts based on the assessment of threat from acts of terrorism reported by the Secretary of Transportation under section 905.

**SEC. 904. PANAMA CANAL SECURITY.**

Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the status of physical security at the Panama Canal with respect to the threat of terrorism.

<sup>82</sup>46 U.S.C. app. 1801.

**SEC. 905.<sup>83</sup> THREAT OF TERRORISM TO UNITED STATES PORTS AND VESSELS.**

Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report to the Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. Beginning with the first report submitted under this section after the date of enactment of the Maritime Transportation Security Act of 2002, the Secretary shall include a description of activities undertaken under title I of that Act and an analysis of the effect of those activities on port security against acts of terrorism.<sup>84</sup>

**SEC. 906. PORT, HARBOR, AND COASTAL FACILITY SECURITY.**

The Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.) is amended by inserting after section 6 of the following new section:

“Sec. 7. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

“(a) GENERAL AUTHORITY.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism against—

“(1) an individual, vessel, or public or commercial structure, that is—

“(A) subject to the jurisdiction of the United States; and

“(B) located within or adjacent to the marine environment; or

“(2) a vessel of the United States or an individual on board that vessel.

“(b) SPECIFIC AUTHORITY.—Under subsection (a), the Secretary may—

“(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of terrorism; and

“(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of preventing and responding to acts of terrorism.”.

**SEC. 907.<sup>85</sup> SECURITY STANDARDS AT FOREIGN PORTS.**

(a) ASSESSMENT OF SECURITY MEASURES.—The Secretary of Transportation shall develop and implement a plan to assess the effectiveness of the security measures maintained at those foreign ports which the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism directed against passenger vessels.

(b) CONSULTATION WITH THE SECRETARY OF STATE.—In carrying out subsection (a), the Secretary of Transportation shall consult the Secretary of State with respect to the terrorist threat which exists

<sup>83</sup>46 U.S.C. app. 1802.

<sup>84</sup>Sec. 110(a) of the Maritime Transportation Security Act of 2002 (Public law 107-295; 116 Stat. 2091; enacted November 25, 2002) added “Beginning with the first report submitted under this section after the date of enactment of the Maritime Transportation Security Act of 2002, the Secretary shall include a description of activities undertaken under title I of that Act and an analysis of the effect of those activities on port security against acts of terrorism.”.

<sup>85</sup>46 U.S.C. app. 1803.

in each country and poses a high risk of acts of terrorism directed against passenger vessels.

(c) **REPORT OF ASSESSMENTS.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the plan developed pursuant to subsection (a) and how the Secretary will implement the plan.

(d) **DETERMINATION AND NOTIFICATION TO FOREIGN COUNTRY.**—If, after implementing the plan in accordance with subsection (a), the Secretary of Transportation determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary of Transportation) shall notify the appropriate government authorities of the country in which the port is located of such determination, and shall recommend the steps necessary to bring the security measures in use at that port up to the standard used by the Secretary of Transportation in making such assessment.

(e) **ANTITERRORISM ASSISTANCE RELATED TO MARITIME SECURITY.**—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 to foreign countries, especially with respect to a port which the Secretary of Transportation determines under subsection (d) does not maintain and administer effective security measures.

**SEC. 908.<sup>86</sup> TRAVEL ADVISORIES CONCERNING SECURITY AT FOREIGN PORTS.**

(a) **TRAVEL ADVISORY.**—Upon being notified by the Secretary of Transportation that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port which the Secretary of Transportation has determined pursuant to section 907(d) to be a port which does not maintain and administer effective security measures, the Secretary of State shall immediately issue a travel advisory with respect to that port. Any travel advisory issued pursuant to this subsection shall be published in the Federal Register. The Secretary of State shall take the necessary steps to widely publicize that travel advisory.

(b) **LIFTING OF TRAVEL ADVISORY.**—The travel advisory required to be issued under subsection (a) may be lifted only if the Secretary of Transportation, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port with respect to which the Secretary of Transportation had made the determination described in section 907(d).

(c) **NOTIFICATION TO CONGRESS.**—The Secretary of State shall immediately notify the Congress of any change in the status of a travel advisory imposed pursuant to this section.

**SEC. 909.<sup>87</sup> SUSPENSION OF PASSENGER SERVICES.**

(a) **PRESIDENT'S DETERMINATION.**—Whenever the President determines that a foreign nation permits the use of territory under its

<sup>86</sup> 46 U.S.C. app. 1804.

<sup>87</sup> 46 U.S.C. app. 1805.

jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, any terrorist or terrorist group which knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may, without notice or hearing and for as long as the President determines necessary to assure the security of passenger vessels against unlawful seizure, suspend the right of any passenger vessel common carrier to operate to and from, and the right of any passenger vessel of the United States to utilize, any port in that foreign nation for passenger service.

(b) PROHIBITION.—It shall be unlawful for any passenger vessel common carrier, or any passenger vessel of the United States, to operate in violation of the suspension of rights by the President under this section.

(c) PENALTY.—(1) If a person operates a vessel in violation of this section, the Secretary of the department in which the Coast Guard is operating may deny the vessels of that person entry to United States ports.

(2) A person violating this section is liable to the United States Government for a civil penalty of not more than \$50,000. Each day a vessel utilizes a prohibited port shall be a separate violation of this section.

**SEC. 910.<sup>88</sup> SANCTIONS FOR THE SEIZURE OF VESSELS BY TERRORISTS.**

The Congress encourages the President—

(1) to review the adequacy of domestic and international sanctions against terrorists who seize or attempt to seize vessels; and

(2) to strengthen where necessary, through bilateral and multilateral efforts, the effectiveness of such sanctions.

Not later than one year after the date of enactment of this Act, the President shall submit a report to the Congress which includes the review of such sanctions and the efforts to improve such sanctions.

**SEC. 911.<sup>89</sup> DEFINITIONS.**

For purposes of this title—

(1) the term “common carrier” has the same meaning given such term in section 3(6) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)); and

(2) the terms “passenger vessel” and “vessel of the United States” have the same meaning given such terms in section 2102 of title 46, United States Code.

**SEC 912.<sup>90</sup> AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$12,500,000 for each of the fiscal years 1987 through 1991, to be available to the Secretary of Transportation to carry out this title.

**SEC. 913.<sup>91</sup> REPORTS.**

(a) CONSOLIDATION.—To the extent practicable, the reports required under sections 903, 905, and 907 shall be consolidated into

<sup>88</sup> 46 U.S.C. app. 1806.

<sup>89</sup> 46 U.S.C. app. 1807.

<sup>90</sup> 46 U.S.C. app. 1808.

<sup>91</sup> 46 U.S.C. app. 1809.

a single document before being submitted to the Congress. Any classified material in those reports shall be submitted separately as an addendum to the consolidated report.

(b) **SUBMISSION TO COMMITTEES.**—The reports required to be submitted to the Congress under this title shall be submitted to the Committee on Foreign Affairs and the Committee on Transportation and Infrastructure of the House of Representatives<sup>92</sup> and the Committee on Foreign Relations and the Committee on Commerce, Science and Transportation of the Senate.

#### TITLE X—FASCELL FELLOWSHIP PROGRAM<sup>93</sup>

\* \* \* \* \*

#### TITLE XI—SECURITY AT MILITARY BASES ABROAD

##### **SEC. 1101.<sup>94</sup> FINDINGS.**

The Congress finds that—

(1) there is evidence that terrorists consider bases and installations of United States Armed Forces outside the United States to be targets for attack;

(2) more attention should be given to the protection of members of the Armed Forces, and members of their families, stationed outside the United States; and

(3) current programs to educate members of the Armed Forces, and members of their families, stationed outside of the United States to the threats of terrorist activity and how to protect themselves should be substantially expanded.

##### **SEC. 1102.<sup>94</sup> RECOMMENDED ACTIONS BY THE SECRETARY OF DEFENSE.**

It is the sense of the Congress that—

(1) the Secretary of Defense should review the security of each base and installation of the Department of Defense outside the United States, including the family housing and support activities of each such base or installation, and take the steps the Secretary considers necessary to improve the security of such bases and installations; and

(2) the Secretary of Defense should institute a program of training for members of the Armed Forces, and for members of their families, stationed outside the United States concerning security and antiterrorism.

##### **SEC. 1103.<sup>94</sup> REPORT TO THE CONGRESS.**

Not later than June 30, 1987, the Secretary of Defense shall report to the Congress on any actions taken by the Secretary described in section 1102.

<sup>92</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

Sec. 408(c)(3) of Public Law 107-295 (116 Stat. 2117) struck out “Merchant Marine and Fisheries” and inserted in lieu thereof “Transportation and Infrastructure”.

<sup>93</sup> The Fascell Fellowship Act provides fellowships to United States citizens while they serve in positions formerly held by foreign national employees at United States diplomatic or consular missions abroad. For text, see page 1622.

<sup>94</sup> 10 U.S.C. 113 note.



TITLE XII—CRIMINAL PUNISHMENT OF INTERNATIONAL  
TERRORISM

**SEC. 1201. ENCOURAGEMENT FOR NEGOTIATION OF A CONVENTION.**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should establish a process encourage the negotiation of an international convention to prevent and control all aspects of international terrorism.

(b) RELATION TO EXISTING INTERNATIONAL CONVENTIONS.—Such convention should address the prevention and control of international terrorism in a comprehensive fashion, taking into consideration matters not covered by—

(1) the Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, December 16, 1970; 22 U.S.T. 1641, TIAS 7192);

(2) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971; 24 U.S.T. 564, TIAS 7570);

(3) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (New York, December 14, 1973; 28 U.S.T. 1975, TIAS 8532);

(4) the Convention Against the Taking of Hostages (New York, December 17, 1979; XVIII International Legal Materials 1457);

(5) the Convention on the Physical Protection of Nuclear Materials (October 26, 1979; XVIII International Legal Materials 1419); and

(6) the Convention on Offenses and Certain Other Acts Committed on Board Aircraft (Tokyo, September 14, 1963; 20 U.S.T. 2941, TIAS 6768).

(c) WHAT THE CONVENTION SHOULD PROVIDE.—Such convention should provide—

(1) an explicit definition of conduct constituting terrorism;

(2) effective close intelligence-sharing, joint counterterrorist training, and uniform rules for asylum and extradition for perpetrators of terrorism; and

(3) effective criminal penalties for the swift punishment of perpetrators of terrorism.

(d) CONSIDERATION OF AN INTERNATIONAL TRIBUNAL.—The President should also consider including on the agenda for these negotiations the possibility of eventually establishing an international tribunal for prosecuting terrorists.

**SEC. 1202.<sup>95</sup> EXTRATERRITORIAL CRIMINAL JURISDICTION OVER TERRORIST CONDUCT. \* \* \***

\* \* \* \* \*

TITLE XIII—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

**SEC. 1302. DEMONSTRATIONS AT EMBASSIES IN THE DISTRICT OF COLUMBIA.**

It is the sense of the Congress that—

<sup>95</sup>Sec. 1202 added a new chapter 113A to 18 U.S.C. (redesignated as chapter 113B).

(1) the District of Columbia law concerning demonstrations near foreign missions in the District of Columbia (D.C. Code, sec. 22-1115) may be inconsistent with the reasonable exercise of the rights of free speech and assembly, that law may have been selectively enforced, and peaceful demonstrations may have been unfairly arrested under that law;

(2) the obligation of the United States to provide adequate security for the missions and personnel of foreign governments must be balanced with the reasonable exercise of the rights of free speech and assembly; and

(3) therefore, the Council of the District of Columbia should review and, if appropriate, make revisions in the laws of the District of Columbia concerning demonstrations near foreign missions, in consultations with the Secretary of State and the Secretary of the Treasury.

**SEC. 1303. KURT WALDHEIM'S RETIREMENT ALLOWANCE.**

(a) FINDINGS.—The Congress finds that—

(1) Kurt Waldheim's misrepresentations about his past enabled him to rise to the position of Secretary General of the United Nations;

(2) Kurt Waldheim currently receives \$81,650 a year as a retirement allowance for his service in that position; and

(3) Kurt Waldheim's misrepresentations went to matters that lie at the very heart of the purposes of the United Nations.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to act to amend the 1986-1987 Regular Program Budget to eliminate funding of Kurt Waldheim's retirement allowance and to act to deny Kurt Waldheim a retirement allowance in all future budgets.

\* \* \* \* \*

**SEC. 1305. STRENGTHENING FOREIGN LANGUAGE SKILLS.**

It is the sense of the Congress that the Secretary of State should substantially strengthen the foreign language training of Foreign Service officers and other United States diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills the careers of United States diplomatic personnel.

**SEC. 1306. FORFEITURE OF PROCEEDS DERIVED FROM ESPIONAGE ACTIVITIES.**

(a) GATHERING, TRANSMITTING, OR LOSING DEFENSE INFORMATION.—Section 793 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(h)(1) \* \* \*

(b) GATHERING OR DELIVERING DEFENSE INFORMATION TO AID FOREIGN GOVERNMENT.—Section 794 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

“(d)(1) \* \* \*

(c) ORDER OF SPECIAL FORFEITURE.—Subsection (a) of section 3671 of title 18, United States Code, is amended \* \* \*

**SEC. 1307. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.**

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State, the United States Agency for International Development, or the United States Information Agency from participation in support of any activities of the United States Telecommunications Training Institute (including use of staff, other appropriate resources and service of the board of the Institute).

**SEC. 1308. POLICY TOWARD AFGHANISTAN.**

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that “whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged” and that the “Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations” including “use of antipersonnel mines and of so-called toy bombs” and “the indiscriminate mass killings of civilians, particularly women and children”;

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by “the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units” and that the “demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul”;

(5) the United Nations General Assembly, in a recorded vote of 80-22 on December 13, 1985, accepted the findings of the

Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed “profound distress and alarm” at “the widespread violations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime’s opponents, as well as increasing evidence of a policy of religious intolerance”;

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that “The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops” and that “Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit”;

(7) the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States-Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that “America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom”.

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan, and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should—

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

**g. Payment of Certain Anti-Terrorism Judgments**

**Partial text of Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000**

AN ACT To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Victims of Trafficking and Violence Protection Act of 2000”.

\* \* \* \* \*

**DIVISION C—MISCELLANEOUS PROVISIONS**

\* \* \* \* \*

**SEC. 2002. PAYMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.**

(a) PAYMENTS.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Treasury shall pay each person described in paragraph (2), at the person’s election—

(A) 110 percent of compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest under section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected on June 2, 2000), subject to final appellate review of that order; or

(B) 100 percent of the compensatory damages awarded by judgment of a court on a claim or claims brought by the person under section 1605(a)(7) of title 28, United States Code, plus amounts necessary to pay post-judgment interest, as provided in section 1961 of such title, and, in the case of a claim or claims against Cuba, amounts awarded as sanctions by judicial order on April 18, 2000 (as corrected June 2, 2000), subject to final appellate review of that order.

Payments under this subsection shall be made promptly upon request.

(2) PERSONS COVERED.—A person described in this paragraph is a person who—

<sup>1</sup> 22 U.S.C. 7101 note.

(A)(i) as of July 20, 2000, held a final judgment for a claim or claims brought under section 1605(a)(7) of title 28, United States Code, against Iran or Cuba, or the right to payment of an amount awarded as a judicial sanction with respect to such claim or claims; or

(ii) filed a suit under such section 1605(a)(7) on February 17, 1999, December 13, 1999, January 28, 2000, March 15, 2000, or July 27, 2000;

(B) relinquishes all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments;

(C) in the case of payment under paragraph (1)(A), relinquishes all rights and claims to punitive damages awarded in connection with such claim or claims; and

(D) in the case of payment under paragraph (1)(B), relinquishes all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal, that is the subject of awards rendered by such tribunal, or that is subject to section 1610(f)(1)(A) of title 28, United States Code.

(b) FUNDING OF AMOUNTS.—

(1) JUDGMENTS AGAINST CUBA.—For purposes of funding the payments under subsection (a) in the case of judgments and sanctions entered against the Government of Cuba or Cuban entities, the President shall vest and liquidate up to and not exceeding the amount of property of the Government of Cuba and sanctioned entities in the United States or any commonwealth, territory, or possession thereof that has been blocked pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, or regulation issued thereunder. For the purposes of paying amounts for judicial sanctions, payment shall be made from funds or accounts subject to sanctions as of April 18, 2000, or from blocked assets of the Government of Cuba.

(2) JUDGMENTS AGAINST IRAN.—For purposes of funding payments under subsection (a) in the case of judgments against Iran, the Secretary of the Treasury shall make such payments from amounts paid and liquidated from—

(A) rental proceeds accrued on the date of the enactment of this Act from Iranian diplomatic and consular property located in the United States; and

(B) funds not otherwise made available in an amount not to exceed the total of the amount in the Iran Foreign Military Sales Program account within the Foreign Military Sales Fund on the date of the enactment of this Act.

(c) SUBROGATION.—Upon payment under subsection (a) with respect to payments in connection with a Foreign Military Sales Program account, the United States shall be fully subrogated, to the extent of the payments, to all rights of the person paid under that subsection against the debtor foreign state. The President shall pursue these subrogated rights as claims or offsets of the United States in appropriate ways, including any negotiation process

which precedes the normalization of relations between the foreign state designated as a state sponsor of terrorism and the United States, except that no funds shall be paid to Iran, or released to Iran, from property blocked under the International Emergency Economic Powers Act or from the Foreign Military Sales Fund, until such subrogated claims have been dealt with to the satisfaction of the United States.

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should not normalize relations between the United States and Iran until the claims subrogated have been dealt with to the satisfaction of the United States.

(e) REAFFIRMATION OF AUTHORITY.—Congress reaffirms the President's statutory authority to manage and, where appropriate and consistent with the national interest, vest foreign assets located in the United States for the purposes, among other things, of assisting and, where appropriate, making payments to victims of terrorism.

(f) AMENDMENTS.—(1) Section 1610(f) of title 28, United States Code, is amended— \* \* \*

(2) Subsections (b) and (d) of section 117 of the Treasury Department Appropriations Act, 1999 (as contained in section 101(h) of Public Law 105-277) are repealed.<sup>2</sup>

\* \* \* \* \*

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<sup>2</sup>28 U.S.C. 1606, 1610 note.



## **h. Secure Embassy Construction and Counterterrorism Act of 1999**

Partial text of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113, 113 Stat. 1536, approved November 29, 1999; as amended by Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and Public Law 108-447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004

### **TITLE VI—EMBASSY SECURITY AND COUNTERTERRORISM MEASURES**

#### **SEC. 601.<sup>1</sup> SHORT TITLE.**

This title may be cited as the “Secure Embassy Construction and Counterterrorism Act of 1999”.

#### **SEC. 602.<sup>2</sup> FINDINGS.**

Congress makes the following findings:

(1) On August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attack.

(2) The United States personnel in both Dar es Salaam and Nairobi showed leadership and personal courage in their response to the attacks. Despite the havoc wreaked upon the embassies, staff in both embassies provided rapid response in locating and rescuing victims, providing emergency assistance, and quickly restoring embassy operations during a crisis.

(3) The bombs are believed to have been set by individuals associated with Osama bin Laden, leader of a known transnational terrorist organization. In February 1998, bin Laden issued a directive to his followers that called for attacks against United States interests anywhere in the world.

(4) Threats continue to be made against United States diplomatic facilities.

(5) Accountability Review Boards were convened following the bombings, as required by Public Law 99-399, chaired by Admiral William J. Crowe, United States Navy (Ret.) (in this section referred to as the “Crowe panels”).

(6) The conclusions of the Crowe panels were strikingly similar to those stated by the Commission chaired by Admiral Bobby Ray Inman, which issued an extensive embassy security report in 1985.

<sup>1</sup> 22 U.S.C. 4801 note.

<sup>2</sup> 22 U.S.C. 4865 note.

(7) The Crowe panels issued a report setting out many problems with security at United States diplomatic facilities, in particular the following:

(A) The United States Government has devoted inadequate resources to security against terrorist attacks.

(B) The United States Government places too low a priority on security concerns.

(8) The result has been a failure to take adequate steps to prevent tragedies such as the bombings in Kenya and Tanzania.

(9) The Crowe panels found that there was an institutional failure on the part of the Department of State to recognize threats posed by transnational terrorism and vehicular bombs.

(10) Responsibility for ensuring adequate resources for security programs is widely shared throughout the United States Government, including Congress. Unless the vulnerabilities identified by the Crowe panels are addressed in a sustained and financially realistic manner, the lives and safety of United States employees in diplomatic facilities will continue to be at risk from further terrorist attacks.

(11) Although service in the Foreign Service or other United States Government positions abroad can never be completely without risk, the United States Government must take all reasonable steps to minimize security risks.

**SEC. 603.<sup>2</sup> UNITED STATES DIPLOMATIC FACILITY DEFINED.**

In this title, the terms “United States diplomatic facility” and “diplomatic facility” mean any chancery, consulate, or other office notified to the host government as diplomatic or consular premises in accordance with the Vienna Conventions on Diplomatic and Consular Relations, or otherwise subject to a publicly available bilateral agreement with the host government (contained in the records of the United States Department of State) that recognizes the official status of the United States Government personnel present at the facility.

**SEC. 604.<sup>2</sup> AUTHORIZATIONS OF APPROPRIATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated by this or any other Act, there are authorized to be appropriated for “Embassy Security, Construction and Maintenance”—

- (1) for fiscal year 2000, \$900,000,000;
- (2) for fiscal year 2001, \$900,000,000;
- (3) for fiscal year 2002, \$900,000,000;
- (4)<sup>3</sup> for fiscal year 2003, \$1,000,000,000; and
- (5) for fiscal year 2004, \$900,000,000.

<sup>3</sup>Sec. 111(a)(3)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1356), struck out “\$900,000,000” for fiscal year 2003 and inserted in lieu thereof “\$1,000,000,000”. Sec. 111(a)(3)(A) of that Act provided the following:

“(A) IN GENERAL.—For ‘Embassy Security, Construction and Maintenance’, \$555,000,000 for the fiscal year 2003, in addition to amounts otherwise authorized to be appropriated for such purpose by section 604 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-470).”

(b) **PURPOSES.**—Funds made available under the “Embassy Security, Construction, and Maintenance” account may be used only for the purposes of—

(1) the acquisition of United States diplomatic facilities and, if necessary, any residences or other structures located in close physical proximity to such facilities, or

(2) the provision of major security enhancements to United States diplomatic facilities,

to the extent necessary to bring the United States Government into compliance with all requirements applicable to the security of United States diplomatic facilities, including the relevant requirements set forth in section 606.

(c) **AVAILABILITY OF AUTHORIZATIONS.**—Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

(d) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(e) <sup>4</sup> **CAPITAL SECURITY COST SHARING.**—

(1) **AUTHORITY.**—Notwithstanding any other provision of law, all agencies with personnel overseas subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) shall participate and provide funding in advance for their share of costs of providing new, safe, secure United States diplomatic facilities, without offsets, on the basis of the total overseas presence of each agency as determined annually by the Secretary of State in consultation with such agency. Amounts advanced by such agencies to the Department of State shall be credited to the Embassy Security, Construction and Maintenance account, and remain available until expended.

(2) **IMPLEMENTATION.**—Implementation of this subsection shall be carried out in a manner that encourages right-sizing of each agency’s overseas presence.

(3) **EXCLUSION.**—For purposes of this subsection “agency” does not include the Marine Security Guard.

#### **SEC. 605.<sup>2</sup> OBLIGATIONS AND EXPENDITURES.**

(a) **REPORT AND PRIORITY OF OBLIGATIONS.**—

(1) **REPORT.**—Not later than February 1 of the year 2000 and each of the four subsequent years, the Secretary of State shall submit a classified report to the appropriate congressional committees identifying each diplomatic facility or each diplomatic

<sup>4</sup>Sec. 629 of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 2005 (division B of Public Law 108–447; 118 Stat. 2920), added subsec. (e).

Sec. 416 of the Department of State and Related Agency Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2327), provided the following:

“SEC. 416. (a) Except as provided in subsection (b), a project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal agency or department if the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required by subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–453), as amended by section 629 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005.

“(b) Notwithstanding the prohibitions in subsection (a), a project to construct a diplomatic facility of the United States may include office space or other accommodations for members of the Marine Corps.”

or consular post composed of such facilities that is a priority for replacement or for any major security enhancement because of its vulnerability to terrorist attack (by reason of the terrorist threat and the current condition of the facility). The report shall list such facilities in groups of 20. The groups shall be ranked in order from most vulnerable to least vulnerable to such an attack.

(2) PRIORITY ON USE OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated by section 604 for a particular project may be used only for those facilities which are listed in the first four groups described in paragraph (1).

(B) EXCEPTION.—Funds authorized to be made available by section 604 may only be used for facilities which are not in the first 4 groups described in paragraph (1), if the Congress authorizes or appropriates funds for such a diplomatic facility or the Secretary of State notifies the appropriate congressional committees that such funds will be used for a facility in accordance with the procedures applicable to a reprogramming of funds under section 34(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(a)).

(b) PROHIBITION ON TRANSFER OF FUNDS.—None of the funds authorized to be appropriated by section 604 may be transferred to any other account.

(c) SEMIANNUAL REPORTS ON ACQUISITION AND MAJOR SECURITY UPGRADES.—On June 1 and December 1 of each year, the Secretary of State shall submit a report to the appropriate congressional committees on the embassy construction and security program authorized under this title. The report shall include—

(1) obligations and expenditures—

(A) during the previous two fiscal quarters; and

(B) since the enactment of this Act;

(2) projected obligations and expenditures for the fiscal year in which the report is submitted and how these obligations and expenditures will improve security conditions of specific diplomatic facilities; and

(3) the status of ongoing acquisition and major security enhancement projects, including any significant changes in—

(A) the budgetary requirements for such projects;

(B) the schedule of such projects; and

(C) the scope of the projects.

**SEC. 606.<sup>2</sup> SECURITY REQUIREMENTS FOR UNITED STATES DIPLOMATIC FACILITIES.**

(a) IN GENERAL.—The following security requirements shall apply with respect to United States diplomatic facilities and specified personnel:

(1) THREAT ASSESSMENT.—

(A) EMERGENCY ACTION PLAN.—The Emergency Action Plan (EAP) of each United States mission shall address the threat of large explosive attacks from vehicles and the safety of employees during such an explosive attack. Such plan shall be reviewed and updated annually.

- (B) SECURITY ENVIRONMENT THREAT LIST.—The Security Environment Threat List shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.
- (2) SITE SELECTION.—
- (A) IN GENERAL.—In selecting a site for any new United States diplomatic facility abroad, the Secretary shall ensure that all United States Government personnel at the post (except those under the command of an area military commander) will be located on the site.
- (B) WAIVER AUTHORITY.—
- (i) IN GENERAL.—Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary, together with the head of each agency employing personnel that would not be located at the site, determine that security considerations permit and it is in the national interest of the United States.
- (ii) CHANCERY OR CONSULATE BUILDING.—
- (I) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.
- (II) CONGRESSIONAL NOTIFICATION.—Not less than 15 days prior to implementing the waiver authority under clause (i) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.
- (iii) REPORT TO CONGRESS.—The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.
- (3) PERIMETER DISTANCE.—
- (A) REQUIREMENT.—Each newly acquired United States diplomatic facility shall be sited not less than 100 feet from the perimeter of the property on which the facility is to be situated.
- (B) WAIVER AUTHORITY.—
- (i) IN GENERAL.—Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary determines that security considerations permit and it is in the national interest of the United States.
- (ii) CHANCERY OR CONSULATE BUILDING.—
- (I) AUTHORITY NOT DELEGABLE.—The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.

(II) CONGRESSIONAL NOTIFICATION.—Not less than 15 days prior to implementing the waiver authority under subparagraph (A) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.

(iii) REPORT TO CONGRESS.—The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.

(4) CRISIS MANAGEMENT TRAINING.—

(A) TRAINING OF HEADQUARTERS STAFF.—The appropriate personnel of the Department of State headquarters staff shall undertake crisis management training for mass casualty and mass destruction incidents relating to diplomatic facilities for the purpose of bringing about a rapid response to such incidents from Department of State headquarters in Washington, D.C.

(B) TRAINING OF PERSONNEL ABROAD.—A program of appropriate instruction in crisis management shall be provided to personnel at United States diplomatic facilities abroad at least on an annual basis.

(5) DIPLOMATIC SECURITY TRAINING.—Not later than six months after the date of the enactment of this Act, the Secretary of State shall—

(A) develop annual physical fitness standards for all diplomatic security agents to ensure that the agents are prepared to carry out all of their official responsibilities; and

(B) provide for an independent evaluation by an outside entity of the overall adequacy of current new agent, in-service, and management training programs to prepare agents to carry out the full scope of diplomatic security responsibilities, including preventing attacks on United States personnel and facilities.

(6) STATE DEPARTMENT SUPPORT.—

(A) FOREIGN EMERGENCY SUPPORT TEAM.—The Foreign Emergency Support Team (FEST) of the Department of State shall receive sufficient support from the Department, including—

(i) conducting routine training exercises of the FEST;

(ii) providing personnel identified to serve on the FEST as a collateral duty;

(iii) providing personnel to assist in activities such as security, medical relief, public affairs, engineering, and building safety; and

(iv) providing such additional support as may be necessary to enable the FEST to provide support in a post-crisis environment involving mass casualties and physical damage.

(B) FEST AIRCRAFT.—

(i) REPLACEMENT AIRCRAFT.—The President shall develop a plan to replace on a priority basis the current FEST aircraft funded by the Department of Defense

with a dedicated, capable, and reliable replacement aircraft and backup aircraft to be operated and maintained by the Department of Defense.

(ii) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the appropriate congressional committees describing the aircraft selected pursuant to clause (i) and the arrangements for the funding, operation, and maintenance of such aircraft.

(iii) AUTHORITY TO LEASE AIRCRAFT TO RESPOND TO A TERRORIST ATTACK ABROAD.—Subject to the availability of appropriations, when the Attorney General of the Department of Justice exercises the Attorney General's authority to lease commercial aircraft to transport equipment and personnel in response to a terrorist attack abroad if there have been reasonable efforts to obtain appropriate Department of Defense aircraft and such aircraft are unavailable, the Attorney General shall have the authority to obtain indemnification insurance or guarantees if necessary and appropriate.

(7) RAPID RESPONSE PROCEDURES.—The Secretary of State shall enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities.

(8) STORAGE OF EMERGENCY EQUIPMENT AND RECORDS.—All United States diplomatic facilities shall have emergency equipment and records required in case of an emergency situation stored at an off-site facility.

(b) STATUTORY CONSTRUCTION.—Nothing in this section alters or amends existing security requirements not addressed by this section.

**SEC. 607. REPORT ON OVERSEAS PRESENCE.**

(a) REVIEW.—The Secretary of State shall review the findings of the Overseas Presence Advisory Panel of the Department of State.

(b) REPORT.—

(1) IN GENERAL.—Not later than 120 days after submission of the Overseas Presence Advisory Panel Report, the Secretary of State shall submit a report to the appropriate congressional committees setting forth the results of the review conducted under subsection (a).

(2) ELEMENTS OF THE REPORT.—To the extent not addressed by the review described in subsection (a), the report shall also—

(A) specify whether any United States diplomatic facility should be closed because—

(i) the facility is highly vulnerable and subject to threat of terrorist attack; and

(ii) adequate security enhancements cannot be provided to the facility;

(B) in the event that closure of a diplomatic facility is required, identify plans to provide secure premises for permanent use by the United States diplomatic mission, whether in country or in a regional United States diplomatic facility, or for temporary occupancy by the mission in a facility pending acquisition of new buildings;

(C) outline the potential for reduction or transfer of personnel or closure of missions if technology is adequately exploited for maximum efficiencies;

(D) examine the possibility of creating regional missions in certain parts of the world;

(E) in the case of diplomatic facilities that are part of the Special Embassy Program, report on the foreign policy objectives served by retaining such missions, balancing the importance of these objectives against the well-being of United States personnel; and

(F) examine the feasibility of opening new regional outreach centers, modeled on the system used by the United States Embassy in Paris, France, with each center designed to operate—

(i) at no additional cost to the United States Government;

(ii) with staff consisting of one or two Foreign Service officers currently assigned to the United States diplomatic mission in the country in which the center is located; and

(iii) in a region of the country with high gross domestic product (GDP), a high density population, and a media market that not only includes but extends beyond the region.

**SEC. 608. ACCOUNTABILITY REVIEW BOARDS.**

Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831) is amended to read as follows: \* \* \*

**SEC. 609. INCREASED ANTI-TERRORISM TRAINING IN AFRICA.**

Not later than six months after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, shall submit a report to the appropriate congressional committees on a proposed operational plan and site selection to expeditiously establish an International Law Enforcement Academy (ILEA) on the continent of Africa in order to increase training and cooperation on the continent in anti-terrorism and transnational crime fighting.



**i. Information on Violent Crimes Abroad**

**Partial text of Public Law 105-107 [Intelligence Authorization Act for Fiscal Year 1998; S. 858], 111 Stat. 2248, approved November 20, 1997**

AN ACT To authorize appropriations for fiscal year 1998 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1998”.

(b) TABLE OF CONTENTS.—\* \* \*

\* \* \* \* \*

**TITLE III—GENERAL PROVISIONS**

\* \* \* \* \*

**SEC. 307.<sup>1</sup> PROVISION OF INFORMATION ON CERTAIN VIOLENT CRIMES ABROAD TO VICTIMS AND VICTIMS’ FAMILIES.**

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

(1) it is in the national interests of the United States to provide information regarding the killing, abduction, torture, or other serious mistreatment of United States citizens abroad to the victims of such crimes, or the families of victims of such crimes if they are United States citizens; and

(2) the provision of such information is sufficiently important that the discharge of the responsibility for identifying and disseminating such information should be vested in a cabinet-level officer of the United States Government.

(b) RESPONSIBILITY.—The Secretary of State shall take appropriate actions to ensure that the United States Government takes all appropriate actions to—

(1) identify promptly information (including classified information) in the possession of the departments and agencies of the United States Government regarding the killing, abduction, torture, or other serious mistreatment of United States citizens abroad; and

(2) subject to subsection (c), promptly make such information available to—

(A) the victims of such crimes; or

(B) when appropriate, the family members of the victims of such crimes if such family members are United States citizens.

<sup>1</sup> 22 U.S.C. 2715a.

(c) LIMITATIONS.—The Secretary shall work with the heads of appropriate departments and agencies of the United States Government in order to ensure that information relevant to a crime covered by subsection (b) is promptly reviewed and, to the maximum extent practicable, without jeopardizing sensitive sources and methods or other vital national security interests, or without jeopardizing an on-going criminal investigation or proceeding, made available under that subsection unless such disclosure is specifically prohibited by law.

\* \* \* \* \*

**j. Sense of Senate Regarding Acts of International  
Terrorism**

**Partial text of Public Law 104-264 [Federal Aviation Reauthorization Act  
of 1996; H.R. 3539], 110 Stat. 3213, approved October 9, 1996**

AN ACT To amend title 49, United States Code, to reauthorize programs of the  
Federal Aviation Administration, and for other purposes.

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

\* \* \* \* \*

**TITLE III—AVIATION SECURITY**

\* \* \* \* \*

**SEC. 314. SENSE OF THE SENATE REGARDING ACTS OF INTER-  
NATIONAL TERRORISM.**

(a) FINDINGS.—The Senate finds that—

(1) there has been an intensification in the oppression and  
disregard for human life among nations that are willing to ex-  
port terrorism;

(2) there has been an increase in attempts by criminal ter-  
rorists to murder airline passengers through the destruction of  
civilian airliners and the deliberate fear and death inflicted  
through bombings of buildings and the kidnapping of tourists  
and Americans residing abroad; and

(3) information widely available demonstrates that a signifi-  
cant portion of international terrorist activity is state-spon-  
sored, -organized, -condoned, or -directed.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if  
evidence establishes beyond a clear and reasonable doubt that any  
act of hostility towards any United States citizen was an act of  
international terrorism sponsored, organized, condoned, or directed  
by any nation, a state of war should be considered to exist or to  
have existed between the United States and that nation, beginning  
as of the moment that the act of aggression occurs.

\* \* \* \* \*

**k. Antiterrorism and Effective Death Penalty Act of 1996**

Partial text of Public Law 104-132 [S. 735], 110 Stat. 1214, approved April 24, 1996; as amended by Public Law 107-188 [Public Health Security and Bioterrorism Preparedness and Response Act of 2002; H.R. 3448], 116 Stat. 594, approved June 12, 2002

NOTE.—Except for the provisions noted below, the Antiterrorism and Effective Death Penalty Act of 1996 amends other legislation and has been incorporated into those laws, or consists of legislation not generally related to foreign policy.

AN ACT To deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Antiterrorism and Effective Death Penalty Act of 1996”.

**SEC. 2. TABLE OF CONTENTS.**

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

\* \* \* \* \*

**TITLE II—JUSTICE FOR VICTIMS**

\* \* \* \* \*

**SUBTITLE B—JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES**

**SEC. 221.<sup>1</sup> JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES. \* \* \***

**SUBTITLE C—ASSISTANCE TO VICTIMS OF TERRORISM**

**SEC. 231. SHORT TITLE.**

This subtitle may be cited as the “Justice for Victims of Terrorism Act of 1996”.

<sup>1</sup>Sec. 221 amended 28 U.S.C. 1605 and 1610, relating to foreign sovereign immunity.

**SEC. 232. VICTIMS OF TERRORISM ACT.** \* \* \*<sup>2</sup>

**SEC. 233. COMPENSATION OF VICTIMS OF TERRORISM.** \* \* \*<sup>3</sup>

\* \* \* \* \*

### TITLE III—INTERNATIONAL TERRORISM PROHIBITIONS

#### SUBTITLE A—PROHIBITION ON INTERNATIONAL TERRORIST FUNDRAISING

**SEC. 301.<sup>4</sup> FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—The Congress finds that—

(1) international terrorism is a serious and deadly problem that threatens the vital interests of the United States;

(2) the Constitution confers upon Congress the power to punish crimes against the law of nations and to carry out the treaty obligations of the United States, and therefore Congress may by law impose penalties relating to the provision of material support to foreign organizations engaged in terrorist activity;

(3) the power of the United States over immigration and naturalization permits the exclusion from the United States of persons belonging to international terrorist organizations;

(4) international terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States;

(5) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

(6) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States, or use the United States as a conduit for the receipt of funds raised in other nations; and

(7) foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct.

(b) **PURPOSE.**—The purpose of this subtitle is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States, or subject to the jurisdiction of the United States, from providing material support or resources to foreign organizations that engage in terrorist activities.

<sup>2</sup>Sec. 232(a) added sec. 1404B to the Victims of Crime Act of 1984, relating to compensation and assistance to victims of terrorism or mass violence, codified at 42 U.S.C. 10603b. That section was amended and restated by Public Law 106-386; see page 1148.

<sup>3</sup>Sec. 233 amended sec. 1403(b) of the Victims of Crime Act of 1984, relating to compensation of victims of terrorism. That section was amended and restated by Public Law 106-386; see page 1148.

<sup>4</sup>18 U.S.C. 2339B note.

**SEC. 302. DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.**

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following: \* \* \*<sup>5</sup>

(b) \* \* \*

**SEC. 303. PROHIBITION ON TERRORIST FUNDRAISING.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section: \* \* \*<sup>6</sup>

(b) \* \* \*

(c) \* \* \*

## SUBTITLE B—PROHIBITION ON ASSISTANCE TO TERRORIST STATES

**SEC. 321. FINANCIAL TRANSACTIONS WITH TERRORISTS.**

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section: \* \* \*<sup>7</sup>

(b) \* \* \*

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective 120 days after the date of enactment of this Act.

**SEC. 322. FOREIGN AIR TRAVEL SAFETY.**

Section 44906 of title 49, United States Code, is amended to read as follows: \* \* \*<sup>8</sup>

**SEC. 323. MODIFICATION OF MATERIAL SUPPORT PROVISION.**

Section 2339A of title 18, United States Code, is amended to read as follows: \* \* \*<sup>9</sup>

**SEC. 324.<sup>10</sup> FINDINGS.**

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;

<sup>5</sup>Sec. 302 added a new sec. 219 (8 U.S.C. 1189), relating to the designation of foreign terrorist organizations, to the Immigration and Nationality Act.

<sup>6</sup>Sec. 303(a) added a new sec. 2339B to 18 U.S.C., relating to providing material support or resources to designated foreign terrorist organizations; see page 1047. Subsecs. (b) and (c) made technical amendments to 18 U.S.C.

<sup>7</sup>Sec. 321(a) added a new sec. 2332d to 18 U.S.C., relating to financial transactions with terrorists. Subsec. (b) made a technical amendment to the same title.

<sup>8</sup>Sec. 322 amended and restated 49 U.S.C. 44906, relating to foreign air carrier security programs. See *Legislation on Foreign Relations Through 2005*, vol. IV.

<sup>9</sup>Sec. 323 amended and restated 18 U.S.C. 2339A, relating to providing material support to terrorists.

<sup>10</sup>22 U.S.C. 2377 note.

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

**SEC. 325. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.**

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section: \* \* \*<sup>11</sup>

**SEC. 326. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.**

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section: \* \* \*<sup>12</sup>

**SEC. 327. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.**

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section: \* \* \*<sup>13</sup>

**SEC. 328. ANTITERRORISM ASSISTANCE.**

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended— \* \* \*<sup>14</sup>

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

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

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

<sup>11</sup>Sec. 325 added a new sec. 620G to the Foreign Assistance Act of 1961 (22 U.S.C. 2377), relating to a prohibition on assistance to countries that aid terrorist states. See *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>12</sup>Sec. 326 added a new sec. 620H to the Foreign Assistance Act of 1961 (22 U.S.C. 2377), relating to a prohibition on assistance to countries that provide military equipment to terrorist states. See *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>13</sup>Sec. 327 added a new sec. 1621 to the International Financial Institutions Act (22 U.S.C. 262p-4q), relating to opposition to assistance by international financial institutions to terrorist states. See *Legislation on Foreign Relations Through 2005*, vol. III.

<sup>14</sup>See *Legislation on Foreign Relations Through 2005*, vol. I-A.

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

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

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

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

**SEC. 329.<sup>15</sup> DEFINITION OF ASSISTANCE.**

For purposes of this title—

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

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

**SEC. 330. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.**

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following: \* \* \*<sup>16</sup>

**TITLE IV—TERRORIST AND CRIMINAL ALIEN REMOVAL AND EXCLUSION**

**SUBTITLE A—REMOVAL OF ALIEN TERRORISTS**

**SEC. 401. ALIEN TERRORIST REMOVAL.**

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title: \* \* \*<sup>17</sup>

(b) 17 \* \* \*

(c) 17 \* \* \*

(d) 17 \* \* \*

(e) 17 \* \* \*

<sup>15</sup>22 U.S.C. 2349aa-10 note.

<sup>16</sup>Sec. 330 added a new sec. 40A to the Arms Export Control Act (22 U.S.C. 2781), relating to transactions with countries not fully cooperating with United States antiterrorism efforts. See *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>17</sup>Sec. 401(a) added a new title V to the Immigration and Nationality Act, relating to alien terrorist removal procedures. See 8 U.S.C. 1531-1537. Subsecs. (b) through (e) made related technical amendments.



(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

**SUBTITLE B—EXCLUSION OF MEMBERS AND REPRESENTATIVES OF  
TERRORIST ORGANIZATIONS \* \* \*<sup>18</sup>**

**SUBTITLE C—MODIFICATION TO ASYLUM PROCEDURES \* \* \*<sup>19</sup>**

\* \* \* \* \*

**TITLE V—NUCLEAR, BIOLOGICAL, AND CHEMICAL  
WEAPONS RESTRICTIONS**

**SUBTITLE A—NUCLEAR MATERIALS**

**SEC. 501.<sup>20</sup> FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and to the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the trafficking in the relatively more common, commercially available, and usable nuclear and byproduct materials creates the potential for significant loss of life and environmental damage;

(7) report trafficking incidents in the early 1990's suggest that the individuals involved in trafficking in these materials

<sup>18</sup> Subtitle B made several amendments to the Immigration and Nationality Act relating to the exclusion of alien terrorists, denial of visas and other relief. See 8 U.S.C. 1182, 1251, 1253, 1254, 1255, and 1259.

<sup>19</sup> Subtitle C made several amendments to the Immigration and Nationality Act relating to asylum procedures. See 8 U.S.C. 1105a, 1158, and 1225.

<sup>20</sup> 18 U.S.C. 831 note.

from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear by-product materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage business ventures in these countries, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from non-weapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies with the necessary means and the maximum authority permissible under the Constitution to combat the threat of nuclear contamination and proliferation that may result from the illegal possession and use of radioactive materials.

**SEC. 502. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.**

Section 831 of title 18, United States Code, is amended—  
\* \* \*<sup>21</sup>

**SEC. 503. REPORT TO CONGRESS ON THEFTS OF EXPLOSIVE MATERIALS FROM ARMORIES.**

(a) STUDY.—The Attorney General and the Secretary of Defense shall jointly conduct a study of the number and extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Attorney General and the Secretary of Defense shall jointly prepare and transmit to the Congress a report on the findings of the study conducted under subsection (a).

<sup>21</sup> See *Legislation on Foreign Relations Through 2005*, vol. IV.

## SUBTITLE B—BIOLOGICAL WEAPONS RESTRICTIONS

**SEC. 511.<sup>22</sup> ENHANCED PENALTIES AND CONTROL OF BIOLOGICAL AGENTS.**

(a) FINDINGS.—The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

(b) CRIMINAL ENFORCEMENT.—Chapter 10 of title 18, United States Code, is amended— \* \* \*<sup>23</sup>

(c) TERRORISM.—Section 2332a(a) of title 18, United States Code, is amended \* \* \*

(d)–(g)<sup>24</sup> \* \* \* [Repealed—2002]

## SUBTITLE C—CHEMICAL WEAPONS RESTRICTIONS

**SEC. 521. CHEMICAL WEAPONS OF MASS DESTRUCTION; STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.**

(a) CHEMICAL WEAPONS OF MASS DESTRUCTION.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332b as added by section 702 of this Act the following new section: \* \* \*<sup>25</sup>

(b)<sup>26</sup> STUDY OF FACILITY FOR TRAINING AND EVALUATION OF PERSONNEL WHO RESPOND TO USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN URBAN AND SUBURBAN AREAS.—

(1) FINDINGS.—The Congress finds that—

(A) the threat of the use of chemical and biological weapons by Third World countries and by terrorist organizations has increased in recent years and is now a problem of worldwide significance;

(B) the military and law enforcement agencies in the United States that are responsible for responding to the use of such weapons require additional testing, training,

<sup>22</sup> 42 U.S.C. 262 note. Sec. 203(a) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 116 Stat. 647) provided the following:

“(a) IN GENERAL.—Regulations promulgated by the Secretary of Health and Human Services under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by section 201 of this Act. Such regulations, including the list under subsection (d)(1) of such section 511, that were in effect on the day before the date of the enactment of this Act [June 12, 2002] remain in effect until modified by the Secretary in accordance with such section 351A and with section 202 of this Act.”

<sup>23</sup> Subsec. (b) amended 18 U.S.C. 175–178.

<sup>24</sup> Sec. 204 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 116 Stat. 647) repealed subsecs. (d) through (g).

<sup>25</sup> Sec. 521(a) added a new sec. 2332c to 18 U.S.C., relating to the use of chemical weapons. See page 1027. Subsec. (c) made a clerical amendment to 18 U.S.C.

<sup>26</sup> 50 U.S.C. 1522 note.

and evaluation facilities to ensure that the personnel of such agencies discharge their responsibilities effectively; and

(C) a facility that recreates urban and suburban locations would provide an especially effective environment in which to test, train, and evaluate such personnel for that purpose.

(2) STUDY OF FACILITY.—

(A) IN GENERAL.—The President shall establish an inter-agency task force to determine the feasibility and advisability of establishing a facility that recreates both an urban environment and a suburban environment in such a way as to permit the effective testing, training, and evaluation in such environments of government personnel who are responsible for responding to the use of chemical and biological weapons in the United States.

(B) DESCRIPTION OF FACILITY.—The facility considered under subparagraph (A) shall include—

(i) facilities common to urban environments (including a multistory building and an underground rail transit system) and to suburban environments;

(ii) the capacity to produce controllable releases of chemical and biological agents from a variety of urban and suburban structures, including laboratories, small buildings, and dwellings;

(iii) the capacity to produce controllable releases of chemical and biological agents into sewage, water, and air management systems common to urban areas and suburban areas;

(iv) chemical and biocontaminant facilities at the P3 and P4 levels;

(v) the capacity to test and evaluate the effectiveness of a variety of protective clothing and facilities and survival techniques in urban areas and suburban areas; and

(vi) the capacity to test and evaluate the effectiveness of variable sensor arrays (including video, audio, meteorological, chemical, and biosensor arrays) in urban areas and suburban areas.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the facility considered under subparagraph (A) shall, if established—

(i) be under the jurisdiction of the Secretary of Defense; and

(ii) be located at a principal facility of the Department of Defense for the testing and evaluation of the use of chemical and biological weapons during any period of armed conflict.

TITLE VI—IMPLEMENTATION OF PLASTIC EXPLOSIVES  
CONVENTION

**SEC. 601.<sup>27</sup> FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

\* \* \* \* \*

**SEC. 607.<sup>28</sup> EFFECTIVE DATE.**

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE VII—CRIMINAL LAW MODIFICATIONS TO COUNTER  
TERRORISM

SUBTITLE A—CRIMES AND PENALTIES

\* \* \* \* \*

**SEC. 702. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.**

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332a the following new section: \* \* \*<sup>29</sup>

\* \* \* \* \*

<sup>27</sup> 18 U.S.C. 841 note. Secs. 602 through 605 of this title amended 18 U.S.C. to implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal, March 1, 1991. See 18 U.S.C. 841, 842, 844, 845. Sec. 606 amended sec. 596(c)(1) of the Tariff Act of 1930; see 19 U.S.C. 1595a(c)(1).

<sup>28</sup> 18 U.S.C. 841 note.

<sup>29</sup> Sec. 702(a) added a new sec. 2332b to 18 U.S.C., relating to acts of terrorism transcending national boundaries. Subsecs. (b) and (c) made technical amendments.

**SEC. 709. DETERMINATION OF CONSTITUTIONALITY OF RESTRICTING THE DISSEMINATION OF BOMB-MAKING INSTRUCTIONAL MATERIALS.**

(a) **STUDY.**—The Attorney General, in consultation with such other officials and individuals as the Attorney General considers appropriate, shall conduct a study concerning—

(1) the extent to which there is available to the public material in any medium (including print, electronic, or film) that provides instruction on how to make bombs, destructive devices, or weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic or international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism;

(4) the application of Federal laws in effect on the date of enactment of this Act to such material;

(5) the need and utility, if any, for additional laws relating to such material; and

(6) an assessment of the extent to which the first amendment protects such material and its private and commercial distribution.

(b) **REPORT.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section.

(2) **AVAILABILITY.**—The Attorney General shall make the report submitted under this subsection available to the public.

\* \* \* \* \*

**TITLE VIII—ASSISTANCE TO LAW ENFORCEMENT**

**SUBTITLE A—RESOURCES AND SECURITY**

**SEC. 801.<sup>30</sup> OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.**

The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign countries, in consultation with the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

\* \* \* \* \*

**SEC. 807.<sup>31</sup> COMBATTING INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.**

(a) **IN GENERAL.**—The Secretary of the Treasury (hereafter in this section referred to as the “Secretary”), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

<sup>30</sup> 28 U.S.C. 509 note.

<sup>31</sup> 18 U.S.C. 470 note.

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) FIRST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to in-

clude classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

(f) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The One Hundred Third Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(g) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(h) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate



enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

\* \* \* \* \*

**SUBTITLE B—FUNDING AUTHORIZATIONS FOR LAW ENFORCEMENT**

\* \* \* \* \*

**SEC. 820. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.**

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than \$10,000,000 for each of the fiscal years 1997 and 1998 to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States, or puts United States nationals at risk, in—

- (1) obtaining explosive detection devices and other counterterrorism technology;
- (2) conducting research and development projects on such technology; and
- (3) testing and evaluating counterterrorism technologies in those countries.

**SEC. 821. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.**

There are authorized to be appropriated to the National Institute of Justice Office of Science and Technology not more than \$10,000,000 for fiscal year 1997, to—

- (1) develop technologies that can be used to combat terrorism, including technologies in the areas of—
  - (A) detection of weapons, explosives, chemicals, and persons;
  - (B) tracking;
  - (C) surveillance;
  - (D) vulnerability assessment; and
  - (E) information technologies;
- (2) develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and
- (3) identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

\* \* \* \* \*

**SEC. 823. FUNDING SOURCE.**

Appropriations for activities authorized in this subtitle may be made from the Violent Crime Reduction Trust Fund.

## TITLE IX—MISCELLANEOUS

**SEC. 901. EXPANSION OF TERRITORIAL SEA.**

(a)<sup>32</sup> **TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.**—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.

(b) **ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.**—Section 13 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after “title,” the following: “or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district”; and

(2) by adding at the end the following new subsection:

“(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State, Commonwealth, territory, possession, or district that it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.”.

**SEC. 902.<sup>33</sup> PROOF OF CITIZENSHIP.**

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

\* \* \* \* \*

**SEC. 904. SEVERABILITY.**

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

<sup>32</sup> 18 U.S.C. 7 note. For Presidential Proclamation 5928, see *Legislation on Foreign Relations Through 2005*, vol. IV.

<sup>33</sup> 42 U.S.C. 1973gg note.

## **I. Torture Victim Protection Act of 1991**

**Public Law 102-256 [H.R. 2092], 106 Stat. 73, approved March 12, 1992**

AN ACT To carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

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

### **SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Torture Victim Protection Act of 1991”.

### **SEC. 2.<sup>1</sup> ESTABLISHMENT OF CIVIL ACTION.**

(a) **LIABILITY.**—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual’s legal representative, or to any person who may be a claimant in an action for wrongful death.

(b) **EXHAUSTION OF REMEDIES.**—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

(c) **STATUTE OF LIMITATIONS.**—No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose.

### **SEC. 3.<sup>1</sup> DEFINITIONS.**

(a) **EXTRAJUDICIAL KILLING.**—For the purposes of this Act, the term “extrajudicial killing” means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

(b) **TORTURE.**—For the purposes of this Act—

(1) the term “torture” means any act, directed against an individual in the offender’s custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that

<sup>1</sup> 28 U.S.C. 1350 note.

individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

### m. Biological Weapons (18 United States Code)

Partial text of 18 U.S.C. as added by Public Law 101-298 [Biological Weapons Anti-Terrorism Act of 1989; S. 993] 104 Stat. 201, approved May 22, 1990; as amended by Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104-201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 107-56 [Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 272, approved October 26, 2001; Public Law 107-188 [Public Health Security and Bioterrorism Preparedness and Response Act of 2002; H.R. 3448], 116 Stat. 594, approved June 12, 2002; Public Law 107-273 [21st Century Department of Justice Appropriations Authorization Act; H.R. 2215], 116 Stat. 1758, approved November 2, 2002; and Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

## CHAPTER 10—BIOLOGICAL WEAPONS<sup>1</sup>

Sec.

175. Prohibitions with respect to biological weapons.

175a. Requests for military assistance to enforce prohibition in certain emergencies.

175b. Possession by restricted persons.

175c. Variola virus.

176. Seizure, forfeiture, and destruction.

177. Injunctions.

178. Definitions.

### § 175. Prohibitions with respect to biological weapons

(a) IN GENERAL.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens,

<sup>1</sup>The Biological Weapons Anti-Terrorism Act of 1989 enacted a new chapter 10 to 18 U.S.C. relating to biological weapons to implement the Biological Weapons Convention. The free-standing sections of the Act provided as follows:

“AN ACT To implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes.

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

“SECTION 1. [18 U.S.C. 175 NOTE] SHORT TITLE.

“This Act may be cited as the ‘Biological Weapons Anti-Terrorism Act of 1989’.

“SEC. 2. [18 U.S.C. 175 NOTE] PURPOSE AND INTENT.

“(a) PURPOSE.—The purpose of this Act is to—

“(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

“(2) protect the United States against the threat of biological terrorism.

“(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.”.

Sec. 817(3) of Public Law 107-56 (115 Stat. 386) added reference to sec. 175b. The section was subsequently amended; the table of contents, however, was not. Should read “Select agents; certain other agents.”.

Sec. 6911(b) of Public Law 108-458 (118 Stat. 3775) added reference to sec. 175c.

or conspires to do the same,<sup>2</sup> shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b)<sup>3</sup> **ADDITIONAL OFFENSE.**—Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms “biological agent” and “toxin” do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(c)<sup>3</sup> **DEFINITION.**—For purposes of this section, the term ‘for use as a weapon’ includes<sup>4</sup> the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than<sup>5</sup> prophylactic, protective, bona fide research,<sup>6</sup> or other peaceful purposes.

**§ 175a.<sup>7</sup> Requests for military assistance to enforce prohibition in certain emergencies**

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.”.

**§ 175b.<sup>8</sup> Select agents; certain other agents.**

(a)(1)<sup>9</sup> No restricted person shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a non-overlap or overlap select biological agent or toxin in

<sup>2</sup>Sec. 511(b)(1) of Public Law 104–132 (110 Stat. 1284) inserted “or attempts, threatens, or conspires to do the same,” after “to do so.”

<sup>3</sup>Sec. 817(1)(B) and (C) of Public Law 107–56 (115 Stat. 385) redesignated subsec. (b) as subsec. (c), and added a new subsec. (b).

<sup>4</sup>Sec. 817(1)(A)(i) of Public Law 107–56 (115 Stat. 385) struck out “does not include” and inserted in lieu thereof “includes”.

<sup>5</sup>Sec. 817(1)(A)(ii) of Public Law 107–56 (115 Stat. 385) inserted “other than” after “system for”.

<sup>6</sup>Sec. 817(1)(A)(iii) of Public Law 107–56 (115 Stat. 385) inserted “bona fide research” after “protective”. Sec. 231(c)(1) of Public Law 107–188 (116 Stat. 661) struck out “protective bona fide research, or other peaceful purposes.” and inserted in lieu thereof “protective, bona fide research, or other peaceful purposes.”

<sup>7</sup>Sec. 1416(c)(1)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2723) added sec. 175a.

<sup>8</sup>Sec. 817(2) of Public Law 107–56 (115 Stat. 385) added sec. 175b. Sec. 231(b)(1)(B) of Public Law 107–188 (116 Stat. 661) amended and restated the section catchline, which previously read “**Possession by restricted persons**”. Sec. 4005(g) of Public Law 107–273 (116 Stat. 1813) sought to amend and restate the style of the section catchline to correct that which was stated in the amendment in Public Law 107–56; however, the technical correction did not take into account the substantive amendment in Public Law 107–188. The style amendment in Public Law 107–273, hence, is not executed here.

<sup>9</sup>Sec. 231(a)(1) of Public Law 107–188 (116 Stat. 660) struck out “(a)” and inserted in lieu thereof “(a)(1)”.

sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.<sup>10</sup>

(2)<sup>11</sup> Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.

(b)<sup>11</sup> **TRANSFER TO UNREGISTERED PERSON.**—

(1) **SELECT AGENTS.**—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) **CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.**—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(c)<sup>11</sup> **UNREGISTERED FOR POSSESSION.**—

(1) **SELECT AGENTS.**—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) **CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.**—Whoever knowingly possesses a biological agent or toxin where

<sup>10</sup>Sec. 6802(d)(1) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.” and inserted in lieu thereof “as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.”. Previously, sec. 231(c)(2)(A) of Public Law 107–188 (116 Stat. 661) struck out “described in subsection (b) shall ship or transport interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and is not exempted under subsection (h) of such section 72.6, or appendix A of part 72 of the Code of Regulations.” and inserted in lieu thereof “shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.”.

<sup>11</sup>Sec. 231(a) of Public Law 107–188 (116 Stat. 660) redesignated subsec. (b) as subsec. (d), subsec. (c) as para. (2) under subsec. (a), and added new subsecs. (b) and (c).

such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(d)<sup>11</sup> In this section:

(1) The term “select agent” means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include<sup>12</sup> any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(2) The term “restricted person” means an individual who—

(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(C) is a fugitive from justice;

(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(E) is an alien illegally or unlawfully in the United States;

(F) has been adjudicated as a mental defective or has been committed to any mental institution;

(G)(i)<sup>13</sup> is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism, or (ii)<sup>14</sup> acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;<sup>15</sup>

(H) has been discharged from the Armed Services of the United States under dishonorable conditions; or<sup>16</sup>

<sup>12</sup> Sec. 231(b)(1)(A) of Public Law 107–188 (116 Stat. 660) struck out “The term ‘select agent’ does not include” and inserted in lieu thereof “The term ‘select agent’ means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include”.

<sup>13</sup> Sec. 6802(c)(1)(A) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) inserted “(i)” after “(G)”.

<sup>14</sup> Sec. 6802(c)(1)(B) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) inserted “, or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph” after “terrorism”.

<sup>15</sup> Sec. 6802(c)(1)(C) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out “or” after the semicolon.

<sup>16</sup> Sec. 6802(c)(2) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) struck out a period at the end of subpara. (H) and inserted in lieu thereof “; or”.



(I)<sup>17</sup> is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).

(3) The term “alien” has the same meaning as in section 101(a)(3)<sup>18</sup> of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(4) The term “lawfully admitted for permanent residence” has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

### § 175c.<sup>19</sup> Variola virus

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than \$2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than

<sup>17</sup>Sec. 6802(c)(3) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3767) added subpara. (I).

<sup>18</sup>Sec. 231(c)(2)(B) of Public Law 107–188 (116 Stat. 661) struck out “section 1010(a)(3)” and inserted in lieu thereof “section 101(a)(3)”.

<sup>19</sup>Sec. 6906 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3773) added sec. 175c.

\$2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than \$2,000,000 and punished by imprisonment for life.

(d) DEFINITION.—As used in this section, the term “variola virus” means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.

### § 176. Seizure, forfeiture, and destruction

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

(A) pertains to<sup>20</sup> conduct prohibited under section 175 of this title; or

(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government<sup>21</sup> shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

### § 177. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 175 of this title;

(2) the preparation, solicitation, attempt, threat,<sup>22</sup> or conspiracy to engage in conduct prohibited under section 175 of this title; or

<sup>20</sup>Sec. 231(c)(3) of Public Law 107–188 (116 Stat. 661) struck out “exists by reason of” and inserted in lieu thereof “pertains to”.

<sup>21</sup>Sec. 330010(16) of Public Law 103–322 (108 Stat. 2144) struck out “the government” and inserted in lieu thereof “the Government”.

<sup>22</sup>Sec. 511(b)(2) of 104–132 (110 Stat. 1284) inserted “threat,” after “attempt.”.

(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

- (1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and
- (2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

### § 178. Definitions

As used in this chapter—

(1) the term “biological agent” means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of<sup>23</sup> causing—

- (A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
- (B) deterioration of food, water, equipment, supplies, or material of any kind; or
- (C) deleterious alteration of the environment;

(2) the term “toxin” means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—<sup>24</sup>

- (A) any poisonous substance or biological product that may be engineered as a result of biotechnology<sup>25</sup> produced by a living organism; or

<sup>23</sup>Sec. 231(c)(4)(A) of Public Law 107–188 (116 Stat. 661) struck out “means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product capable of” and inserted in lieu thereof “means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of”. Previously, sec. 511(b)(3)(A) of Public Law 104–132 (110 Stat. 1284) struck out “or infectious substance” and inserted in lieu thereof “infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product”.

<sup>24</sup>Sec. 231(c)(4)(B) of Public Law 107–188 (116 Stat. 661) struck out “means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including—” and inserted in lieu thereof “means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—”. Previously, sec. 511(b)(3)(B)(i) of Public Law 104–132 (110 Stat. 1284) inserted “the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule” after “means”; and sec. 511(b)(3)(B)(ii) of that Act struck out “production—” and inserted “production, including—”.

<sup>25</sup>Sec. 511(b)(3)(B)(iii) of Public Law 104–132 (110 Stat. 1284) inserted “or biological product that may be engineered as a result of biotechnology” after “substance”.

- (B) any poisonous isomer or biological product,<sup>26</sup> homolog, or derivative of such a substance;
- (3) the term ‘delivery system’ means—
- (A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or
- (B) any vector;<sup>27</sup>
- (4) the term “vector” means a living organism, or molecule, including a recombinant or synthesized molecule,<sup>28</sup> capable of carrying a biological agent or toxin to a host; and<sup>27</sup>
- (5)<sup>27</sup> the term “national of the United States” has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

\* \* \* \* \*

<sup>26</sup>Sec. 511(b)(3)(B)(iv) of Public Law 104–132 (110 Stat. 1284) inserted “or biological product” after “isomer”.

<sup>27</sup>Sec. 721(h) of Public Law 104–132 (110 Stat. 1299) struck out “and” at the end of subpara. (B); replaced the period at the end of para. (4) with “; and”; and added a new para. (5).

<sup>28</sup>Sec. 231(c)(4)(C) of Public Law 107–188 (116 Stat. 661) struck out “recombinant molecule, or biological product that may be engineered as a result of biotechnology,” and inserted in lieu thereof “recombinant or synthesized molecule.” Previously, sec. 511(b)(3)(C) of Public Law 104–132 (110 Stat. 1284) inserted “or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,” after “organism.”

**n. Anti-Terrorism and Arms Export Amendments Act of 1989**

**Partial text of Public Law 101-222 [H.R. 91], 103 Stat. 1892, approved  
December 12, 1989**

AN ACT To prohibit exports of military equipment to countries supporting international terrorism, and for other purposes.

NOTE.—The Anti-Terrorism and Arms Export Amendments Act of 1989 consists of amendments to the Arms Export Control Act, the Foreign Assistance Act of 1961, the Export Administration Act, and the Revised Statutes of the United States (22 U.S.C. 1732), except for sec. 10 which provides as follows.

**SEC. 10.<sup>1</sup> SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.**

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

<sup>1</sup>22 U.S.C. 2371 note.

**o. Anti-Terrorism Act of 1987**

**Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1406, approved December 22, 1987**

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

\* \* \* \* \*

**TITLE X—ANTI-TERRORISM ACT OF 1987**

**SEC. 1001. SHORT TITLE.**

This title may be cited as the “Anti-Terrorism Act of 1987”.

**SEC. 1002.<sup>1</sup> FINDINGS; DETERMINATIONS.**

(a) FINDINGS.—The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the “PLO”) was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO’s Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that “armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase”;

(6) the PLO rededicated itself to the “continuing struggle in all its armed forms” at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that “various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror”.

(b) DETERMINATIONS.—Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

<sup>1</sup> 22 U.S.C. 5201.

**SEC. 1003.<sup>2,3</sup> PROHIBITIONS REGARDING THE PLO.**

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

- (1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;
- (2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or
- (3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

<sup>2</sup>22 U.S.C. 5202.

<sup>3</sup>Sec. 3 of the Middle East Peace Facilitation Act of 1993, as amended (Public Law 103-125; 107 Stat. 1309), authorized the President to suspend certain provisions of law, including sec. 1003 of this Act, as they applied to the P.L.O. or entities associated with it if certain conditions were met and the President so certified and consulted with relevant congressional committees. This authority was continued in the Middle East Peace Facilitation Act of 1994 (Public Law 103-236), and again in the Middle East Peace Facilitation Act of 1995 (Public Law 104-107).

The President issued certifications, as provided for in the 1993, 1994, and 1995 Acts, in Presidential Determination No. 94-13 of January 14, 1994 (59 F.R. 4777), which was extended until January 1, 1995, by Presidential Determination No. 94-30 of June 30, 1994 (59 F.R. 35607); until July 1, 1995, by Presidential Determination No. 95-12 of December 31, 1994 (60 F.R. 2673); until August 15, 1995, by Presidential Determination No. 95-31 of July 2, 1995 (60 F.R. 35827); until October 1, 1995, by Presidential Determination No. 95-36 of August 14, 1995 (60 F.R. 44725); until November 1, 1995, by Presidential Determination No. 95-50 of September 30, 1995 (60 F.R. 53093); until December 31, 1995, by Presidential Determination No. 96-5 of November 13, 1995 (60 F.R. 57821); until March 31, 1996, by Presidential Determination No. 96-8 of January 4, 1996 (61 F.R. 2889); until June 15, 1996, by Presidential Determination No. 96-20 of April 1, 1996 (61 F.R. 26019); until August 12, 1996, by Presidential Determination No. 96-32 of June 14, 1996 (61 F.R. 32629); until February 12, 1997, by Presidential Determination No. 96-41 of August 12, 1996 (61 F.R. 43137); and until August 12, 1997, by Presidential Determination No. 97-17 of February 21, 1997 (62 F.R. 9903).

Authority to waive certain provisions is continued in general provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102); see secs. 534(d), 544, 547, and 550. See also sec. 555, restricting aid unless the Secretary of State certifies that certain conditions have been met pertaining to Palestinian statehood, sec. 558, prohibiting assistance to the Palestinian Broadcasting Corporation, and sec. 559, West Bank and Gaza Program.

On December 5, 1997, the President waived the provisions of sec. 1003 through June 4, 1998 (Presidential Determination No. 98-8; 62 F.R. 66255); further waived through November 26, 1998 (Presidential Determination No. 98-29; June 3, 1998; 63 F.R. 32711); through May 24, 1999 (Presidential Determination No. 98-5; November 25, 1998; 63 F.R. 68145); through October 21, 1999 (Presidential Determination No. 99-25; May 24, 1999; 64 F.R. 29537); through April 21, 2000 (Presidential Determination 00-2; October 21, 1999; 64 F.R. 58755); through October 21, 2000 (Presidential Determination No. 2000-19; April 21, 2000; 65 F.R. 24852); through October 17, 2001 (Presidential Determination No. 01-13; April 17, 2001; 66 F.R. 20585); through April 16, 2002 (Presidential Determination No. 2002-03; October 16, 2001; 66 F.R. 53505); through October 16, 2002 (Presidential Determination No. 2002-14; April 16, 2002; 67 F.R. 20427); through April 16, 2003 (Presidential Determination No. 03-03; October 16, 2002; 67 F.R. 65471); through October 16, 2003 (Presidential Determination No. 2003-20; April 16, 2003; 68 F.R. 20327); through April 14, 2004 (Presidential Determination No. 2004-04; October 14, 2003; 68 F.R. 60841); through October 14, 2004 (Presidential Determination No. 2004-28; April 14, 2004; 69 F.R. 21679); through April 14, 2005 (Presidential Determination No. 2005-02; October 14, 2004; 69 F.R. 62795); through October 14, 2005 (Presidential Determination No. 2005-22; April 14, 2005; 70 F.R. 21611); and through April 14, 2006 (Presidential Determination No. 2006-01; October 14, 2005; 70 F.R. 62225).

**SEC. 1004.<sup>4</sup> ENFORCEMENT.**

(a) **ATTORNEY GENERAL.**—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this title.

(b) **RELIEF.**—Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

**SEC. 1005. EFFECTIVE DATE.**

(a) **EFFECTIVE DATE.**—Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) **TERMINATION.**—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

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<sup>4</sup> 22 U.S.C. 5203.



**p. Achille Lauro Hijackers and Other Terrorists: Demand for  
Apprehension, Prosecution, and Punishment**

**Partial text of Public Law 99-177 [Balanced Budget and Emergency Deficit  
Control Act of 1985, H.J. Res. 372], 99 Stat. 1037, approved December 12,  
1985**

\* \* \* \* \*

**SEC. 3. ACHILLE LAURO HIJACKING.**

(a) The Senate finds that—

(1) the four men identified as the hijackers of the Achille Lauro were responsible for brutally murdering an innocent American citizen, Leon Klinghoffer, and for terrorizing hundreds of innocent crew members and passengers for two days;

(2) the United States urges all countries to aid in the swift apprehension, prosecution, and punishment of the terrorists; and

(3) the United States should not tolerate any country providing safe harbor or safe passage to the terrorists.

(b) It is the sense of the Senate that—

(1) the United States demands that no country provide safe harbor or safe passage to these terrorists;

(2) the United States expects full cooperation of all countries in the apprehension, prosecution, and punishment of these terrorists;

(3) the United States cannot condone the release of terrorists or the making of concessions to terrorists; and

(4) the United States identify those individuals responsible for the seizure of the Achille Lauro and the cold-blooded murder of Leon Klinghoffer, as well as those countries and groups that aid and abet such terrorist activities, and take the strongest measures to ensure that those responsible for this brutal act against an American citizen are brought to justice.

\* \* \* \* \*

## q. 1984 Act to Combat International Terrorism

Public Law 98-533 [H.R. 6311], 98 Stat. 2706, approved October 19, 1984; as amended by Public Law 99-646 [Criminal Law and Procedure Technical Amendments Act of 1986, S. 1236], 100 Stat. 3592, approved November 10, 1986; Public Law 100-690 [Anti-Drug Abuse Act of 1988, H.R. 5210], 102 Stat. 4181, approved November 18, 1988; Public Law 101-647 [Crime Control Act of 1990; S. 3266], 104 Stat. 4789, approved November 29, 1990; Public Law 103-322 [Violent Crime Control and Law Enforcement Act of 1994; H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 103-359 [Intelligence Authorization Act for Fiscal Year 1995; H.R. 4299], 108 Stat. 3423, approved October 14, 1994; Public Law 104-294 [Economic Espionage Act of 1996; H.R. 3723], 110 Stat. 3488, approved October 11, 1996; Public Law 107-56 [Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 272, approved October 26, 2001; and Public Law 107-273 [21st Century Department of Justice Appropriations Authorization Act; H.R. 2215], 116 Stat. 1758, approved November 2, 2002

AN ACT To combat international terrorism.

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

### SHORT TITLE

SECTION 1. This Act may be cited as the “1984 Act to Combat International Terrorism”.

### TITLE I—REWARDS FOR INFORMATION ON INTERNATIONAL TERRORISM AUTHORITY OF THE ATTORNEY GENERAL

SEC. 101. (a) Title 18 of the United States Code is amended by adding the following new chapter after chapter 203:

#### “CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS

“Sec.

“3071. Information for which rewards authorized.

“3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness.

“3073. Protection of identity.

“3074. Exception of governmental officials.

“3075. Authorization for appropriations.

“3076. Eligibility for witness security program.

“3077. Definitions.

#### “§ 3071. Information for which rewards authorized

“(a)<sup>1</sup> With respect to acts of terrorism primarily within the territorial jurisdiction of the United States, the Attorney General may reward any individual who furnishes information—

<sup>1</sup> Sec. 803(a)(1) of Public Law 103-359 (108 Stat. 3438) inserted subsec. designation (a).

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

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

“(3) leading to the prevention, frustration, or favorable resolution of an act of terrorism against a United States person or property.

“(b)<sup>2</sup> With respect to acts of espionage involving or directed at the United States, the Attorney General may reward any individual who furnished information—

“(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

“(2) leading to arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

“(3) leading to the prevention or frustration of an act of espionage against the United States.

**“§ 3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness**

“The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a reward and the amount to be paid.<sup>3</sup>

**“§ 3073. Protection of identity**

“Any reward granted under this chapter shall be certified for payment by the Attorney General. If it is determined that the identity of the recipient of a reward or of the members of the recipient’s immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as deemed necessary to effect such protection.

**“§ 3074. Exception of governmental officials**

“No officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in section 3071 shall be eligible for any monetary reward under this chapter.

<sup>2</sup>Sec. 803(a)(2) of Public Law 103-359 (108 Stat. 3438) added subsec. (b).

<sup>3</sup>Sec. 301(c)(2) of the 21st Century Department of Justice Appropriations Authorization Act (Public Law 107-273; 116 Stat. 1781) struck out “A reward under this section may be in an amount not to exceed \$500,000. A reward of \$100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.”.

“§ 3075.<sup>4</sup> \* \* \* [Repealed—2002]

**“§ 3076. Eligibility for witness security program**

“Any individual (and the immediate family of such individual) who furnishes information which would justify a reward by the Attorney General under this chapter or by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General’s witness security program authorized under chapter 224 of this title.<sup>5</sup>

**“§ 3077. Definitions**

“As used in this chapter, the term—

“(1)<sup>6</sup> ‘act of terrorism’ means an act of domestic or international terrorism as defined in section 2331;<sup>7</sup>

“(2) ‘United States person’ means—

“(A) a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(B) an alien lawfully admitted for permanent residence in the United States as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

“(C) any person within the United States;

“(D) any employee or contractor of the United States Government, regardless of nationality, who is the victim or intended victim of an act of terrorism by virtue of that employment;

“(E) a sole proprietorship, partnership, company, or association composed principally of nationals or permanent resident aliens of the United States; and

“(F) a corporation organized under the laws of the United States, any State, the District of Columbia, or any territory or possession of the United States, and a foreign subsidiary of such corporation;<sup>7</sup>

“(3) ‘United States property’ means any real or personal property which is within the United States or, if outside the United States, the actual or beneficial ownership of which rests in a United States person or any Federal or State governmental entity of the United States;<sup>7</sup>

<sup>4</sup>Sec. 301(c)(2) of the 21st Century Department of Justice Appropriations Authorization Act (Public Law 107-273; 116 Stat. 1781) repealed sec. 3075, which had authorized to be appropriated, without fiscal year limitation, \$5,000,000 for the purpose of chapter 204 of 18 U.S.C.

<sup>5</sup>Sec. 46 of Public Law 99-646 (100 Stat. 3601) struck out “title V of the Organized Crime Control Act of 1970” and inserted in lieu thereof “chapter 224 of this title”.

<sup>6</sup>Sec. 802(b) of the USA PATRIOT Act (Public Law 107-56; 115 Stat. 376) amended and restated para. (1). It previously read, as amended, as follows:

“(1) ‘act of terrorism’ means an activity that—

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

“(B) appears to be intended—

“(i) to intimidate or coerce a civilian population;

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

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

<sup>7</sup>Sec. 3572 of Public Law 101-647 (104 Stat. 4929) struck out a period at the end of each of paras. (1), (2), (3), and (5), inserted in lieu thereof a semicolon, struck out a period at the end of para. (6), and inserted in lieu thereof “; and”.

“(4)<sup>8</sup> ‘United States’,<sup>9</sup> when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;

“(5) ‘State’ includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States;<sup>7</sup>

“(6) ‘government entity’ includes the Government of the United States, any State or political subdivision thereof, any foreign country, and any state, provincial, municipal, or other political subdivision of a foreign country;<sup>7, 10</sup>

“(7) ‘Attorney General’ means the Attorney General of the United States or that official designated by the Attorney General to perform the Attorney General’s responsibilities under this chapter; and<sup>10</sup>

“(8)<sup>10</sup> ‘act of espionage’ means an activity that is a violation of—

“(A) section 793, 794, or 798 of this title;<sup>11</sup> or

“(B) section 4 of the Subversive Activities Control Act of 1950.”.

(b) The chapter analysis of part II of title 18, United States Code, is amended by adding after the item relating to chapter 203 the following new item:

“204. Rewards for information concerning terrorists acts and espionage<sup>12</sup> ..... 3071”.

#### AUTHORITY OF THE SECRETARY OF STATE

SEC. 102.<sup>13</sup> \* \* \*

### TITLE II—INTERNATIONAL COOPERATION

#### INCREASING INTERNATIONAL COOPERATION TO COMBAT TERRORISM

SEC. 201. (a) The President is urged to seek more effective international cooperation in combatting international terrorism, including—

(1) severe punishment for acts of terrorism, which endanger the lives of diplomatic staff, military personnel, other government personnel, or private citizens; and

(2) extradition of all terrorists and their accomplices to the country where the terrorist incident occurred or whose citizens were victims of the incident.

(b) High priority should also be given to negotiations leading to the establishment of a permanent international working group which would combat international terrorism by—

(1) promoting international cooperation among countries;

<sup>8</sup>Sec. 7051 of Public Law 100-690 (102 Stat. 4401) restated sec. 3077(4). This text was formerly designated as “(A)”. Para. (B) was struck out; it read as follows:

“(B) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).”

<sup>9</sup>Sec. 3572 of Public Law 101-647 (104 Stat. 4929) reversed the comma and quotation mark.

<sup>10</sup>Sec. 803(b) of Public Law 103-359 (108 Stat. 3429) struck out “and” at the end of para. (6); replaced the period at the end of para. (7) with “; and”; and added a new para. (8).

<sup>11</sup>Sec. 605(g) of Public Law 104-294 (110 Stat. 3510) struck out “title 18, United States Code” and inserted in lieu thereof “this title”.

<sup>12</sup>Sec. 803(c) of Public Law 103-359 (108 Stat. 3429) added reference to espionage.

<sup>13</sup>Sec. 102 amended the State Department Basic Authorities Act of 1956 by adding a new sec. 36.

(2) developing new methods, procedures, and standards to combat international terrorism;

(3) negotiating agreements for exchanges of information and intelligence and for technical assistance; and

(4) examining the use of diplomatic immunity and diplomatic facilities to further international terrorism.

This working group should have subgroups or appropriate matters, including law enforcement and crisis management.

### TITLE III—SECURITY OF UNITED STATES MISSIONS ABROAD

#### ADVISORY PANEL ON SECURITY OF UNITED STATES MISSIONS ABROAD

SEC. 301. In light of continued terrorist incidents and given the ever increasing threat of international terrorism directed at United States missions and diplomatic personnel abroad, the Congress believes that it is imperative that the Department of State review its approach to providing security against international terrorism. Not later than February 1, 1985, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>14</sup> of the House of Representatives on the findings and recommendations of the Advisory Panel on Security of United States Missions Abroad.

#### SECURITY ENHANCEMENT AT UNITED STATES MISSIONS ABROAD

SEC. 302. (a) In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated, without fiscal year limitation—

(1)<sup>15</sup> \$350,963,000 for the Department of State for “Administration of Foreign Affairs”, and

(2) \$5,315,000 for the United States Information Agency, which amounts shall be for security enhancement at United States missions abroad.

(b) Not later than February 1, 1985, the Secretary of State and the Director of the United States Information Agency shall each report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>14</sup> of the House of Representatives on how their respective agencies have allocated the funds authorized to be appropriated by this section.

#### STATE DEPARTMENT BASIC AUTHORITIES

SEC. 303.<sup>16</sup> \* \* \*

#### DANGER PAY

SEC. 304. In recognition of the current epidemic of worldwide terrorist activity and the courage and sacrifice of employees of United States agencies overseas, civilian as well as military, it is the sense

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

<sup>15</sup>Sec. 139 of the Continuing Appropriations Act, 1985 (Public Law 98-473; 98 Stat. 1973) provided \$110,200,000 to increase security at U.S. missions overseas.

<sup>16</sup>Sec. 303 amended sec. 2 of the State Department Basic Authorities Act of 1956.

of Congress that the provisions of section 5928 of title 5, United States Code, relating to the payment of danger pay allowance, should be more extensively utilized at United States missions abroad.

## r. Hostage Relief Act of 1980<sup>1</sup>

Public Law 96-449 [H.R. 7085], 94 Stat. 1967, approved October 14, 1980

AN ACT To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Hostage Relief Act of 1980”.

### TITLE I—SPECIAL PERSONNEL BENEFITS

#### DEFINITIONS

SEC. 101. For purposes of this title—

(1) The term “American hostage” means any individual who, while—

(A) in the civil service or the uniformed services of the United States, or

(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State), is placed in a captive status during the hostage period.

(2) The term “hostage period” means the period beginning on November 4, 1979, and ending on the later of—

(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(B) January 1, 1983.

(3) The term “family member”, when used with respect to any American hostage, means—

(A) any dependent (as defined in section 5561 of title 5, United States Code) of such hostage; and

(B) any member of the hostage’s family or household (as determined under regulations which the Secretary of State shall prescribe).

(4) The term “captive status” means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period; and

<sup>1</sup> 5 U.S.C. 5561 note. See also sec. 599C of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2064), as amended by sec. 302 of Public Law 102-138 (105 Stat. 707), and further amended by sec. 5 of Public Law 102-499 (106 Stat. 3266), relating to benefits for U.S. hostages in Iraq and Kuwait and U.S. hostages captured in Lebanon.



- (B) which is identified by the Secretary of State in the Federal Register.
- (5) The term “missing status”—
- (A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code;
- (B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code; and
- (C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.
- (6) The terms “pay and allowances”, “employee”, and “agency” have the meanings given to such terms in section 5561 of title 5, United States Code, and the terms “civil service”, “uniformed services”, and “armed forces” have the meanings given to such terms in section 2101 of such title 5.

PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

SEC. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code, under section 553 of title 37, United States Code, or under any other provision of law.

(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

MEDICAL AND HEALTH CARE AND RELATED EXPENSES

SEC. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

- (1) is incident to that individual being an American hostage; and
- (2) is not covered by insurance.

## EDUCATION AND TRAINING

SEC. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

(A) after the nineteenth day after the date the individual is placed in a captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B).

(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death.

(4) The preceding provisions of this subsection shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code.

(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

(A) after the termination of such hostages' captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

(c) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code.

(d) In no event may assistance be provided under this section for any individual for a period in excess of forty-five months (or the equivalent thereof in part-time education or training).

(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code.

EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE  
SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.), including the benefits provided by section 701 (50 U.S.C. App. 591) but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the Armed Forces.

APPLICABILITY TO COLOMBIAN HOSTAGE

SEC. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

SEC. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

## TITLE II—TAX PROVISIONS

## COMPENSATION EXCLUDED FROM GROSS INCOME

SEC. 201. For purposes of the Internal Revenue Code of 1986,<sup>2</sup> the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

- (1) in captive status, or
- (2) hospitalized as a result of such individual's captive status.

## INCOME TAXES OF HOSTAGE WHERE DEATH RESULTS FROM CAPTIVE STATUS

SEC. 202. (a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

- (1) any tax imposed by subtitle A of the Internal Revenue Code of 1986<sup>2</sup> shall not apply with respect to—

- (A) the taxable year in which falls the date of such individual's death, or

- (B) any prior taxable year ending on or after the first day such individual was in captive status, and

- (2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

- (A) shall not be assessed,

- (B) if assessed, the assessment shall be abated, and

- (C) if collected, shall be credited or refunded as an overpayment.

(b) DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

## SPOUSE MAY FILE JOINT RETURN

SEC. 203. (a) GENERAL RULE.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1986<sup>2</sup> for any taxable year—

- (1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and

- (2) for which such spouse is otherwise entitled to file such a joint return.

(b) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall

<sup>2</sup>Sec. 2 of the Tax Reform Act of 1986 (Public Law 99-514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.

apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF  
CAPTIVE STATUS

SEC. 204. (a) GENERAL RULE.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986<sup>2</sup> was performed within the time prescribed therefor, and

(2) the amount of any credit or refund (including interest).

(b) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) SECTION 7508(d) MADE APPLICABLE.—Subsection (d) of section 7508 of the Internal Revenue Code of 1986<sup>2</sup> shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

DEFINITIONS AND SPECIAL RULES

SEC. 205. (a) AMERICAN HOSTAGE.—For purposes of this title, the term “American hostage” means any individual who, while—

(1) in the civil service or the uniformed services of the United States, or

(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(b) HOSTAGE PERIOD.—For purposes of this title, the term “hostage period” means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) CAPTIVE STATUS.—For purposes of this title—

(1) IN GENERAL.—The term “captive status” means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) MISSING STATUS DEFINED.—The term “missing status”—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term “employee” has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.—

(1) IN GENERAL.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) 2-YEAR LIMIT.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual’s captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) CIVIL SERVICE; UNIFORMED SERVICES.—For purposes of this section, the terms “civil service” and “uniformed services” have the meanings given to such terms by section 2101 of title 5, United States Code.

(f) APPLICATION OF TITLE TO ALL TEHRAN HOSTAGES.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

(A) section 201 shall be applied by substituting “earned income (as defined in section 911(b) of the Internal Revenue Code of 1986)<sup>2</sup> attributable to” for “compensation from the United States received for”, and

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule.

(g) APPLICATION OF TITLE TO INDIVIDUAL HELD CAPTIVE IN COLOMBIA.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in

Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980.

(h) SPECIAL RULES.—

(1) COMPENSATION.—For purposes of this title, the term “compensation” shall not include any amount received as an annuity or as retirement pay.

(2) WAGE WITHHOLDING.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1986.<sup>2</sup>

#### STUDY OF TAX TREATMENT OF HOSTAGES

SEC. 206. (a) STUDY.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) REPORT.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

### TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

#### VISITS BY THE INTERNATIONAL RED CROSS

SEC. 301. (a) The Congress finds that—

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

**s. Hostage Relief Act of 1980—Delegation of Authority**

**Executive Order 12268, January 15, 1981, 46 F.R. 4671, 5 U.S.C. 5561 note**

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Hostage Relief Act of 1980 (Public Law 96-449, 94 Stat. 1967, 5 U.S.C. 5561 note) and Section 301 of Title 3 of the United States Code, and in order to provide for the implementation of that Act, it is hereby ordered as follows:

**1-101.** The functions vested in the President by Sections 103, 104, 105 and 301 of the Hostage Relief Act of 1980 (5 U.S.C. 5561 note) are delegated to the Secretary of State.

**1-102.** The Secretary of State shall consult with the heads of appropriate Executive agencies in carrying out the functions in Sections 103, 104, and 105 of the Act.



## t. Interagency Security Committee

**Executive Order 12977, October 19, 1995, 60 F.R. 54411, 40 U.S.C. 121 note;  
amended by Executive Order 13286, February 28, 2003, 68 F.R. 10619**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to enhance the quality and effectiveness of security in and protection of buildings and facilities in the United States occupied by Federal employees for nonmilitary activities ("Federal facilities"), and to provide a permanent body to address continuing government-wide security for Federal facilities, it is hereby ordered as follows:

**Section 1. *Establishment.*** There is hereby established within the executive branch the Interagency Security Committee ("Committee"). The Committee shall consist of:

- (a) the Secretary of Homeland Security ("Secretary");<sup>1</sup>
- (b) representatives from the following agencies, appointed by the agency heads:
  - (1) Department of State;
  - (2) Department of the Treasury;
  - (3) Department of Defense;
  - (4) Department of Justice;
  - (5) Department of the Interior;
  - (6) Department of Agriculture;
  - (7) Department of Commerce;
  - (8) Department of Labor;
  - (9) Department of Health and Human Services;
  - (10) Department of Housing and Urban Development;
  - (11) Department of Transportation;
  - (12) Department of Energy;
  - (13) Department of Education;
  - (14) Department of Veterans Affairs;
  - (15) Environmental Protection Agency;
  - (16) Central Intelligence Agency;<sup>2</sup>
  - (17) Office of Management and Budget; and<sup>2</sup>
  - (18)<sup>2</sup> General Services Administration;
- (c) the following individuals or their designees:
  - (1) the Director, United States Marshals Service;
  - (2)<sup>3</sup> the Assistant to the President for National Security Affairs; and
  - (3)<sup>3</sup> the Director, Security Policy board; and

<sup>1</sup>Sec. 23(a) of Executive Order 13286 (68 F.R. 10624) struck out "the Administrator of General Services ('Administrator')" and inserted in lieu thereof "the Secretary of Homeland Security ('Secretary')".

<sup>2</sup>Sec. 23(b) and (c) of Executive Order 13286 (68 F.R. 10624) struck out "and" at the end of para. (16); inserted "and" at the end of para. (17); and added para. (18).

<sup>3</sup>Sec. 23(d) of Executive Order 13286 (68 F.R. 10624) struck out para. (2) and redesignated paras. (3) and (4) as paras. (2) and (3), respectively. Former para. (2) had referred to the Assistant Commissioner of the Federal Protective Service of the Public Buildings Service, General Services Administration.

(d) such other Federal employees as the President may appoint.

**Sec. 2. Chair.** The Committee shall be chaired by the Secretary,<sup>4</sup> or the designee of the Secretary.<sup>4</sup>

**Sec. 3. Working Groups.** The Committee is authorized to establish interagency working groups to perform such tasks as may be directed by the Committee.

**Sec. 4. Consultation.** The Committee may consult with other parties, including the Administrative Office of the United States Courts, to perform its responsibilities under this order, and, at the discretion of the Committee, such other parties may participate in the working groups.

**Sec. 5. Duties and Responsibilities.** (a) The Committee shall: (1) establish policies for security in and protection of Federal facilities;

(2) develop and evaluate security standards for Federal facilities, develop a strategy for ensuring compliance with such standards, and oversee the implementation of appropriate security measures in Federal facilities; and

(3) take such actions as may be necessary to enhance the quality and effectiveness of security and protection of Federal facilities, including but not limited to:

(A) encouraging agencies with security responsibilities to share security-related intelligence in a timely and cooperative manner;

(B) assessing technology and information systems as a means of providing cost-effective improvements to security in Federal facilities;

(C) developing long-term construction standards for those locations with threat levels or missions that require blast resistant structures or other specialized security requirements;

(D) evaluating standards for the location of, and special security related to, day care centers in Federal facilities; and

(E) assisting the Secretary<sup>4</sup> in developing and maintaining a centralized security data base of all Federal facilities.

**Sec. 6. Agency Support and Cooperation.** (a) *Administrative Support.* To the extent permitted by law and subject to the availability of appropriations, the Secretary,<sup>4</sup> acting by and through the Assistant Commissioner, shall provide the Committee such administrative services, funds, facilities, staff and other support services as may be necessary for the performance of its functions under this order.

(b) *Cooperation.* Each executive agency and department shall cooperate and comply with the policies and recommendations of the Committee issued pursuant to this order, except where the Director of Central Intelligence determines that compliance would jeopardize intelligence sources and methods. To the extent permitted by law and subject to the availability of appropriations, executive agencies and departments shall provide such support as may be necessary to enable the Committee to perform its duties and responsibilities under this order.

<sup>4</sup>Sec. 23(e) of Executive Order 13286 (68 F.R. 10624) struck out "Administrator" and inserted in lieu thereof "Secretary" in secs. 2, 5(a)(3)(E), 6(a), and 6(c).

(c) *Compliance.* The Secretary,<sup>4,5</sup> shall be responsible for monitoring Federal agency compliance with the policies and recommendations of the Committee.

**Sec. 7. *Judicial Review.*** This order is intended only to improve the internal management of the Federal Government, and is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

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<sup>5</sup>Sec. 23(f) of Executive Order 13286 (68 F.R. 10624) struck out "acting by and through the Assistant Commissioner."

**u. Further Strengthening the Sharing of Terrorism  
Information To Protect Americans**

**Executive Order 13388, October 25, 2005, 70 F.R. 62023, 6 U.S.C. 485 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), and in order to further strengthen the effective conduct of United States counterterrorism activities and protect the territory, people, and interests of the United States of America, including against terrorist attacks, it is hereby ordered as follows:

**Section 1. Policy.** To the maximum extent consistent with applicable law, agencies shall, in the design and use of information systems and in the dissemination of information among agencies:

(a) give the highest priority to (i) the detection, prevention, disruption, preemption, and mitigation of the effects of terrorist activities against the territory, people, and interests of the United States of America; (ii) the interchange of terrorism information among agencies; (iii) the interchange of terrorism information between agencies and appropriate authorities of State, local, and tribal governments, and between agencies and appropriate private sector entities; and (iv) the protection of the ability of agencies to acquire additional such information; and

(b) protect the freedom, information privacy, and other legal rights of Americans in the conduct of activities implementing subsection (a).

**Sec. 2. Duties of Heads of Agencies Possessing or Acquiring Terrorism Information.** To implement the policy set forth in section 1 of this order, the head of each agency that possesses or acquires terrorism information:

(a) shall promptly give access to the terrorism information to the head of each other agency that has counterterrorism functions, and provide the terrorism information to each such agency, unless otherwise directed by the President, and consistent with (i) the statutory responsibilities of the agencies providing and receiving the information; (ii) any guidance issued by the Attorney General to fulfill the policy set forth in subsection 1(b) of this order; and (iii) other applicable law, including sections 102A(g) and (i) of the National Security Act of 1947, section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (including any policies, procedures, guidelines, rules, and standards issued pursuant thereto), sections 202 and 892 of the Homeland Security Act of 2002, Executive Order 12958 of April 17, 1995, as amended, and Executive Order 13311 of July 29, 2003; and

(b) shall cooperate in and facilitate production of reports based on terrorism information with contents and formats that permit

dissemination that maximizes the utility of the information in protecting the territory, people, and interests of the United States.

**Sec. 3. *Preparing Terrorism Information for Maximum Distribution.*** To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the common standards for the sharing of terrorism information established pursuant to section 3 of Executive Order 13356 of August 27, 2004, shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

**Sec. 4. *Requirements for Collection of Terrorism Information Inside the United States.*** To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the recommendations regarding the establishment of executive branch-wide collection and sharing requirements, procedures, and guidelines for terrorism information collected within the United States made pursuant to section 4 of Executive Order 13356 shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

**Sec. 5. *Establishment and Functions of Information Sharing Council.***

(a) Consistent with section 1016(g) of the Intelligence Reform and Terrorism Prevention Act of 2004, there is hereby established an Information Sharing Council (Council), chaired by the Program Manager to whom section 1016 of such Act refers, and composed exclusively of designees of: the Secretaries of State, the Treasury, Defense, Commerce, Energy, and Homeland Security; the Attorney General; the Director of National Intelligence; the Director of the Central Intelligence Agency; the Director of the Office of Management and Budget; the Director of the Federal Bureau of Investigation; the Director of the National Counterterrorism Center; and such other heads of departments or agencies as the Director of National Intelligence may designate.

(b) The mission of the Council is to (i) provide advice and information concerning the establishment of an interoperable terrorism information sharing environment to facilitate automated sharing of terrorism information among appropriate agencies to implement the policy set forth in section 1 of this order; and (ii) perform the duties set forth in section 1016(g) of the Intelligence Reform and Terrorism Prevention Act of 2004.

(c) To assist in expeditious and effective implementation by agencies of the policy set forth in section 1 of this order, the plan for establishment of a proposed interoperable terrorism information sharing environment reported under section 5(c) of Executive Order 13356 shall be used, as appropriate, in carrying out section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004.

**Sec. 6. *Definitions.*** As used in this order:

(a) the term “agency” has the meaning set forth for the term “executive agency” in section 105 of title 5, United States Code, together with the Department of Homeland Security, but includes the Postal Rate Commission and the United States Postal Service and excludes the Government Accountability Office; and

(b) the term “terrorism information” has the meaning set forth for such term in section 1016(a)(4) of the Intelligence Reform and Terrorism Prevention Act of 2004.

**Sec. 7. General Provisions.** (a) This order:

(i) shall be implemented in a manner consistent with applicable law, including Federal law protecting the information privacy and other legal rights of Americans, and subject to the availability of appropriations;

(ii) shall be implemented in a manner consistent with the authority of the principal officers of agencies as heads of their respective agencies, including under section 199 of the Revised Statutes (22 U.S.C. 2651), section 201 of the Department of Energy Organization Act (42 U.S.C. 7131), section 103 of the National Security Act of 1947 (50 U.S.C. 403–3), section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 1501 of title 15, 503 of title 28, and 301(b) of title 31, United States Code;

(iii) shall be implemented consistent with the Presidential Memorandum of June 2, 2005, on “Strengthening Information Sharing, Access, and Integration—Organizational, Management, and Policy Development Structures for Creating the Terrorism Information Sharing Environment”

(iv) shall not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, and legislative proposals; and

(v) shall be implemented in a manner consistent with section 102A of the National Security Act of 1947.

(b) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

**Sec. 8. Amendments and Revocation.** (a) Executive Order 13311 of July 29, 2003, is amended:

(i) by striking “Director of Central Intelligence” each place it appears and inserting in lieu thereof in each such place “Director of National Intelligence”; and

(ii) by striking “103(c)(7)” and inserting in lieu thereof “102A(i)(1)”.

(b) Executive Order 13356 of August 27, 2004, is hereby revoked.

## **4. Passport Laws and Regulations**

### **a. Protection of Citizens Abroad <sup>1</sup>**

**Act of July 27, 1868 [Revised Statutes, Sec. 2001], 15 Stat. 224; 22 U.S.C. 1732; as amended by Public Law 101-222 [Anti-Terrorism and Arms Export Amendments Act of 1989; H.R. 91], 103 Stat. 1900, approved December 12, 1989**

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war and not otherwise prohibited by law,<sup>2</sup> as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

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<sup>1</sup>Sec. 611 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426; 92 Stat. 989), concerned equitable treatment of U.S. citizens living abroad.

<sup>2</sup>Sec. 9 of the Anti-Terrorism and Arms Export Amendments Act of 1989 (Public Law 101-222; 103 Stat. 1900) added “and not otherwise prohibited by law” at this point.

## b. Passport Authority

### (1) Secretary of State's Passport Authority<sup>1</sup>

**Partial text of Act of July 3, 1926 [H.R. 12495], 44 Stat. 887; 22 U.S.C. 211a; as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 971, approved October 7, 1978; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994**

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic and consular officers of the United States, and by such other employees of the Department of State who are citizens of the United States<sup>2</sup> as the Secretary of State may designate, and by the

<sup>1</sup>Sec. 125 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426; 92 Stat. 971), concerned diplomatic and official passports.

The restriction on the use of U.S. passports for travel to, in, and through Lebanon was allowed to lapse in 1998. From 1987 through 1997, the Secretary of State restricted the use of U.S. passports for most travel to, in, or through Lebanon. This restriction was initiated on January 26, 1987, and extended in: Public Notice 1574 of February 10, 1992 (57 F.R. 5925); Public Notice 1767 of February 17, 1993 (58 F.R. 11286); Public Notice 1957 of February 24, 1994 (59 F.R. 10195); Public Notice 2065 of August 31, 1994 (59 F.R. 45056); Public Notice 2174 of March 3, 1995 (60 F.R. 12004); Public Notice 2249 of August 22, 1995 (60 F.R. 45206); Public Notice 2350 of February 27, 1996 (61 F.R. 8096); Public Notice 2429 of August 22, 1996 (61 F.R. 43395); and Public Notice 2506 of January 15, 1997 (62 F.R. 4371).

Effective February 23, 2004, the Secretary of State removed the restriction on the use of U.S. passports for travel to, in, or through Libya (Department of State Public Notice 4648; 69 F.R. 10806; March 8, 2004). Such use was initially restricted on December 11, 1981, by Executive Order 11295 (31 F.R. 10603) and State Department Public Notice 787 (46 F.R. 60712). The State Department extended the restriction annually in Public Notice 834 of November 29, 1982 (47 F.R. 54888); Public Notice 889 of December 2, 1983 (48 F.R. 55529); Public Notice 923 of November 29, 1984 (49 F.R. 47585); Public Notice 951 of November 25, 1985 (50 F.R. 49809); Public Notice 987 of December 9, 1986 (51 F.R. 44855); Public Notice 1041 of December 10, 1987 (52 F.R. 46876); Public Notice 1087 of December 8, 1988 (53 F.R. 49633); Public Notice 1143 of December 2, 1989 (54 F.R. 50568); Public Notice 1297 of November 23, 1990 (55 F.R. 49746); Public Notice 1526 of November 15, 1991 (56 F.R. 59316); Public Notice 1728 of November 12, 1992 (57 F.R. 55291); Public Notice 1903 of November 11, 1993 (58 F.R. 61137); Public Notice 2117 of November 14, 1994 (59 F.R. 59815); Public Notice 2293 of November 13, 1995 (60 F.R. 58129); Public Notice 2462 of October 28, 1996 (61 F.R. 56993); Public Notice 2924 of November 9, 1998 (63 F.R. 64139); Public Notice 3164 of November 24, 1999 (64 F.R. 67600); Public Notice 3488 of November 22, 2000 (65 F.R. 75761); Public Notice 3844 of December 13, 2001 (66 F.R. 58546); Public Notice 4212 of November 29, 2002 (67 F.R. 71228); and Public Notice 4542 of November 24, 2003 (68 F.R. 65981).

Effective July 14, 2003, the Secretary of State removed the restriction on the use of U.S. passports for travel to, in, or through Iraq (Department of State Public Notice 4404; 68 F.R. 43246; July 21, 2003). Such use was initially restricted on February 1, 1991 in Public Notice 1341 (56 F.R. 5242). Extensions were issued in Public Notice 1577 of February 18, 1992 (57 F.R. 6762). The State Department extended the restriction annually in Public Notice 1770 of February 23, 1993 (58 F.R. 11883); Public Notice 1960 of February 26, 1994 (59 F.R. 10451); Public Notice 2178 of March 3, 1995 (60 F.R. 13002); Public Notice 2357 of March 8, 1996 (61 F.R. 10839); Public Notice 2523 of March 17, 1997 (62 F.R. 13246); Public Notice 2770 of March 16, 1998 (63 F.R. 13715); Public Notice 3004 of March 18, 1999 (64 F.R. 14301); Public Notice 3239 of February 24, 2000 (65 F.R. 12611); Public Notice 3600 of February 28, 2001 (66 F.R. 14241); Public Notice 3920 of February 13, 2002 (67 F.R. 8572); and by Public Notice 4283 of February 12, 2003 (68 F.R. 8791), as amended by Public Notice 4337 of April 11, 2003 (68 F.R. 18722) and further amended by Public Notice 4366 of May 9, 2003 (68 F.R. 26371).

<sup>2</sup>Sec. 127(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 394), struck out "by diplomatic representatives of the United States,



chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports. Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.<sup>3</sup>

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and by such consul generals, consuls, or vice consuls when in charge," and inserted in lieu thereof "by diplomatic and consular officers of the United States, and by other employees of the Department of State who are citizens of the United States."

Sec. 1(b) of Public Law 103-415 (108 Stat. 4299) further amended this sentence, by striking out "other employees" and inserting in lieu thereof "such other employees", and by deleting the comma after "United States".

<sup>3</sup>This sentence was added by sec. 124 of Public Law 95-426 (92 Stat. 971). Sec. 124 also stated that the purpose of this amendment was to achieve greater U.S. compliance with the 1975 Helsinki Agreement as well as to encourage other nations to more fully comply.

## (2) Passports—Delegation of Authority

Partial Text of Executive Order 11295;<sup>1</sup> August 5, 1966; 31 F.R. 10603; 22 U.S.C. 211a note

**Section 1. Delegation of authority.** The Secretary of State is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by the first section of the Act of July 3, 1926 (22 U.S.C. 211a), to designate and prescribe for and on behalf of the United States rules governing the granting, issuing, and verifying of passports.

**Sec. 2. Superseded orders.** Subject to Section 3 of this order, the following are hereby superseded:

(1) Executive Order No. 7856 of March 31, 1938, entitled “Rules Governing the Granting and Issuing of Passports in the United States.”

(2) Executive Order No. 8820 of July 11, 1941, entitled “Amending the Foreign Service Regulations of the United States.”

<sup>1</sup>The restriction on the use of U.S. passports for travel to, in, and through Lebanon was allowed to lapse in 1998. From 1987 through 1997, the Secretary of State restricted the use of U.S. passports for most travel to, in, or through Lebanon. This restriction was initiated on January 26, 1987, and extended in: Public Notice 1574 of February 10, 1992 (57 F.R. 5925); Public Notice 1767 of February 17, 1993 (58 F.R. 11286); Public Notice 1957 of February 24, 1994 (59 F.R. 10195); Public Notice 2065 of August 31, 1994 (59 F.R. 45056); Public Notice 2174 of March 3, 1995 (60 F.R. 12004); Public Notice 2249 of August 22, 1995 (60 F.R. 45206); Public Notice 2350 of February 27, 1996 (61 F.R. 8096); Public Notice 2429 of August 22, 1996 (61 F.R. 43395); and Public Notice 2506 of January 15, 1997 (62 F.R. 4371).

Effective February 23, 2004, the Secretary of State removed the restriction on the use of U.S. passports for travel to, in, or through Libya (Department of State Public Notice 4648; 69 F.R. 10806; March 8, 2004). Such use was initially restricted on December 11, 1981, by Executive Order 11295 (31 F.R. 10603) and State Department Public Notice 787 (46 F.R. 60712). The State Department extended the restriction annually in Public Notice 834 of November 29, 1982 (47 F.R. 54888); Public Notice 889 of December 2, 1983 (48 F.R. 55529); Public Notice 923 of November 29, 1984 (49 F.R. 47585); Public Notice 951 of November 25, 1985 (50 F.R. 49809); Public Notice 987 of December 9, 1986 (51 F.R. 44855); Public Notice 1041 of December 10, 1987 (52 F.R. 46876); Public Notice 1087 of December 8, 1988 (53 F.R. 49633); Public Notice 1143 of December 2, 1989 (54 F.R. 50568); Public Notice 1297 of November 23, 1990 (55 F.R. 49746); Public Notice 1526 of November 15, 1991 (56 F.R. 59316); Public Notice 1728 of November 12, 1992 (57 F.R. 55291); Public Notice 1903 of November 11, 1993 (58 F.R. 61137); Public Notice 2117 of November 14, 1994 (59 F.R. 59815); Public Notice 2293 of November 13, 1995 (60 F.R. 58129); Public Notice 2462 of October 28, 1996 (61 F.R. 56993); Public Notice 2924 of November 9, 1998 (63 F.R. 64139); Public Notice 3164 of November 24, 1999 (64 F.R. 67600); Public Notice 3488 of November 22, 2000 (65 F.R. 75761); Public Notice 3844 of December 13, 2001 (66 F.R. 58546); Public Notice 4212 of November 29, 2002 (67 F.R. 71228); and Public Notice 4542 of November 24, 2003 (68 F.R. 65981).

Effective July 14, 2003, the Secretary of State removed the restriction on the use of U.S. passports for travel to, in, or through Iraq (Department of State Public Notice 4404; 68 F.R. 43246; July 21, 2003). Such use was initially restricted on February 1, 1991 in Public Notice 1341 (56 F.R. 5242). Extensions were issued in Public Notice 1577 of February 18, 1992 (57 F.R. 6762). The State Department extended the restriction annually in Public Notice 1770 of February 23, 1993 (58 F.R. 11883); Public Notice 1960 of February 26, 1994 (59 F.R. 10451); Public Notice 2178 of March 3, 1995 (60 F.R. 13002); Public Notice 2357 of March 8, 1996 (61 F.R. 10839); Public Notice 2523 of March 17, 1997 (62 F.R. 13246); Public Notice 2770 of March 16, 1998 (63 F.R. 13715); Public Notice 3004 of March 18, 1999 (64 F.R. 14301); Public Notice 3239 of February 24, 2000 (65 F.R. 12611); Public Notice 3600 of February 28, 2001 (66 F.R. 14241); Public Notice 3920 of February 13, 2002 (67 F.R. 8572); and by Public Notice 4283 of February 12, 2003 (68 F.R. 8791), as amended by Public Notice 4337 of April 11, 2003 (68 F.R. 18722) and further amended by Public Notice 4366 of May 9, 2003 (68 F.R. 26371).

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**Sec. 3. Saving provisions.** All rules and regulations contained in the Executive order provisions revoked by Section 2 of this order, and all rules and regulations issued under the authority of those provisions, which are in force at the time of the issuance of this order shall remain in full force and effect until revoked, or except as they may be hereafter amended or modified, in pursuance of the authority conferred by this order, unless sooner terminated by operation of law.

### (3) Nationality and Passport Regulations

Regulations of the Secretary of State, Department Regulation 108.541, 22 CFR 50 through 53, October 20, 1966, 31 F.R. 13537, as amended

#### PART 50—NATIONALITY PROCEDURES

AUTHORITY: 22 U.S.C. 2651a; 8 U.S.C. 1104, 1502, 1503 and 1504.

##### § 50.1 Definitions.

The following definitions shall be applicable to this part:

(a) “United States” means the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) “Department” means the Department of State of the United States of America.

(c) “Secretary” means the Secretary of State.

(d) “National” means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) “Passport” means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) “Passport Agent” means a person designated by the Department to accept passport applications.

(g) *Designated nationality examiner* means a United States citizen employee of the Department of State assigned or employed abroad (permanently or temporarily) and designated by the Deputy Assistant Secretary of State for Overseas Citizen Services, to grant, issue and verify U.S. passports. A designated nationality examiner may adjudicate claims of acquisition and loss of United States nationality and citizenship as required for the purposes of providing passport and related services. The authority of designated nationality examiners shall include the authority to examine, adjudicate, approve and deny passport applications and applications for related services. The authority of designated nationality examiners shall expire upon termination of the employee’s assignment for such duty and may also be terminated at any time by the Deputy Assistant Secretary for Overseas Citizen services.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966; as amended at 31 F.R. 14521, Nov. 11, 1966; 61 F.R. 43311, Aug. 22, 1996]

**Subpart A—Procedures for Determination of United States Nationality of a Person Abroad****§ 50.2 Determination of U.S. nationality of persons abroad.**

The Department shall determine claims to United States nationality when made by persons abroad on the basis of an application for registration, for a passport, or for a Consular Report of Birth Abroad of a Citizen of the United States of America. Such determination of nationality may be made abroad by a consular officer or a designated nationality examiner. A designated nationality examiner may accept and approve/disapprove applications for registration and accept and approve/disapprove applications for passports and issue passports. Under the supervision of a consular officer, designated nationality examiners shall accept, adjudicate, disapprove and provisionally approve applications for the Consular Report of Birth Abroad. A Consular Report of Birth Abroad may only be issued by a consular officer, who will review a designated nationality examiner's provisional approval of an application for such report and issue the report if satisfied that the claim to nationality has been established.

[Amended at 61 F.R. 43311, Aug. 22, 1996]

**§ 50.3 Application for registration.**

(a) A person abroad who claims U.S. nationality, or a representative on his behalf, may apply at a consular post for registration to establish his claim to U.S. nationality or to make his residence in the particular consular area a matter of record.

(b) The applicant shall execute the registration form prescribed by the Department and shall submit the supporting evidence required by subpart C of part 51 of this chapter. A diplomatic or consular officer or a designated nationality examiner shall determine the period of time for which the registration will be valid.

[Amended at 61 F.R. 43312, Aug. 22, 1996]

**§ 50.4 Application for passport.**

A claim to U.S. nationality in connection with an application for passport shall be determined by posts abroad in accordance with the regulations contained in Part 51 of this chapter.

**§ 50.5 Application for Consular Report of Birth Abroad of a Citizen of the United States of America.**

Upon application by the parent(s) or the child's legal guardian, a consular officer or designated nationality examiner may accept and adjudicate the application for a Consular Report of Birth Abroad of a Citizen of the United States of America for a child born in their consular district. In specific instances, the Department may authorize consular officers and other designated employees to adjudicate the application for a Consular Report of Birth Abroad of a child born outside his/her consular district. Under the supervision of a consular officer, designated nationality examiners shall accept, adjudicate, disapprove and provisionally approve applications for the Consular Report of Birth Abroad. The applicant shall be required to submit proof of the child's birth, identity and citizenship

meeting the evidence requirements of subpart C of part 51 of this subchapter and shall include:

(a) *Proof of child's birth.* Proof of child's birth usually consists of, but is not limited to, an authentic copy of the record of the birth filed with local authorities, a baptismal certificate, a military hospital certificate of birth, or an affidavit of the doctor or the person attending the birth. If no proof of birth is available, the person seeking to register the birth shall submit his affidavit explaining why such proof is not available and setting forth the facts relating to the birth.

(b) *Proof of child's citizenship.* Evidence of parent's citizenship and, if pertinent, evidence of parent's physical presence in the United States as required for transmittal of claim of citizenship by the Immigration and Nationality Act of 1952 shall be submitted.

[Amended at 61 F.R. 43312, Aug. 22, 1996]

#### **§ 50.6 Registration at the Department of birth abroad.**

In the time of war or national emergency, passport agents may be designated to complete consular reports of birth for children born at military facilities which are not under the jurisdiction of a consular office. An officer of the Armed Forces having authority to administer oaths may take applications for registration under this section.

#### **§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.**

(a) Upon application and the submission of satisfactory proof of birth, identity and nationality, and at the time of the reporting of the birth, the consular officer may issue to the parent or legal guardian, when approved and upon payment of a prescribed fee, a Consular Report of Birth Abroad of a Citizen of the United States of America.

(b) Amended and replacement Consular Reports of Birth Abroad of a Citizen of the United States of America may be issued by the Department of State's Passport Office upon written request and payment of the required fee.

(c) When it reports a birth under § 50.6, the Department shall furnish the Consular Report of Birth Abroad of a Citizen of the United States of America to the parent or legal guardian upon application and payment of required fees.

(d) A consular report of birth, or a certification thereof, may be canceled if it appears that such document was illegally, fraudulently, or erroneously obtained, or was crafted through illegality or fraud. The cancellation under this paragraph of such a document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. A person for or to whom such document has been issued or made shall be given at such person's last known address, written notice of the cancellation of such document, together with the specific reasons for the cancellation and the procedures for review available under the provisions in 22 CFR 51.81 through 51.89.

[Amended and restated at 61 F.R. 43312, Aug. 22, 1996; subsec. (d) added at 64 F.R. 19714, Apr. 22, 1999]

**§ 50.8 Certification of Report of Birth Abroad of a United States Citizen.**

At any time subsequent to the issuance of a Consular Report of Birth Abroad of a Citizen of the United States of America, when requested and upon payment of the required fee, the Department of State's Passport Office may issue to the citizen, the citizen's parent or legal guardian a certificate entitled "Certification of Report of Birth Abroad of a United States Citizen."

[Amended at 61 F.R. 43312, Aug. 22, 1996]

**§ 50.9 Card of identity.**

When authorized by the Department, consular offices or designated nationality examiners may issue a card of identity for travel to the United States to nationals of the United States being deported from a foreign country, to nationals/citizens of the United States involved in a common disaster abroad, or to a returning national of the United States to whom passport services have been denied or withdrawn under the provisions of this part or parts 51 or 53 of this subchapter.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966; as amended by Dept. Reg. 108.665, 37 F.R. 11459, June 8, 1972; 61 F.R. 43312, Aug. 22, 1996]

**§ 50.10 Certificate of nationality.**

(a) Any person who acquired the nationality of the United States at birth and who is involved in any judicial or administrative proceedings in a foreign state and needs to establish his U.S. nationality may apply for a certificate of nationality in the form prescribed by the Department.

(b) An applicant for a certificate of nationality must submit evidence of his nationality and documentary evidence establishing that he is involved in judicial or administrative proceedings in which proof of his U.S. nationality is required.

**§ 50.11 Certificate of identity for travel to the United States to apply for admission.**

(a) A person applying abroad for a certificate of identity under section 360(b) of the Immigration and Nationality Act shall complete the application form prescribed by the Department and submit evidence to support his claim to U.S. nationality.

(b) When a diplomatic or consular officer denies an application for a certificate of identity under this section, the applicant may submit a written appeal to the Secretary, stating the pertinent facts, the grounds upon which U.S. nationality is claimed and his reasons for considering that the denial was not justified.

[Dept. Reg. 108.541, 31 F.R. 13537, Oct. 20, 1966; as amended at 31 F.R. 14521, Nov. 11, 1966]

**Subpart B—Retention and Resumption of Nationality****§ 50.20 Retention of nationality.**

(a) *Section 351(b) of the Immigration and Nationality Act.* (1) A person who desires to claim U.S. nationality under the provisions of section 351(b) of the Immigration and Nationality Act must, within the time period specified in the statute, assert a claim to U.S. nationality and subscribe to an oath of allegiance before a diplomatic or consular officer.

(2) In addition, the person shall submit to the Department a statement reciting the person's identity and acquisition or derivation of U.S. nationality, the facts pertaining to the performance of any act which would otherwise have been expatriative, and the person's desire to retain the person's U.S. nationality.

[Amended at 61 F.R. 29652 and 29653, June 12, 1996]

**§ 50.30 Resumption of nationality.**

(a) *Section 324(c) of the Immigration and Nationality Act.* (1) A woman formerly a citizen of the United States at birth who wishes to regain her citizenship under section 324(c) of the Immigration and Nationality Act may apply abroad to a diplomatic or consular officer on the form prescribed by the Department to take the oath of allegiance prescribed by section 337 of that Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department for decision, that the applicant is ineligible for resumption of citizenship because of section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(b) *The Act of June 25, 1936.* (1) A woman who has been restored to citizenship by the Act of June 25, 1936, as amended by the Act of July 2, 1940, but who failed to take the oath of allegiance prior to December 24, 1952, as prescribed by the nationality laws, may apply abroad to any diplomatic or consular officer to take the oath of allegiance as prescribed by section 337 of the Immigration and Nationality Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department, that the applicant is ineligible for resumption of citizenship under section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(c) *Certification of repatriation.* Upon request and payment of the prescribed fee, a diplomatic or consular officer or the Department shall issue a certified copy of the application and oath administered to a woman repatriated under this section.

(d) *Section 324(d)(1) of the Immigration and Nationality Act.* (1) A former citizen of the United States who did not retain U.S. citizenship by failure to fulfill residency requirements as set out in Section 201(g) of the 1940 Nationality Act or former 301(b) of the 1952 Immigration and Nationality Act, may regain his/her U.S. citizenship pursuant to Section 324(d) INA, by applying abroad at



a diplomatic or consular post, or in the U.S. at any Immigration and Naturalization Service office in the form and manner prescribed by the Department of State and the Immigration and Naturalization Service (INS).

(2) The application shall submit documentary evidence to establish eligibility to take the oath of allegiance, which includes proof of birth abroad to a U.S. citizen parent between May 24, 1934 and December 24, 1952. If the diplomatic, consular, INS, or passport officer determines that the applicant is ineligible to regain citizenship under section 313 INA, the oath shall not be administered.

[Subsec. (d) added at 61 F.R. 29652, June 12, 1996]

### Subpart C—Loss of Nationality

#### § 50.40 Certification of loss of U.S. nationality.

(a) *Administrative presumption.* In adjudicating potentially expatriating acts pursuant to INA 349(a), the Department has adopted an administrative presumption regarding certain acts and the intent to commit them. U.S. citizens who naturalize in a foreign country; take a routine oath of allegiance; or accept non-policy level employment with a foreign government need not submit evidence of intent to retain U.S. nationality. In these three classes of cases, intent to retain U.S. citizenship will be presumed. A person who affirmatively asserts to a consular officer, after he or she has committed a potentially expatriating act, that it was his or her intent to relinquish U.S. citizenship will lose his or her U.S. citizenship. In other loss of nationality cases, the consular officer will ascertain whether or not there is evidence of intent to relinquish U.S. nationality.

(b) Whenever a person admits that he or she had the intent to relinquish citizenship by the voluntary and intentional performance of one of the acts specified in Section 349(a) of the Immigration and Nationality Act, and the person consents to the execution of an affidavit to that effect, the diplomatic or consular officer shall attach such affidavit to the certificate of loss of nationality.

(c) Whenever a diplomatic or consular officer has reason to believe that a person, while in a foreign country, has lost his U.S. nationality under any provision of chapter 3 of title III of the Immigration and Nationality Act of 1952, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall prepare a certificate of loss of nationality containing the facts upon which such belief is based and shall forward the certificate to the Department.

(d) If the diplomatic or consular officer determines that any document containing information relevant to the statements in the certificate of loss of nationality should not be attached to the certificate, the person may summarize the pertinent information in the appropriate section of the certificate and send the documents together with the certificate to the Department.

(e) If the certificate of loss of nationality is approved by the Department, a copy shall be forwarded to the Immigration and Naturalization Service, Department of Justice. The diplomatic or consular office in which the certificate was prepared shall then forward a copy of the certificate to the person to whom it relates or his representative.

[Amended at 61 F.R. 29652, June 12, 1996; amended at 63 F.R. 20315, Apr. 24, 1998]

#### **§ 50.50 Renunciation of nationality.**

(a) A person desiring to renounce U.S. nationality under section 349(a)(5) of the Immigration and Nationality Act shall appear before a diplomatic or consular officer of the United States in the manner and form prescribed by the Department. The renunciant must include on the form he signs a statement that he absolutely and entirely renounces his U.S. nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining.

(b) The diplomatic or consular officer shall forward to the Department for approval the oath of renunciation together with a certificate of loss of nationality as provided by section 358 of the Immigration and Nationality Act. If the officer's report is approved by the Department, copies of the certificate shall be forwarded to the Immigration and Naturalization Service, Department of Justice, and to the person to whom it relates or his representative.

[Amended at 61 F.R. 29653, June 12, 1996]

#### **§ 50.51 Notice of right to appeal.**

When an approved certificate of loss of nationality or certificate of expatriation is forwarded to the person to whom it relates or his or her representative, such person or representative shall be informed of the right to appeal the Department's determination to the Board of Appellate Review (Part 7 of this Chapter) within one year after approval of the certificate of loss of nationality or the certificate of expatriation.

[Added 44, F.R. 68827, Nov. 30, 1979; redesignated from sec. 50.52 at 61 F.R. 29653, June 12, 1996]

### PART 51—PASSPORTS

AUTHORITY: 22 U.S.C. 211a, 213, 2651a, 2671(d)(3), 2714, and 3926; 31 U.S.C. 9701; E.O. 11295, 3 CFR, 1966–1970 Comp., p. 570; Sec. 236 Pub. L. 106–113, 113 Stat. 1501A–430; 18 U.S.C. 1621(a)(2); 42 U.S.C. 652, as amended by sec. 370 Pub. L. 104–193 and sec. 7303 Pub. L. 109–171

#### **§ 51.1 Definitions.**

The following definitions shall be applicable to this part:

(a) *United States* means the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Canal Zone, American Samoa, Guam and any other islands or territory over which the United States exercises jurisdiction.

(b) *Department* means the Department of State of the United States of America.

(c) *Secretary* means the Secretary of State.

(d) *National* means a citizen of the United States or a noncitizen owing permanent allegiance to the United States.

(e) *Passport* means a travel document issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer.

(f) *Passport Agent* means a person designated by the Department to accept passport applications.

(g) *Passport Application* means the application form for a United States passport, filled in, subscribed and executed as prescribed by the Secretary pursuant to 22 U.S.C. 213, and all documents, photos and statements submitted with the form or thereafter in support of the application. A person providing false information as part of a passport application, whether contemporaneously with the application form or at any other time, is subject to prosecution for passport fraud or perjury under all applicable criminal statutes, including but not limited to 18 U.S.C. 1001, 1541, *et seq.* and 1621.

(h) *Passport Issuing Office* means the Passport Office, a Passport Agency, a Passport Agent of the Department, or a Foreign Service Post authorized to issue passports.

(i) *Designated nationality examiner* means a person designated under § 50.1(g) of this subchapter.

(j) *Electronic passport* means a passport containing an electronically readable device, an electronic chip, encoded with the information printed on the data page, a biometric version of the bearer's photograph, a unique chip number, and a digital signature to protect the integrity of the stored information.

[Dept. Reg. 108,541, 31 F.R. 13540, Oct. 20, 1966; as amended at 31 F.R. 14522, Nov. 11, 1966; 61 F.R. 43312, Aug. 22, 1996; 66 F.R. 29906, June 4, 2001; 70 F.R. 61553, Oct. 25, 2005]

### Subpart A—General

#### § 51.2 Passport issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department no person shall bear more than one valid or potentially valid U.S. passport at any one time.

[SD–165, 46 F.R. 2343, Jan. 9, 1981]

#### § 51.3 Types of passports.

(a) *Regular passport*. A regular passport is issued to a national of the United States proceeding abroad for personal or business reasons.

(b) *Official passport*. An official passport is issued to an official or employee of the U.S. Government proceeding abroad in the discharge of official duties. Where appropriate, dependents of such persons may be issued official passports.

(c) *Diplomatic passport.* A diplomatic passport is issued to a Foreign Service Officer, a person in the diplomatic service or to a person having diplomatic status either because of the nature of his or her foreign mission or by reason of the office he or she holds. Where appropriate, dependents of such persons may be issued diplomatic passports.

(22 U.S.C 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

#### § 51.4 Validity of passports.

(a) *Signature of bearer.* A passport is valid only when signed by the bearer in the space designated for his signature.

(b) *Period of validity of a regular passport.*

(1) A regular passport issued on or after February 1, 1998, to an applicant 16 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period.

(2) A regular passport issued on or after February 1, 1998 to an applicant under the age of 16 years is valid for 5 years from date of issue unless limited by the Secretary to a shorter period.

(3) The period of validity of a regular passport issued on or after January 1, 19883, and before February 1, 1998, unless limited by the Secretary of State to a shorter period is: 10 years from date of issue if issued to an applicant age 18 or older; five years from date of issue if issued to an applicant under age 18.

(4) The period of validity of a regular passport issued prior to January 1, 1983, is five years from date of issue.

(c) *Period of validity of an official passport.* An official passport is normally valid for a period of 5 years from the date of issue as long as the bearer maintains the official status for which it is issued. It must be returned to the Department upon the termination of the bearer's official status.

(d) *Period of validity of a diplomatic passport.* A diplomatic passport issued on or after January 1, 1977 is valid for a period of five (5) years or so long as the bearer maintains his/her diplomatic status, whichever is shorter. A diplomatic passport which has not expired must be returned to the Department upon the termination of the bearer's diplomatic status or at such other time as the Secretary shall determine. Any outstanding diplomatic passport issued before January 1, 1977 will expire effective December 31, 1977.

(e) *Period of a regular passport issued for no fee.* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation of validity.* The Secretary may limit a passport's validity period to less than the normal validity period. The bearer of a limited passport may apply for a replacement passport, using the proper application, and submitting the limited passport, applicable fees, photos and additional documentation, if required, to support the issuance of a replacement passport.

(g) *Cancellation of passport endorsed as valid only for travel to Israel.* The validity of any passport which has been issued and endorsed as valid only for travel to Israel is cancelled effective April 25, 1992. Where it is determined that its continued use is warranted, the validity of such passport may be renewed or extended for additional periods of two years upon cancellation of the Israel-only endorsement. In no event may the validity of such passport be extended beyond the normal period of validity prescribed for such passport by paragraphs (b) through (e) of this section.

(h) *Invalidity.* A United States passport is invalid whenever:

(1) The passport has been formally revoked by the Department; or

(2) The Department has registered a passport reported either in writing or by telephone to the Department of State, or in writing to a U.S. passport agency or to a diplomatic or consular post abroad as lost or stolen.

(3) The Department has sent a written notice to the bearer at the bearer's last known address that the passport has been invalidated because the Department has not received the applicable fees.

(Sec. 1, 44 Stat. 887; sec. 1, 41 Stat. 750; sec. 2, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a 2658); E.O. 11295, 36 F.R. 10603; 3 CFR 1966–70 Comp. p. 507)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.594, 33 F.R. 12042, Aug. 24, 1968; Dept. Reg. 108.734, 42 F.R. 17869, Apr. 4, 1977; Dept. Reg. 108.828, 47 F.R. 56329, Dec. 16, 1982; 57 F.R. 3282, Jan. 29, 1992; 63 F.R. 7285, Feb. 13, 1998; 69 F.R. 15670, March 26, 2004; 70 F.R. 53924, Sept. 13, 2005]

#### § 51.5 [Reserved]

#### § 51.6 Damaged, mutilated or altered passport.

Any passport which has been materially changed in physical appearance or composition, or contains a damaged, defective or otherwise nonfunctioning electronic chip, or which includes unauthorized changes, obliterations, entries or photographs, or has observable wear and tear that renders it unfit for further use as a travel document may be invalidated.

[Amended by 70 F.R. 61553, Oct. 25, 2005]

#### § 51.7 Verification of passports.

When required by the officials of a foreign government, an American Foreign Service office may verify a U.S. passport at the request of the bearer or of the foreign government.

#### § 51.8 Cancellation of previously issued passport.

(a) Upon applying for a new passport, an applicant shall submit for cancellation any previous passport still valid or potentially valid.

(b) If an applicant is unable to produce such a passport for cancellation, he or she shall submit a signed statement setting forth the circumstances surrounding the disposition of the passport and

if it is claimed to have been lost, the efforts made to recover it. A determination will then be made whether to issue a new passport and whether such passport shall be limited as to place and periods of validity.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 31 F.R. 14521, Nov. 11, 1966; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

### **§ 51.9 Passport property of the U.S. Government.**

A passport shall at all times remain the property of the United States and shall be returned to the Government upon demand.

#### **Subpart B—Application**

### **§ 51.20 General.**

An application for a passport, a replacement passport, extra visa pages, or other passport related service must be completed upon such forms as the Department may prescribe. The passport applicant shall truthfully answer all questions, and shall state each and every material matter of fact, pertaining to his or her eligibility for a passport. All information and evidence submitted in connection with an application shall be considered a part thereof.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 70 F.R. 53924, Sept. 13, 2005]

### **§ 51.21 Execution of passport application.**

(a) *First-time applicants, or persons who have not been issued a passport within the past fifteen years, and persons who are not eligible to apply for a passport under paragraphs (c) and (d) of this section.* Except as provided in § 51.27(b)(2)(i), a person who has never been issued a passport in his or her own name, or who has not been issued a passport for the full validity period of 10 years in his or her own name within 15 years of the date of a new application, or who is otherwise not eligible to apply for a passport under paragraphs (c) and (d) of this section, shall apply for a passport by appearing in person before a person authorized by the Secretary to give oaths, verify the application by oath or affirmation before that authorized person, provide two recent photographs as specified in the application, and pay the established fees.

(b) *Persons authorized by the Secretary to give oaths.* The following persons are authorized by the Secretary to give oaths for passport purposes unless withdrawn by the Secretary in an individual case:

- (1) A passport agent;
- (2) A clerk of any Federal court;
- (3) A clerk of any State court of record or a judge or clerk of any probate court;
- (4) A postal employee designated by the postmaster at a post office which has been selected to accept passport applications;

(5) A U.S. citizen employee of the Department of Defense designated by the Secretary of Defense to accept passport applications at a military installation within the continental United States selected to accept passport applications;

(6) A diplomatic officer, a consular officer, an overseas nationality examiner, a consular agent or a notarial officer abroad; or

(7) Any other persons specifically designated by the Secretary.

(c) *Persons in the United States who have previously been issued a full validity passport.* A person in the United States who has been issued a passport in his or her own name may obtain a new passport by filling out and mailing a specially prescribed application together with his or her previous passport, two signed recent photographs as specified in the application and the established fee to the nearest U.S. passport agency, provided:

(1) The most recently issued previous passport was issued when the applicant was 16 years of age or older.

(2) The application is made not more than 15 years following the issue date of the previous passport;<sup>1</sup>

(3) The most recently issued previous passport is submitted with the new application.

(d) *Persons outside of the United States who have previously been issued a full validity passport.* In a foreign country in which a U.S. consular district has been designated by the Secretary to receive such passport applications, a person who has been issued a passport in his or her own name within 8 years of the date of the new application may obtain a new passport by filling out a specially prescribed application and sending it (by mail or as prescribed by the Secretary), together with his or her previous passport, two recent photographs as specified in the application, and the established fee to the consular office in the consular district in which he or she is present, provided:

(1) The most recently issued passport was issued when the applicant was 16 years of age or older;

(2) The application is made not more than 15 years following the issue date of the previous passport; and<sup>1</sup>

(3) The most recently issued previous passport is submitted with the new application.

[44 F.R. 19393, Apr. 3, 1979; as amended by SD–165, 46 F.R. 2343, Jan. 9, 1981; Dept. Reg. 108.804, 46 F.R. 16257, Mar. 12, 1981; 51 F.R. 20475, June 5, 1986; 55 F.R. 21538, May 25, 1990; 57 F.R. 59807, Dec. 16, 1992; 61 F.R. 43312, Aug. 22, 1996; 65 F.R. 39288, June 26, 2000; 66 F.R. 29906, June 4, 2001; 69 F.R. 15670, March 26, 2004]

<sup>1</sup>As published by the Office of the Federal Register, National Archives and Records Administration.

**§ 51.22 [Reserved]****§ 51.23 Name of applicant to be used in passport.**

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence to citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

[SD-165, 46 F.R. 2343, Jan. 9, 1981]

**§ 51.24 Change of name.**

An applicant whose name has been changed by court order or decree shall submit with his or her application a certified copy of the order or decree. An applicant who has changed his or her name by the adoption of a new name without formal court proceedings shall submit with his or her application evidence that he or she has publicly and exclusively used the adopted name over a long period of time.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.25 Photographs.**

(a) *Photographs of bearer.* The applicant shall submit with his or her application duplicate photographs as specified in the application. The photographs should be sufficiently recent to be a good likeness of and satisfactorily identify the applicant. The photographs shall be signed in the same manner and form as required in the application.

(b) *Photographs of uniformed personnel.* Only applicants who are in the active service of the Armed Forces and proceeding abroad in the discharge of their duties may submit photographs in the uniform of the Armed Forces of the United States.

(c) *Unacceptable photographs.* A photograph with a waxed back or other coating which lessens adhesiveness is not acceptable. Newspaper or magazine pictures, snapshots, or full length photographs are not acceptable. Photographs of persons in the uniform of a civilian organization, except religious dress, will not generally be accepted.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.751, 43 F.R. 1791, Jan. 12, 1978; 44 F.R. 19394, Apr. 3, 1979; SD-165, 46 F.R. 2343, Jan. 9, 1981; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 69 F.R. 15671, March 26, 2004]

**§ 51.26 Incompetents.**

A parent, a legal guardian, or a person in loco parentis shall execute a passport application on behalf of a person declared incompetent.



**§ 51.27 Minors.**

(a) *Definitions.* A minor is an unmarried person under the age of 18 years.

(b) *Execution of application for minors.* (1) *Minors 14 years of age and above.* A minor aged 14 and above is required to execute an application on his or her own behalf unless, in the judgment of the person before whom the application is executed, it is not desirable for the minor to execute his or her own application. In such a case, it must be executed on behalf of the minor aged 14 and above by a parent or guardian of the minor or by a person in loco parentis.

(2) *Minors under the age of 14.* (i) Minors under 14 years of age applying for a passport shall appear in person, unless the personal appearance of the minor is specifically waived by a senior passport specialist at the issuing passport agency in the United States, or by a senior consular officer at the issuing overseas consular office, pursuant to guidance issued by the Department of State. In cases where such a waiver is granted, the person executing the passport application on behalf of the minor shall appear in person and verify the application by oath or affirmation before a person authorized by the Secretary to give oaths unless, in the case of applications received overseas, these requirements are also waived by a senior consular officer, pursuant to guidance issued by the Department of State.

(ii) Except as specifically provided in this section, both parents or each of the child's legal guardians, if any, whether applying for a passport for the first time or for a renewal, must execute the application on behalf of a minor under age 14 under penalty of perjury, and provide documentary evidence of parentage showing the minor's name, date and place of birth, and the names of the parent or parents.

(iii) A passport application may be executed on behalf of a minor under age 14 by just one parent or legal guardian if such person provides, under penalty of perjury:

(A) Documentary evidence that such person is the sole parent or has sole custody of the child; or

(B) A notarized written statement or notarized affidavit from the non-applying parent or guardian, if applicable, to the issuance of the passport.

(iv) An individual may apply in *loco parentis* on behalf of a minor under age 14 by submitting a notarized written statement or a notarized affidavit from both parents specifically authorizing the application. However, if only one parent provides the notarized written statement or notarized affidavit, documentary evidence that such parent has sole custody of the child must be presented.

(v) Documentary evidence in support of an application executed on behalf of a minor under age 14 by one parent or person in loco parentis under paragraphs (b)(2)(ii) and (iii) of this section may include, but is not limited to, the following:

(A) A birth certificate providing the minor's name, date and place of birth and the name of the sole parent;

(B) A Consular Report of Birth Abroad of a Citizen of the United States of America (FS-240) or a Certificate of Report

of Birth of a United States Citizen (DS-1350) providing the minor's name, date and place of birth and the name of the sole parent;

(C) An adoption decree showing only one adopting parent;

(D) An order of a court of competent jurisdiction granting sole custody to the applying parent or legal guardian and containing no travel restrictions inconsistent with issuance of the passport;

(E) A judicial declaration of incompetence of the non-applying parent;

(F) An order of a court of competent jurisdiction specifically permitting the applying parent's or guardian's travel with the child;

(G) A death certificate for the non-applying parent; or

(H) A copy of a Commitment Order or comparable document for an incarcerated parent.

(vi) In instances when a parent submits a custody decree invoking the provisions of paragraph (d)(1) of this section, the judicial limitations on the minor's ability to travel contained in the custody decree will be given effect.

(vii) The requirements of paragraphs (b)(2)(i), (ii) and (iii) of this section may be waived in cases of exigent or special family circumstances, as determined by a Department official designated under paragraph (b)(2)(vi)(E) of this section.

(A) Exigent circumstances are defined as time-sensitive circumstances in which the inability of the minor to obtain a passport would jeopardize the health and safety or welfare of the minor or would result in the child being separated from the rest of his or her traveling party.

(B) "Time-sensitive" generally means that there is not enough time before the minor's emergency travel to obtain either the required consent of both parents/guardians or documentation reflecting a sole parent's/guardian's custody rights.

(C) Special family circumstances are circumstances in which the minor's family situation makes it impossible for one or both of the parents to execute the passport application.

(D) A parent applying for a passport for a child under age 14 under this paragraph (b)(2)(vi) must submit with the application a written statement subscribed under penalty of perjury describing the exigent or special family circumstances the parent believes should be taken into consideration in applying an exception.

(E) Determinations under this paragraph (b)(2)(vi) may be made by a senior passport adjudicator or the Deputy Assistant Secretary for Passport Services for an application filed within the United States, or a consular officer or the Deputy Assistant Secretary for Overseas Citizens Services for an application filed abroad.

(viii) Nothing contained in this section shall prohibit any Department official adjudicating a passport application on behalf of a minor from requiring an applicant to submit other documentary evidence deemed necessary to establish the applying adult's entitlement to obtain a passport on behalf of a minor under the age of 14 in accordance with the provisions of this regulation.

(c) *Objection by parent, guardian or person in loco parentis in cases not involving a custody dispute.* At any time prior to the issuance of a passport to a minor, the application may be disapproved and a passport will be denied upon receipt of a written objection from a person having legal custody of the minor.

(d) *Objection by parent, guardian or person in loco parentis in cases where minors are the subject of a custody dispute.*

(1)(i) When there is a dispute concerning the custody of a minor under age 18, a passport may be denied if the Department has on file, or is provided in the course of a passport application executed on behalf of a minor, a copy of a court order from a court of competent jurisdiction in the United States or abroad which:

(A) Grants sole custody to the objecting parent; or

(B) Establishes joint legal custody; or

(C) Prohibits the child's travel without the permission of both parents or the court; or

(D) Requires the permission of both parents or the court for important decisions, unless permission is granted in writing as provided therein.

(ii) For passport issuance purposes, a court order providing for joint legal custody will be interpreted as requiring the permission of both parents. The Department will consider a court of competent jurisdiction to be a U.S. state court or a foreign court located in the child's home state or place of habitual residence. Notwithstanding the existence of any such court order, a passport may be issued when compelling humanitarian or emergency reasons relating to the welfare of the child exist.

(2) Either parent may obtain information regarding the application for and issuance of a passport to a minor unless the inquiring parent's parental rights have been terminated by a court order which has been register with the appropriate office at the Department of State; provided, however, that the Department may deny such information to any parent if it determines that the minor is of sufficient maturity to assert a privacy interest in his/her own right, in which case the minor's written consent to disclosure shall be required.

(3) The Department may require that conflicts regarding custody orders, whether domestic or foreign, be settled by the appellate court before a passport may be issued.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 61 F.R. 6505, Feb. 21, 1996; 66 F.R. 29906, June 4, 2001; 69 F.R. 15671, March 26, 2004; 69 F.R. 60813, Oct. 13, 2004; 69 F.R. 67053, Nov. 16, 2004]

#### **§ 51.28 Identity of applicant.**

(a) If the applicant is not personally known to the official receiving the application he or she shall establish his or her identity by the submission of a previous passport, other identifying documents or by an identifying witness.

(b) If an applicant submits an application under the provisions of paragraph (c) of § 51.21 he or she must submit a prior passport with his or her application.

(c) Any official receiving an application for a passport or any Passport Issuing Office may require such additional evidence of identity as may be deemed necessary.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by SD-165, 46 F.R. 2343, Jan. 9, 1981; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

#### **§ 51.30 Persons unacceptable as witnesses.**

The passport issuing office will not accept as witness to a passport application a person who has received or expects to receive a fee for his services in connection with executing the application or obtaining the passport.

#### **§ 51.31 Affidavit of identifying witness.**

(a) An identifying witness shall execute an affidavit stating: That he or she resides at a specific address; that he or she knows or has reason to believe that the applicant is a citizen of the United States; the basis of his or her knowledge concerning the applicant; and that the information set out in his or her affidavit is true to the best of his or her knowledge and belief.

(b) If the witness has a U.S. passport, he or she shall state the place of issue and, if possible, the number and approximate date of issue.

(c) The identifying witness shall subscribe to his or her statement before the same person who took the passport application.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended at 31 F.R. 14522, Nov. 11, 1966; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

#### **§ 51.32 Amendment of passports.**

Except for the convenience of the U.S. Government, no passport will be amended.

[SD-165 46 F.R. 2343, Jan. 9, 1981; as amended by 70 F.R. 53924, Sept. 13, 2005]

#### **§ 51.33 Release of passport information.**

Information in passport files is subject to the provisions of the Freedom of Information Act (FOIA) and the Privacy Act. Release of this information may be requested in accordance with the implementing regulations set forth in Subchapter R, Part 171 or Part 172 of this title.

(22 U.S.C. 2658 and 3926; 5 U.S.C. 552, 552a)

[61 F.R. 29940, June 13, 1996]

### **Subpart C—Evidence of U.S. Citizenship or Nationality**

#### **§ 51.40 Burden of proof.**

The applicant has the burden of proving that he or she is a national of the United States.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 66 F.R. 29907, June 4, 2001]

**§ 51.41 Documentary evidence.**

Every application shall be accompanied by evidence of the U.S. nationality of the applicant.

[Amended at 66 F.R. 29907, June 4, 2001]

**§ 51.43 Persons born in the United States applying for a passport for the first time.**

(a) *Primary evidence of birth in the United States.* A person born in the United States in a place where official records of birth were kept at the time of his or her birth shall submit with the application for a passport a birth certificate under the seal of the official custodian of birth records. To be acceptable, a certificate must show the full name of the applicant place and date of birth, and that the record thereof was recorded at the time of birth or shortly thereafter.

(b) *Secondary evidence of birth in the United States.* If the applicant cannot submit primary evidence of birth, he or she shall submit the best obtainable secondary evidence. If a person was born at a place in the United States when birth records were filed, he or she must submit a “no record” certification from the official custodian of such birth records before secondary evidence may be considered. The passport issuing office will consider, as secondary evidence, baptismal certificates, certificates of circumcision, or other documentary evidence created shortly after birth but not more than 5 years after birth, and/or affidavits of persons having personal knowledge of the facts of the birth.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.685, 38 F.R. 4667, Feb. 20, 1973; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.44 Persons born abroad applying for a passport for the first time.**

(a) *Naturalization in own right.* A person naturalized in his or her own right as a U.S. citizen shall submit with his or her application his or her certificate of naturalization.

(b) *Derivative citizenship at birth.* (1) An applicant who claims to have derived citizenship by virtue of his or her birth abroad to a U.S. citizen parent or parents may submit his or her won certificate of citizenship (Section 1993, Revised Statutes, as amended by Act of May 24, 1934; section 201 of the Nationality Act of 1940; section 301 of the Immigration and Nationality Act of 1952).

(2) In lieu of a certificate of citizenship, the applicant may submit evidence of his or her parent(s)' citizenship at the time of his or her birth, and evidence of his or her and his or her parent(s)' residence and physical presence in the United States. The passport issuing office may require the applicant to establish the marriage of his or

her parents and/or grandparents and his or her relationship to them.

(c) *Derivative citizenship subsequent to birth.* (1) An applicant who claims U.S. citizenship by virtue of the naturalization of his or her parent or parents subsequent to his or her birth may submit his or her own certificate of citizenship.

(2) In lieu of a certificate of citizenship the applicant may submit the naturalization certificate of the parent or parents through whom he or she claims U.S. citizenship. In this case, he or she must also show that he or she resided in the United States during minority as required by the law under which he or she claims citizenship.

(3) If an applicant claims citizenship through a mother who resumed citizenship or parent who was repatriated, he or she must submit evidence thereof. The applicant must establish also that he or she resided in the United States for the period prescribed by law.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

#### MARRIED WOMEN

##### **§ 51.45 Marriage to an alien prior to March 2, 1907.**

A woman citizen of the United States who married an alien prior to March 2, 1907, did not lose her U.S. citizenship unless she acquired as a result of the marriage the nationality of her husband and thereafter took up a permanent residence abroad prior to September 22, 1922.

##### **§ 51.46 Marriage to an alien between March 2, 1907, and September 22, 1922.**

(a) A woman citizen of the United States who married an alien between March 2, 1907, and September 22, 1922, lost her U.S. citizenship, except as provided in paragraph (b) of this section. At the termination of the marital relation she could resume her U.S. citizenship, if abroad, by registering as a U.S. citizen within 1 year with a Consul of the United States, or by returning to reside in the United States, or, if resident in the United States, by continuing to reside therein. (Section 3 of the Act of March 2, 1907.)

(b) A woman citizen of the United States who married an alien between April 6, 1917, and July 2, 1921, did not lose her citizenship, if the marriage terminated by death or divorce prior to July 2, 1921, or if her husband became a U.S. citizen prior to that date. She may establish her citizenship by proving her U.S. citizenship prior to marriage and the termination of the marriage or acquisition of U.S. citizenship by her husband prior to July 2, 1921.

**§ 51.47 Marriage prior to September 22, 1922, to an alien who acquired U.S. citizenship by naturalization prior to September 22, 1922.**

A woman citizen of the United States who lost her citizenship by virtue of her marriage to an alien between March 2, 1907, and September 22, 1922, and who reacquired U.S. citizenship through the naturalization of her husband prior to September 22, 1922, may establish her U.S. citizenship by submitting her husband's certificate of naturalization.

**§ 51.48 Marriage between September 22, 1922, and March 3, 1931, to an alien ineligible to citizenship.**

A woman citizen of the United States who lost her U.S. citizenship by virtue of her marriage to an alien ineligible to citizenship between September 22, 1922, and March 3, 1931, but who reacquired her citizenship by naturalization in accordance with applicable law shall submit with her application her certificate of naturalization (sec. 3 of the Act of Mar. 3, 1931).

**§ 51.49 Marriage on or after September 22, 1922, to an alien eligible to naturalization.**

A woman citizen of the United States who on or after September 22, 1922, married an alien eligible for naturalization did not thereby lose her U.S. citizenship and need only submit evidence of her own citizenship before a passport issuing office.

**§ 51.50 Alien born woman—marriage to citizen prior to September 22, 1922.**

An alien woman who acquired U.S. citizenship by virtue of her marriage to a citizen of the United States prior to September 22, 1922, shall submit with her application evidence of her husband's citizenship and of the marriage. (Section 1994 of the Revised Statutes.)

CITIZENSHIP BY ACT OF CONGRESS OR TREATY

**§ 51.51 Former nationals of Spain or Denmark.**

Former nationals of Spain or Denmark who acquired nationality or citizenship of the United States under an act of Congress or treaty by virtue of residence in territory under the sovereignty of the United States shall submit evidence of their former nationality and of their residence in such territory.

**§ 51.52 Citizenship by birth in territory under sovereignty of the United States.**

A person claiming nationality or citizenship of the United States under an act of Congress or treaty by virtue of his or her birth in territory under the sovereignty of the United States shall submit evidence of his birth in such territory.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.53 Proof of resumption of U.S. citizenship.**

An applicant who claims that he or she resumed U.S. citizenship or was repatriated under any of the nationality laws of the United States shall submit with the application a certificate of naturalization, a certificate of repatriation or evidence of the fact that he or she took an oath of allegiance in accordance with the applicable provisions of the law. (Act of June 29, 1906, as amended by Act of May 9, 1918; Act of June 25, 1936, as amended by Act of July 2, 1940, sections 317(b) and 323 of the Nationality Act of 1940 as amended by Acts of April 2, 1942, and August 7, 1946; Act of August 16, 1951, as amended by section 402(j) of the Immigration and Nationality Act of 1952; sections 324 and 327 of the Immigration and Nationality Act of 1952; Act of July 20, 1954).

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.54 Requirement of additional evidence of U.S. citizenship.**

Nothing contained in §§ 51.43 through 51.53 shall prohibit the Department from requiring an applicant to submit other evidence deemed necessary to establish his or her U.S. citizenship or nationality.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.55 Return or retention of evidence of citizenship.**

The passport issuing office will generally return to the applicant submitted in connection with an application for passport facilities. However, the passport issuing office may retain evidence when it deems necessary.

**Subpart D—Fees****§ 51.60 Form of remittance.**

Passport fees in the United States shall be paid in U.S. currency or by draft, check, or money order payable to the department of State or the Passport Office. Passport fees abroad shall be paid in U.S. currency, travelers checks, money order, or the equivalent value of the fees in local currency.

[31 F.R. 14522, Nov. 11, 1966]

**§ 51.61 Passport fees.**

Fees, including execution fees, shall be collected for the following passport services in the amounts prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1):

(a) A fee for each passport application filed, which fee shall vary depending on the age of the applicant. The passport application fee shall be paid by all applicants at the time of application, except as provided in § 51.62(a), and is not refundable, except as provided in § 51.63. A person who is denied a passport may request that the



application be reconsidered without payment of an additional fee upon the submission, within 90 days after the date of the denial, of documentation not previously presented that is sufficient to establish citizenship or entitlement to a passport.

(b) A surcharge of six dollars on the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1165 note). The surcharge will be recovered by the Department of State from within the passport fee reflected in Schedule of Consular Fees. The surcharge will be imposed until October 1, 2010.

(c) A fee for execution of the passport application, except as provided in § 51.62(b), when the applicant is required to execute the application in person before a person authorized to administer oaths for passport purposes. This fee shall be collected as part of the passport application fee at the time of application and is not refundable (see § 51.65). When execution services are provided by an official of a state or local government or of the United States Postal Service, the fee may be retained by that entity to cover the costs of service pursuant to an appropriate agreement with the Department of State.

(d) A fee for expedited services, if any, provided pursuant to § 51.66.

[63 F.R. 5103, January 30, 1998, as amended at 65 F.R. 14212, March 16, 2000; 67 F.R. 34838, May 16, 2002; 71 F.R. 46396, Aug. 14, 2006]

**§ 51.62 Exemption from payment of passport or execution fee.**

(a) The following persons are exempt from the payment of passport fees:

(1) An officer or employee of the U.S. proceeding abroad on official business, or the members of his or her immediate family authorized to accompany or reside with him or her abroad. The applicant shall submit evidence of the official purpose of his or her travel and if applicable his or her authorization to have dependents accompany or reside with him or her abroad.

(2) An American sailor who requires a passport in connection with his or her duties aboard an American flag-vessel.

(3) A widow, child, parent, brother, or a sister of a deceased American service member proceeding abroad to visit the grave of such service member.

(4) An employees of the United Seamen's Service who requires a passport for travel to assume or perform duties thereof. The applicant shall submit with his or her application a letter from the United Seaman's Service certifying that he or she is proceeding abroad on official business to provide facilities and services for US. merchant seamen.

(b) No person described in paragraph (a)(1), (2), (3), or (4) of this section shall be required to pay an execution fee when his or her application is executed before a Federal official.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by Dept. Reg. 108.656, 37 F.R. 6053, Mar. 24, 1972; Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; redesignated from sec. 51.63 at 63 F.R. 5103, Jan. 30, 1998]

#### **§ 51.63 Refunds.**

A collected passport application fee shall be refunded:

(a) To any person exempt from the payment of passport fees under § 51.62 from whom fees were erroneously collected.

(b) For procedures on refunds of \$5.00 or less see § 22.6(b) of this title.

(c) The passport expedite fee will be refunded if the Passport Agency does not provide the requested expedited processing as defined in § 51.66.

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended at 52 F.R. 29515, Aug. 10, 1987; 59 F.R. 48999, Sept. 26, 1994; redesignated and amended at 63 F.R. 5103, Jan. 30, 1998; 65 F.R. 14212, Mar. 16, 2000]

#### **§ 51.64 Replacement passports.**

A passport issuing office may issue a replacement passport for the following reasons without payment of applicable fees:

(a) To correct an error or rectify a mistake of the Department.

(b) When the bearer has changed his or her name or other personal identifier listed on the data page of the passport, and applies for a replacement passport within one year of the date of the passport's original issuance.

(c) When the bearer of an emergency full fee passport issued for a limited validity period applies for a full validity passport within one year of the date of the passport's original issuance.

(d) When a passport is retained by law enforcement or the judiciary for evidentiary purposes and the bearer is still eligible to have a passport.

(e) When a passport is issued for the balance of the original validity period to replace a passport with a failed electronic chip.

[31 F.R. 13540, Oct. 20, 1966; redesignated at 63 F.R. 5103, Jan. 30, 1998; as amended by 70 F.R. 53924, Sept. 13, 2005; 70 F.R. 61553, Oct. 25, 2005]

#### **§ 51.65 Execution fee not refundable.**

The fee for the execution of a passport application cannot be refunded.

[31 F.R. 13540, Oct. 20, 1966; redesignated at 63 F.R. 5103, Jan. 30, 1998]

#### **§ 51.66 Expedited passport processing.**

(a) Within the United States, an applicant for a passport service (including issuance, replacement or the addition of visa pages) may request expedited processing by a Passport Agency. All requests by applicants for in-person services at a Passport Agency shall be considered requests for expedited processing, unless the Department has determined that the applicant is required to apply at a U.S. Passport Agency.

(b) Expedited passport processing shall mean completing processing within 3-business days commencing when the application reaches a Passport Agency or, if the application is already with a Passport Agency, commencing when the request for expedited processing is approved. The processing will be considered completed when the passport is ready to be picked up by the applicant or is mailed to the applicant.

(c) A fee shall be collected for expedited processing service in the amount prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1). This amount will be in addition to any other applicable fee and does not include urgent mailing costs, if any.

(d) A request for expedited processing normally will be accepted only if the applicant can document urgent departure with airline tickets showing confirmed reservation or similar evidence. The Passport Agency may decline to accept the request if it is apparent at the time it is made that the request cannot be granted.

(e) The expedite fee may be waived only where the need for expedited processing was necessary due to Department error, mistake or delay.

[Added by 59 F.R. 49000, Sept. 26, 1994; redesignated and amended at 63 F.R. 5103, Jan. 30, 1998; 70 F.R. 53925, Sept. 13, 2005]

#### **Subpart E—Limitation on Issuance or Use of Passports**

##### **§ 51.70 Denial of passports.**

(a) A passport, except for direct return to the United States, shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant is the subject of an outstanding Federal warrant of arrest for a felony, including a warrant issued under the Federal Fugitive Felon Act (18 U.S.C. 1073); or

(2) The applicant is subject to a criminal court order, condition of probation, or condition of parole, any of which forbids departure from the United States and the violation of which could result in the issuance of a Federal warrant of arrest, including a warrant issued under the Federal Fugitive Felon Act; or

(3) The applicant is subject to a court order committing him or her to a mental institution; or

(4) The applicant is the subject of a request for extradition or provisional arrest for extradition which has been presented to the government of a foreign country; or

(5) The applicant is the subject of a subpoena issued pursuant to section 1783 of title 28, United States Code, in a matter involving Federal prosecution for, or grand jury investigation of, a felony; or

(6) The applicant has not repaid a loan received from the United States as prescribed under §§ 71.10 and 71.11 of this chapter; or

(7) The applicant is in default on a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(8) The applicant has been certified by the Secretary of Health and Human Services as notified by a State agency

under 42 U.S.C. 652(k) to be in arrears of child support in an amount exceeding \$2,500.00.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that:

(1) The applicant has not repaid a loan received from the United States to effectuate his or her return from a foreign country in the course of travel abroad; or

(2) The applicant has been legally declared incompetent unless accompanied on his or her travel abroad by the guardian or other person responsible for the national's custody and well-being; or

(3) The applicant is under the age of 18 years, unmarried and not in the military service of the United States unless a person having legal custody of such national authorizes issuance of the passport and agrees to reimburse the United States for any monies advanced by the United States for the minor to return to the United States; or

(4) The Secretary determines that the national's activities abroad are causing or are likely to cause serious damage to the national security or the foreign policy of the United States; or

(5) The applicant has been the subject of a prior adverse action under this section or § 51.71 and has not shown that a change in circumstances since the adverse action warrants issuance of a passport; or

(6) The applicant is subject to an order of restraint or apprehension issued by an appropriate officer of the United States Armed Forces pursuant to chapter 47 of title 10 the United States Code.

(Approved by the Office of Management and Budget under control number 1405-0077)

[54 F.R. 8531, Mar. 1, 1989; as amended at 62 F.R. 62695, Nov. 25, 1997; 71 F.R. 58496, Oct. 4, 2006]

**§ 51.71 Denial of passports to certain convicted drug traffickers.**

(a) A passport shall not be issued in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a felony conviction for a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, including a felony conviction arising under:

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

(2) Any Federal law involving controlled substances as defined in section 802 of the Controlled Substances Act (21 U.S.C. 801 et seq.); or

(3) The Bank Secrecy Act (31 U.S.C. 5311 et seq.) or the money Laundering Act (18 U.S.C. 1956 et seq.) if the Secretary of State is in receipt of information that supports the determination that the violation involved is related to illicit production of or trafficking in a controlled substance; or

(4) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(b) A passport may be refused in any case in which the Secretary of State determines or is informed by competent authority that the applicant is subject to imprisonment or supervised release as the result of a misdemeanor conviction of a Federal or state drug offense if the individual used a U.S. passport or otherwise crossed an international border in committing the offense, other than a first conviction for possession of a controlled substance, including a misdemeanor conviction arising under:

(1) The Federal statutes described in § 51.71(a); or

(2) Any state law involving the manufacture, distribution, or possession of a controlled substance.

(c) Notwithstanding paragraphs (a) and (b) of this section the Secretary of State may issue a passport when the competent authority confirms, or the Secretary of State otherwise finds, that emergency circumstances or humanitarian reasons exist.

(Approved by the Office of Management and Budget under control number 1405-0077)

[54 F.R. 8532, Mar. 1, 1989].

#### **§ 51.72 Revocation or restriction of passports.**

A passport may be revoked or restricted or limited where:

(a) The national would not be entitled to issuance of a new passport under § 51.70 or § 51.71; or

(b) The passport has been obtained by fraud, or has been fraudulently altered, or has been fraudulently misused, or has been issued in error; or

(c) The Department of State is notified that a certificate of naturalization issued to the applicant for or bearer of the passport has been canceled by a federal court.

[54 F.R. 8532, Mar. 1, 1989; as amended at 64 F.R. 19714, Apr. 22, 1999]

#### **§ 51.73 Passports invalid for travel into or through restricted areas.**

(a) Unless specifically validated therefore, U.S. passports shall cease to be valid for travel into or through a country or area which the Secretary has determined is:

(1) A country with which the United States is at war, or

(2) A country or area where armed hostilities are in progress;

or

(3) A country or area in which there is imminent danger to the public health or physical safety of United States travelers.

(b) Any determination made under paragraph (a) of this section shall be published in the FEDERAL REGISTER along with a statement of the circumstances requiring this restriction.

(c) Unless limited to a shorter period, any such restriction shall expire at the end of one year from the date of publication of such notice in the FEDERAL REGISTER, unless extended or sooner revoked by the Secretary by public notice.

[Dept. Reg. 108.786, 45 F.R. 11128, Feb. 20, 1980; redesignated by 54 F.R. 8532, Mar. 1, 1989]

**§ 51.74 Special validation of passports for travel to restricted areas.**

(a) A United States National wishing a validation of his passport for travel to, in or through a restricted country or area may apply for a special validation to the Office of Passport Services, a passport agency, or a foreign service post authorized to issue passports. The application shall be accompanied by evidence that the applicant falls within the standards set out in paragraph (c) of this section.

(b) The Assistant Secretary of State for Consular Affairs or an authorized designee of that official shall decide whether or not to grant a special validation. The special validation shall be granted only when such action is determined to be in the national interest of the United States.

(c) An application may be considered if:

(1) The applicant is a professional reporter, the purpose of whose trip is to obtain, and make available to the public, information about the restricted area; or

(2) The applicant is a representative of the American Red Cross; or

(3) The applicant establishes that his or her trip is justified by compelling humanitarian considerations; or

(4) The applicant's request is otherwise in the national interest.

(Sec. 1, 44 Stat. 887, as amended (22 U.S.C. 211a); sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658); E.O. 11295, 36 F.R. 10603; 3 CFR 1966-70 Comp., 507; E.O. 12211, 45 F.R. 26685)

[Dept. Reg. 108.790, 45 F.R. 30619, May 9, 1980; redesignated by 54 F.R. 8532, Mar. 1, 1989]

**§ 51.75 Notification of denial or withdrawal of passport.**

Any person whose application for issuance of a passport has been denied, or who has otherwise been the subject of an adverse action taken on an individual basis with respect to his or her right to receive or use a passport shall be entitled to notification in writing of the adverse action. The notification shall set forth the specific reasons for the adverse action and the procedures for review available under § 51.81 through 51.105.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.594, 33 F.R. 12043, Aug. 24, 1968; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.76 Surrender of passport.**

The bearer of a passport which is revoked shall surrender it to the Department or its authorized representative upon demand and upon his or her refusal to do so such passport may be invalidated by notifying the bearer in writing of the invalidation.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

### **Subpart F—Procedures for Review of Adverse Action<sup>2</sup>**

#### **§ 51.80 Applicability of §§ 51.81 through 51.89.**

(a) The provisions of §§ 51.81 through 51.89 do not apply to any action of the Secretary of State taken on an individual basis in denying, restricting, revoking, or invalidating a passport or in any other way adversely affecting the ability of a person to receive or use a passport except action taken by reason of:

- (1) Noncitizenship,
- (2) Refusal under the provisions of § 51.70(a)(8),
- (3) Refusal to grant a discretionary exception under the emergency or humanitarian relief provisions of § 51.71(c), or
- (4) Refusal to grant a discretionary exception from geographical limitations of general applicability.

(b) The provisions of this subpart shall otherwise constitute the administrative remedies provided by the Department to persons who are the subject of adverse action under §§ 51.70, 51.71 or § 51.72.

[65 F.R. 39288, June 26, 2000]

#### **§ 51.81 Time limits on hearing to review adverse action.**

A person who has been the subject of an adverse action with respect to his or her right to receive or use a passport shall be entitled, upon request made within 60 days after receipt of notice of such adverse action, to require the Department or the appropriate Foreign Service post, as the case may be, to establish the basis for its action in a proceeding before a hearing officer. If no such request is made within 60 days, the adverse action will be considered final and not subject to further administrative review. If such request is made within 60 days the adverse action shall be automatically vacated unless such proceeding is initiated by the Department or the appropriate Foreign Service post, as the case may be within 60 days after request, or such longer period as is requested by the person adversely affected and agreed to by the hearing officer.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

#### **§ 51.82 Notice of hearing.**

The person adversely affected shall receive not less than 5 business days' notice in writing of the scheduled date and place of the hearing.

#### **§ 51.83 Functions of the hearing officer.**

The hearing officer shall act on all requests for review under § 51.81. He shall make findings of fact and submit recommendations to the Deputy Assistant Secretary for Passport Services in the

<sup>2</sup>Sections 51.90 through 51.105 were removed by 44 F.R. 68827 (November 30, 1979).

Bureau of Consular Affairs. In making his or her findings and recommendations, the hearing officer shall not consider confidential security information unless that information is made available to the person adversely affected and is made part of the record of the hearing.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 64 F.R. 19715, Apr. 22, 1999]

**§ 51.84 Appearance at hearing.**

The person adversely affected may appear at the hearing in person or with his or her attorney, or by his or her attorney. The attorney must be admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States or be admitted to practice before the courts of the country in which the hearing is to be held.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.637, 36 F.R. 9068, May 19, 1971; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984; 64 F.R. 19715, Apr. 22, 1999]

**§ 51.85 Proceedings before the hearing officer.**

The person adversely affected may appear and testify in his or her own behalf and may himself, or by his or her attorney, present witnesses and offer other evidence and make argument. If any witness whom the person adversely affected wishes to call is unable to appear in person, the hearing officer may, in his or her discretion, accept an affidavit by the witness or order evidence to be taken by deposition. The person adversely affected shall be entitled to be informed of all the evidence before the hearing officer and of the source of such evidence, and shall be entitled to confront and cross-examine any adverse witness. The person shall, upon request by the hearing officer, confirm his or her oral statements in an affidavit for the record.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.86 Admissibility of evidence.**

The person adversely affected and the Department may introduce such evidence as the hearing officer deems proper. Formal rules of evidence shall not apply, but reasonable restrictions shall be imposed as to relevancy, competency and materiality of evidence presented.

**§ 51.87 Privacy of hearing.**

The hearing shall be private. There shall be present at the hearing only the person adversely affected, his or her attorney, the hearing officer, official stenographers, employees of the Department



directly concerned with the presentation of the case, and the witnesses. Witnesses shall be present at the hearing only while actually giving testimony or when otherwise directed by the hearing officer.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.88 Transcript of hearing.**

A complete verbatim stenographic transcript shall be made of the hearing by a qualified reporter, and the transcript shall constitute a permanent part of the record. Upon request, the appellant or his or her counsel shall be entitled to inspect the complete transcript and to purchase a copy thereof.

(22 U.S.C. 2658 and 3926)

[Dept. Reg. 108.541, 31 F.R. 13540, Oct. 20, 1966; as amended by Dept. Reg. 108.838, 49 F.R. 16989, Apr. 23, 1984]

**§ 51.89 Decision of Deputy Assistant Secretary for Passport Services.**

The person adversely affected shall be promptly notified in writing of the decision of the Deputy Assistant Secretary for Passport Services, and, if the decision is adverse to that person, the notification shall state the reasons for the decision. The notification shall also state that the adversely affected person may request reconsideration within 60 days from the date of the notice of the adverse action. If no request is made within that period, the decision is considered final and not subject to further administrative review; a decision on a request for reconsideration is also administratively final. Nothing in this section, however, shall be considered to bar the adversely affected person from submitting a new passport application as provided for in subparts B through D of this part.

[64 F.R. 19715, Apr. 22, 1999]

PART 52—MARRIAGES

Sec.

52.1 Celebration of marriage.

52.2 Authentication of marriage and divorce documents.

52.3 Certification as to marriage laws.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658.

SOURCE: Dept. Reg. 108.541, 31 F.R. 13546, Oct. 20, 1966, unless otherwise noted.

**§ 52.1 Celebration of marriage.**

Foreign Service officers are forbidden to celebrate marriages.

**§ 52.2 Authentication of marriage and divorce documents.**

(a) Whenever a consular officer is requested to authenticate the signature of local authorities on a document of marriage when he was not a witness to the marriage, he shall include in the body of his certificate of authentication the qualifying statement, "For the

contents of the annexed document, the Consulate (General) assumes no responsibility.”

(b) A consular officer shall include the same statement in certificates of authentication accompanying decrees of divorce.

[31 F.R. 13546, Oct. 20, 1966; redesignated by 51 F.R. 26247, July 22, 1986]

### § 52.3 Certification as to marriage laws.

Although a consular officer may have knowledge respecting the laws of marriage, he shall not issue any official certificate with respect to such laws.

[31 F.R. 13546, Oct. 20, 1966; redesignated by 51 F.R. 26247, July 22, 1986]

## PART 53—PASSPORT REQUIREMENT AND EXCEPTIONS

Sec.

53.1 Passport requirement.

53.2 Exceptions.

53.3 Attempt of a citizen to enter without a valid passport.

53.4 Optional use of a valid passport.

AUTHORITY: 8 U.S.C. 1185. Proc. 3004, 18 F.R. 489; 3 CFR, 1949-1953 Comp., p. 180.

SOURCE: Dept. Reg. 108.541, 31 F.R. 13546, Oct. 20, 1966, unless otherwise noted.

### § 53.1 Passport requirement.

Under section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)), it is unlawful except as otherwise provided for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States without a valid passport.

### § 53.2 Exceptions.

A U.S. citizen is not required to bear a valid passport to enter or depart the United States:

(a) When traveling directly between parts of the United States as defined in § 50.1 of this chapter;

(b) When traveling between the United States and any country, territory, or island adjacent thereto in North, South or Central America excluding Cuba; provided, that this exception is not applicable to any such person when proceeding to or arriving from a place outside the United States for which a valid passport is required under this part if such travel is accomplished within 60 days of departure from the United States via any country or territory in North, South or Central America or any island adjacent thereto;

(c) When traveling as a bona fide seaman or air crewman who is the holder of record of a valid merchant mariner identification document or air crewman identification card;

(d) When traveling as a member of the Armed Forces of the United States on active duty;

(e) When he is under 21 years of age and is a member of the household of an official or employee of a foreign government or

of the United Nations and is in possession of or included in a foreign passport;

(f) When he is a child under 12 years of age and is included in the foreign passport of an alien parent; however, such child will be required to provide evidence of his U.S. citizenship when entering the United States;

(g) When the citizen entering the United States presents a card of identity and registration issued by a consular office abroad to facilitate travel to the United States; or

(h) When specifically authorized by the Secretary of State through appropriate official channels to depart from or enter the United States, as defined in § 50.1 of this chapter. The fee for a waiver of the passport requirement under this section shall be collected in the amount prescribed in the Schedule of Fees for Consular Services (22 CFR 22.1).

[Dept. Reg. 108.541, 31 F.R. 13546, Oct. 20, 1966; as amended by Dept. Reg. 108.666, 37 F.R. 11459, June 8, 1972; 51 F.R. 26247, July 22, 1986]

**§ 53.3 Attempt of a citizen to enter without a valid passport.**

The appropriate officer at the port of entry shall report to the Secretary of State for the purpose of invoking the waiver provisions of § 53.2(h), any citizen of the United States who attempts to enter the United States contrary to the provisions of this part.

**§ 53.4 Optional use of a valid passport.**

Nothing in this part shall be construed to prevent a citizen from using a valid passport in a case in which that passport is not required by this Part 53, provided such travel is not otherwise prohibited.

**c. Passport Limitations**

**(1) Allegiance to the United States**

**Act of July 14, 1902 [R.S. Sec. 4076], 32 Stat. 386; 22 U.S.C. 212**

No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States.

## (2) Application for Passport

Partial text of Act of June 15, 1917 [H.R. 291], 40 Stat. 217 at 227; 22 U.S.C. 213, as amended by Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968

**Section 1.** Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. If the applicant has not previously been issued a United States passport, the application shall be duly verified by his oath before a person authorized and empowered by the Secretary of State to administer oaths.

NOTE.—See, however, *Woodward v. Rogers*, 344 F. Supp. 974 (D.C.D.C. 9 1972); aff., 486 F. 2d 1317 (D.C. Cir. 1973).

### (3) Fees

Partial text of the Act of June 4, 1920<sup>1</sup> [H.R. 11960], 41 Stat. 739 at 750; 22 U.S.C. 214, as amended by Public Law 84-403 [H.R. 5844], 70 Stat. 11, approved February 10, 1956; Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968; Public Law 92-14 [S. 531], 85 Stat. 38, approved May 14, 1971; Public Law 93-417 [H.R. 15172], 88 Stat. 1151, approved September 17, 1974; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279, approved August 24, 1982; Public Law 104-208 [Department of State and Related Agencies Appropriations Act, 1997; title IV of sec. 101(a) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999; Public Law 109-167 [Passport Services Enhancement Act of 2005; H.R. 4501], 119 Stat. 3578, approved January 10, 2006; and Public Law 109-210 [S. 1184], 120 Stat. 319, approved March 24, 2006

(a) There shall be collected and paid<sup>2</sup> into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for the filing of each application for a passport (including the cost of passport issuance and use)<sup>3</sup> and a fee, prescribed by the Secretary of State by regulation, for executing each such application;<sup>4</sup> except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted

<sup>1</sup> Often referred to as the Passport Act, or the Passport Act of June 4, 1920. Sec. 233(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-426), struck out sec. 4 of this Act (22 U.S.C. 216), “effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended”. Sec. 4 had provided as follows:

“Whenever the appropriate officer within the United States of any foreign country refuses to visa a passport issued by the United States, the Department of State is authorized upon request in writing and the return of the unused passport within six months from the date of issue to refund to the person to whom the passport was issued the fees which have been paid to Federal officials, and the money for that purpose is appropriated and direct to be paid upon the order of the Secretary of State.”

<sup>2</sup> Sec. 1(1) of the Passport Services Enhancement Act of 2005 (Public Law 109-167; 119 Stat. 3578) struck out “There shall be collected and paid” and inserted in lieu thereof “(a) There shall be collected and paid”.

<sup>3</sup> Sec. 233(a)(1)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-426), struck out “each passport issued” and inserted in lieu thereof “the filing of each application for a passport (including the cost of passport issuance and use)”. The amendment is “effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended”, pursuant to sec. 233(c) of the Nance/Donovan Act.

<sup>4</sup> Sec. 233(a)(1)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-426), struck out “each application for a passport” and inserted in lieu thereof “each such application”. The amendment is “effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended”, pursuant to sec. 233(c) of the Nance/Donovan Act.

by such officials or by that Service.<sup>5, 6</sup> Such fees shall not be refundable, except as the Secretary may by regulation prescribe.<sup>7</sup> No passport fee shall be collected from an officer or employee of the United States proceeding abroad in the discharge of official duties, or from members of his immediate family; from an American seaman who requires a passport in connection with his duties aboard an American-flag vessel; or from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member.<sup>8</sup> No execution fee shall be collected for an application made before a Federal official by a person excused from payment of the passport fee under this section.

(b)<sup>9</sup> (1) The Secretary of State may by regulation establish and collect a surcharge on applicable fees for the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note). Such surcharge shall be in addition to the fees provided for in subsection (a) and in addition to the surcharges or fees otherwise authorized by law and shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended for the purposes of meeting such costs.

(2) The authority to collect the surcharge provided under paragraph (1) may not be exercised after September 30, 2010.

(3) The Secretary of State shall ensure that, to the extent practicable, the total cost of a passport application during fiscal years 2006 and 2007, including the surcharge authorized under paragraph (1), shall not exceed the cost of the passport application as of December 1, 2005.

<sup>5</sup>Sec. 116(a) of Public Law 97-241 (96 Stat. 279) amended and restated this sentence. Previously, this sentence established a fee of \$10 for each passport issued in addition to the fee prescribed by the Secretary of State for executing each application. Sec. 407(1) of the Department of State Appropriations Act, 1997 (title IV of sec. 101(a) of title I of Public Law 104-208; 110 Stat. 3009), added “; except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service”.

<sup>6</sup>Sec. 407(2) of the Department of State Appropriations Act, 1997 (title IV of sec. 101(a) of title I of Public Law 104-208; 110 Stat. 3009), struck out a sentence after this point, which read: “Nothing contained in this section shall be construed to limit the right of the Secretary of State by regulation (1) to authorize State officials to collect and retain the execution fee, or (2) to transfer to the United States Postal Service the execution fee for each application accepted by that Service.”

<sup>7</sup>Sec. 233(a)(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-426), added this sentence. The amendment is “effective on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920, as amended”, pursuant to sec. 233(c) of the Nance/Donovan Act.

<sup>8</sup>Sec. 1 of Public Law 109-210 (120 Stat. 319) struck out “or from a widow, child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member” and inserted in lieu thereof “or from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member”.

<sup>9</sup>Sec. 1(2) of the Passport Services Enhancement Act of 2005 (Public Law 109-167; 119 Stat. 3578) added subsec. (b).

#### (4) Ten Year Validity of Passport

Partial text of the Act of July 3, 1926 [H.R. 12495], 44 Stat. 887; 22 U.S.C. 217a, as amended by Public Law 71-488 [H.R. 10826], 46 Stat. 839, approved July 1, 1930; Public Law 72-136 [H.R. 9393], 47 Stat. 157, approved May 16, 1932; Public Law 86-267 [S. 1973], 73 Stat. 552, approved September 14, 1959; Public Law 90-428 [S. 1418], 82 Stat. 446, approved July 26, 1968; and Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279, approved August 24, 1982

**Sec. 2.**<sup>1</sup> A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.

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<sup>1</sup>Sec. 116(b) of Public Law 97-241 (96 Stat. 279) amended and restated sec. 2 and applied only to passports issued after the date of enactment of Public Law 97-241 (August 24, 1982). Formerly, sec. 2 had provided that a passport would be valid for 5 years.



#### d. Travel Documentation of Aliens and Citizens <sup>1</sup>

Partial text of Public Law 82-414 [Immigration and Nationality Act of 1952; H.R. 5678], 66 Stat. 190, approved June 27, 1952; as amended by Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; and Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994

\* \* \* \* \*  
SEC. 215.<sup>2</sup> (a) Unless otherwise ordered by the President, it shall be unlawful—<sup>3</sup>

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b)<sup>4</sup> Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United

<sup>1</sup> See also "Privileges and Immunities" in *Legislation on Foreign Relations Through 2005*, vol. II-B.

<sup>2</sup> 8 U.S.C. 1185.

<sup>3</sup> Sec. 707 of Public Law 95-426 (92 Stat. 992) struck out the words to this point in sec. 215(a) and added this phrase.

<sup>4</sup> Sec. 707(b) of Public Law 95-426 (92 Stat. 992) amended and restated subsec. (b).

States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid United States<sup>5</sup> passport.

(c)<sup>6</sup> The term “United States” as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term “person” as used in this section shall be deemed to mean by individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d)<sup>6</sup> Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if upon arrival in the United States, he is found to be inadmissible under any of the provisions of this Act, or any other law, relating to the entry of aliens into the United States.

(e)<sup>6</sup> The revocation of any<sup>7</sup> rule, regulation, or order issued in pursuance of this section shall not prevent prosecution, for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such<sup>7</sup> rule, regulation, or order.

(f)<sup>6</sup> Passports, visas, reentry permits, and other documents required for entry under this Act may be considered as permits to enter for the purposes of this section.

<sup>5</sup>Sec. 204(a) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416; 108 Stat. 4311) inserted “United States” after “valid”, effective on or after October 25, 1994, for any departures and entries (and attempts thereof).

<sup>6</sup>Sec. 707(d) of Public Law 95-426 (92 Stat. 993) struck out subsec. (c) and redesignated subsecs. (d), (e), (f), and (g) as subsecs. (c), (d), (e), and (f), respectively.

<sup>7</sup>Sec. 707(c) of Public Law 95-426 (92 Stat. 993) struck out “proclamation,” before “rule”.

## e. Criminal Provisions

### (1) Punishable Violations

18 U.S.C. 1541-1546, as added by Public Law 80-772 [H.R. 3190], 62 Stat. 683 at 771, approved June 25, 1948; as amended by Public Law 82-414 [Immigration and Nationality Act; H.R. 5678], 66 Stat. 275, approved June 27, 1952; Public Law 94-550 [H.R. 15531], 90 Stat. 2354, approved October 18, 1976; Public Law 99-603 [Immigration Reform and Control Act of 1986; S. 1200], 100 Stat. 3359, approved November 6, 1986; Public Law 100-525 [Immigration Technical Corrections Act of 1988; S. 2479], 102 Stat. 2609, approved October 24, 1988; Public Law 101-647 [Crime Control Act of 1990; S. 3266], 104 Stat. 4789, approved November 29, 1990; Public Law 103-322 [Violent Crime Control and Enforcement Act of 1994; H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 104-208 [Illegal Immigration Reform and Immigrant Responsibility Act of 1996; division C of the Omnibus Consolidated Appropriations Act, 1996; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104-294 [Economic Espionage Act of 1996; H.R. 3723], 110 Stat. 3488, approved October 11, 1996; and by Public Law 107-273 [21st Century Department of Justice Appropriations Authorization Act; H.R. 2215], 116 Stat. 1758, approved November 2, 2002

#### § 1541. Issuance Without Authority.

Whoever, acting or claiming to act in any office or capacity under the United States, or a State,<sup>1</sup> without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate<sup>2</sup> such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),<sup>3</sup> or both.

<sup>1</sup>Sec. 607(n)(1) of the Economic Espionage Act of 1996 (Public Law 104-294; 110 Stat. 3512) struck out “or possession” after “or a State”.

<sup>2</sup>Sec. 4002(a)(3) of Public Law 107-273 (116 Stat. 1806) struck out “to facility” and inserted in lieu thereof “to facilitate” in secs. 1541 through 1544 and sec. 1546(a).

<sup>3</sup>Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009) struck out “imprisoned not more than ten years” and inserted in lieu thereof “imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)”.

Continued

For<sup>4</sup> purposes of this section, the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

**§ 1542. False Statement in Application and Use of Passport.**

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate<sup>2</sup> such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),<sup>5</sup> or both.

**§ 1543. Forgery or False Use of Passport.**

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the

<sup>1</sup> Previously, sec. 130009(a) of Public Law 103–322 (108 Stat. 2030) struck out “not more than \$500 or imprisoned not more than one year” and inserted in lieu thereof “under this title, imprisoned not more than ten years”.

<sup>2</sup> Sec. 330016(1)(G) of the same Act also struck out “not more than \$500” and inserted in lieu thereof “under this title”, throughout title 18 U.S.C.

<sup>4</sup> Sec. 607(n)(2) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3512) added this paragraph.

<sup>5</sup> Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “imprisoned not more than ten years” and inserted in lieu thereof “imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)”.

Previously, sec. 130009(a)(2) of Public Law 103–322 (108 Stat. 2030) struck out “not more than \$2,000 or imprisoned not more than five years” in secs. 1542, 1543, and 1544, and inserted in lieu thereof “under this title, imprisoned not more than ten years”.

Sec. 330016(1)(I) of the same Act also struck out “not more than \$2,000” and inserted in lieu thereof “under this title”, throughout title 18 U.S.C.

case of the first or second such offense, if the offense was not committed to facilitate<sup>2</sup> such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),<sup>5</sup> or both.

#### § 1544. Misuse of Passport.

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses, or attempts to use, any passport in violation of the conditions or restrictions therein contained or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined under this title, imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate<sup>2</sup> such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),<sup>5</sup> or both.

#### § 1545. Safe Conduct Violation.

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined under this title, imprisoned not more than 10 years,<sup>6</sup> or both.

#### § 1546. Fraud and Misuse of Visas, Permits, and Other Documents.<sup>7</sup>

(a)<sup>8</sup> Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States,<sup>9</sup> or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United

<sup>6</sup>Sec. 130009(a)(3) of Public Law 103–322 (108 Stat. 2030) struck out “not more than \$2,000 or imprisoned not more than three years” and inserted in lieu thereof “under this title, imprisoned not more than 10 years”.

Sec. 330016(1)(I) of the same Act also struck out “not more than \$2,000” and inserted in lieu thereof “under this title”, throughout title 18 U.S.C.

<sup>7</sup>Public Law 99–603, as amended by Public Law 100–525, struck out “**Other Entry Documents**” and inserted in lieu thereof “**Other Documents**” in the section catchline.

The Act of June 27, 1952, made this section applicable to entry documents other than visas and permits.

<sup>8</sup>Public Law 99–603, as amended by Public Law 100–525, designated existing text as subsec. (a), and added subsecs. (b) and (c).

<sup>9</sup>Public Law 99–603, as amended by Public Law 100–525, struck out “or other document required for entry into the United States” and “or document” and inserted in lieu thereof in each instance “permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States”.

States,<sup>9</sup> knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,<sup>10</sup> any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—<sup>11</sup>

Shall be fined under this title<sup>12</sup> or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate<sup>2</sup> such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense),<sup>13</sup> or both.

<sup>10</sup> Public Law 94–550 inserted “, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,” after “Whoever knowingly makes under oath”.

<sup>11</sup> Sec. 214 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “containing any such false statement” and inserted in lieu thereof “which contains any such false statement or which fails to contain any reasonable basis in law or fact”.

<sup>12</sup> Sec. 3550 of Public Law 101–647 (104 Stat. 4926), as amended, struck out “Shall be fined in accordance with this title”, and inserted in lieu thereof “Shall be fined under this title”. Previously, Public Law 99–603, as amended by Public Law 100–525, had struck out “not more than \$2,000” and inserted in lieu thereof “in accordance with this title”.

<sup>13</sup> Sec. 211(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009) struck out “imprisoned not more than ten years” and inserted in lieu thereof “imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section

(b)<sup>8</sup> Whoever uses—

(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

(2) an identification document knowing (or having reason to know) that the document is false, or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined under this title, imprisoned not more than 5 years,<sup>14</sup> or both.

(c)<sup>8</sup> This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970.<sup>15</sup> For purposes of this section, the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.<sup>16</sup>

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299(a) of this title), 10 years (in the case of the first or second such offense, if the offense was not committed to facility such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)."

Previously, sec. 130009(a)(4) of Public Law 103–322 (108 Stat. 2030) struck out “five years” and inserted in lieu thereof “ten years”.

<sup>14</sup>Sec. 130009(a)(5) of Public Law 103–322 (108 Stat. 2030) struck out “in accordance with this title, or imprisoned not more than two years” and inserted in lieu thereof “under this title, imprisoned not more than 5 years”.

<sup>15</sup>Public Law 91–452 (84 Stat. 933) was repealed by sec. 1209(b) of Public Law 98–473.

<sup>16</sup>Sec. 607(m) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3512) added this sentence.

## (2) Statute of Limitations

18 U.S.C. 3291, as added by Public Law 82-65 [H.R. 2396], 65 Stat. 107, approved June 30, 1951; as amended by Public Law 103-322 [H.R. 3355], 108 Stat. 1796, approved September 13, 1994

### § 3291. Nationality, citizenship and passports.

No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of title 18 of the United States Code, or for conspiracy to violate any of such<sup>1</sup> sections, unless the indictment is found or the information is instituted within ten years after the commission of the offense.

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<sup>1</sup>Sec. 330008(9) of Public Law 103-322 (108 Stat. 2143) struck out "the afore-mentioned" and inserted in lieu thereof "such".



## 5. International Religious Freedom Act of 1998

**Public Law 105-292 [H.R. 2431], 112 Stat. 2787, approved October 27, 1998; as amended by Public Law 106-55 [S. 1546], 113 Stat. 401, approved August 17, 1999; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999; Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and Public Law 108-332 [Global Anti-Semitism Review Act of 2004; S. 2292], 118 Stat. 1282, approved October 16, 2004**

AN ACT To express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

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

### SECTION 1.<sup>1</sup> SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “International Religious Freedom Act of 1998”.

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

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**SEC. 2.<sup>2</sup> FINDINGS; POLICY.**

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

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation’s founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

<sup>2</sup> 22 U.S.C. 6401.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that “Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.”. Article 18(1) of the International Covenant on Civil and Political Rights recognizes that “Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching”. Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world’s population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of “religious police”, severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often particularly widespread, systematic,

and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) POLICY.—It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961, in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

#### SEC. 3.<sup>3</sup> DEFINITIONS.

In this Act:

(1) AMBASSADOR AT LARGE.—The term “Ambassador at Large” means the Ambassador at Large for International Religious Freedom appointed under section 101(b).

(2) ANNUAL REPORT.—The term “Annual Report” means the Annual Report on International Religious Freedom described in section 102(b).

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

<sup>3</sup> 22 U.S.C. 6402.

- (A) the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives; and
- (B) in the case of any determination made with respect to the taking of President action under paragraphs (9) through (15) of section 405(a), the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.
- (4) COMMENSURATE ACTION.—The term “commensurate action” means action taken by the President under section 405(b).
- (5) COMMISSION.—The term “Commission” means the United States Commission on International Religious Freedom established in section 201(a).
- (6) COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The term “Country Reports on Human Rights Practices” means the annual reports required to be submitted by the Department of State to Congress under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961.
- (7) EXECUTIVE SUMMARY.—The term “Executive Summary” means the Executive Summary to the Annual Report, as described in section 102(b)(1)(F).
- (8) GOVERNMENT OR FOREIGN GOVERNMENT.—The term “government” or “foreign government” includes any agency or instrumentality of the government.
- (9) HUMAN RIGHTS REPORTS.—The term “Human Rights Reports” means all reports submitted by the Department of State to Congress under sections 116 and 502B of the Foreign Assistance Act of 1961.
- (10) OFFICE.—The term “Office” means the Office on International Religious Freedom established in section 101(a).
- (11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term “particularly severe violations of religious freedom” means systematic, ongoing, egregious violations of religious freedom, including violations such as—
- (A) torture or cruel, inhuman, or degrading treatment or punishment;
  - (B) prolonged detention without charges;
  - (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or
  - (D) other flagrant denial of the right to life, liberty, or the security of persons.
- (12) SPECIAL ADVISER.—The term “Special Adviser” means the Special Adviser to the President on International Religious Freedom described in section 101(i) of the National Security Act of 1947, as added by section 301 of this Act.
- (13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term “violations of religious freedom” means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

(A) arbitrary prohibitions on, restrictions of, or punishment for—

(i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;

(ii) speaking freely about one's religious beliefs;

(iii) changing one's religious beliefs and affiliation;

(iv) possession and distribution of religious literature, including Bibles; or

(v) raising one's children in the religious teachings and practices of one's choice; or

(B) any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

#### **TITLE I—DEPARTMENT OF STATE ACTIVITIES**

##### **SEC. 101.<sup>4</sup> OFFICE ON INTERNATIONAL RELIGIOUS FREEDOM; AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.**

(a) **ESTABLISHMENT OF OFFICE.**—There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b).

(b) **APPOINTMENT.**—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate.

(c) **DUTIES.**—The Ambassador at Large shall have the following responsibilities:

(1) **IN GENERAL.**—The primary responsibility of the Ambassador at Large shall be to advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated.

(2) **ADVISORY ROLE.**—The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate freedom of religion or that fail to ensure the individual's right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) **DIPLOMATIC REPRESENTATION.**—Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the

<sup>4</sup>22 U.S.C. 6411.

United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

(B) multilateral conferences and meetings relevant to religious freedom abroad.

(4) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the reporting responsibilities described in section 102.

(d) FUNDING.—The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section.

**SEC. 102.<sup>5</sup> REPORTS.**

(a) PORTIONS OF ANNUAL HUMAN RIGHTS REPORTS.—The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) that relate to the right to freedom of religion.

(b) ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—

(1) DEADLINE FOR SUBMISSION.—On September 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) STATUS OF RELIGIOUS FREEDOM.—A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country;<sup>6</sup>

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country; and<sup>6</sup>

(iv)<sup>6</sup> wherever applicable, an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur in that country during the preceding year, including—

<sup>5</sup> 22 U.S.C. 6412.

<sup>6</sup> Sec. 6(b) of the Global Anti-Semitism Review Act of 2004 (Public Law 108–332; 118 Stat. 1285) struck out “and” at the end of clause (ii), struck out a period at the end of clause (iii) and inserted in lieu thereof “; and”, and added a new clause (iv). The amendments entered into effect, pursuant to sec. 6(c), “beginning with the first report under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) and section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6312(b)) submitted more than 180 days after the date of the enactment of this Act.”.

(I) acts of physical violence against, or harassment of, Jewish people, acts of violence against, or vandalism of, Jewish community institutions, and instances of propaganda in government and non-government media that incite such acts; and

(II) the actions taken by the government of that country to respond to such violence and attacks or to eliminate such propaganda or incitement, to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people, and to promote anti-bias and tolerance education.

(B)<sup>7</sup> VIOLATIONS OF RELIGIOUS FREEDOM.—An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and nongovernmental entities, persecution targeted at individuals or particular denominations or entire religions, the existence of government policies violating religious freedom, including policies that discriminate against particular religious groups or members of such groups,<sup>8</sup> and the existence of government policies concerning—

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) UNITED STATES POLICIES.—A description of United States actions and policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) INTERNATIONAL AGREEMENTS IN EFFECT.—A description of any binding agreement with a foreign government entered into by the United States under section 401(b) or 402(c).

<sup>7</sup>Sec. 598 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 210), provided the following:

“RELIGIOUS FREEDOM REPORT

“SEC. 598. The assessment and description of violations of religious freedom contained in the report required by section 102(b)(1)(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(B)) shall include a description of persecution targeted at specific religions, including acts of anti-Semitism, by individuals or organizations designated as terrorist organizations by the Secretary of State under section 219 of the Immigration and Nationality Act, as amended.”

<sup>8</sup>Sec. 681(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1408), inserted “including policies that discriminate against particular religious groups or members of such groups,” after “the existence of government policies violating religious freedom.”



(E) TRAINING AND GUIDELINES OF GOVERNMENT PERSONNEL.—A description of—

(i) the training described in section 602(a) and (b) and section 603(b) and (c) on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 602(c) and 603(a).

(F) EXECUTIVE SUMMARY.—An Executive Summary to the Annual Report highlighting the status of religious freedom in certain foreign countries and including the following:

(i) COUNTRIES IN WHICH THE UNITED STATES IS ACTIVELY PROMOTING RELIGIOUS FREEDOM.—An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report. Any country designated as a country of particular concern for religious freedom under section 402(b)(1) shall be included in this section of the report.

(ii) COUNTRIES OF SIGNIFICANT IMPROVEMENT IN RELIGIOUS FREEDOM.—An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, including actions taken by the United States under this Act.

(2) CLASSIFIED ADDENDUM.—If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this Act, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) PREPARATION OF REPORTS REGARDING VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) STANDARDS AND INVESTIGATIONS.—The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(d) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) CONTENT OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—\* \* \*

(2) CONTENTS OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended—\* \* \*

**SEC. 103.<sup>9</sup> ESTABLISHMENT OF A RELIGIOUS FREEDOM INTERNET SITE.**

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

**SEC. 104.<sup>10</sup> TRAINING FOR FOREIGN SERVICE OFFICERS.**

Chapter 2 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following new section: \* \* \*

**SEC. 105.<sup>11</sup> HIGH-LEVEL CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.**

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

**SEC. 106.<sup>12</sup> PROGRAMS AND ALLOCATIONS OF FUNDS BY UNITED STATES MISSIONS ABROAD.**

It is the sense of the Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and

<sup>9</sup> 22 U.S.C. 6413.

<sup>10</sup> Added sec. 708 to the Foreign Service Act of 1980 (at 22 U.S.C. 4028).

<sup>11</sup> 22 U.S.C. 6414.

<sup>12</sup> 22 U.S.C. 6415.

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

**SEC. 107.<sup>13</sup> EQUAL ACCESS TO UNITED STATES MISSIONS ABROAD FOR CONDUCTING RELIGIOUS ACTIVITIES.**

(a) **IN GENERAL.**—Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) **TIMING AND LOCATION.**—The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(2) conflicts with official activities and other nonofficial United States citizen requests;

(3) the availability of openly conducted, organized religious services outside the premises of the mission or post;

(4) availability of space and resources; and

(5) necessary security precautions.

(c) **DISCRETIONARY ACCESS FOR FOREIGN NATIONALS.**—The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

**SEC. 108.<sup>14</sup> PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.**

(a) **SENSE OF THE CONGRESS.**—To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of the Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) **PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.**—The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such

<sup>13</sup> 22 U.S.C. 6416.

<sup>14</sup> 22 U.S.C. 6417.

lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall, as appropriate, provide religious freedom issue briefs under subsection (b) to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

## TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

### SEC. 201.<sup>15</sup> ESTABLISHMENT AND COMPOSITION.

(a) IN GENERAL.—There is established the United States Commission on International Religious Freedom.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) Nine other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) Three members of the Commission shall be appointed by the President.

(ii) Three members of the Commission shall be appointed by the President pro tempore of the Senate, of which two of the members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the Senate of the other political party.

(iii) Three<sup>16</sup> members of the Commission shall be appointed by the Speaker of the House of Representatives, of which two of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) SECURITY CLEARANCES.—Each member of the Commission shall be required to obtain a security clearance.

<sup>15</sup> 22 U.S.C. 6431.

<sup>16</sup> Sec. 2(b) of Public Law 106–55 (113 Stat. 406) struck out “three” and inserted in lieu thereof “Three”.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 120 days after the date of the enactment of this Act.

(c) TERMS.—(1) IN GENERAL.—The<sup>17</sup> term of office of each member of the Commission shall be 2 years. The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.<sup>18</sup> Members of the Commission shall be eligible for re-appointment to a second term.

(2)<sup>19</sup> ESTABLISHMENT OF STAGGERED TERMS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), members of the Commission appointed to serve on the Commission during the period May 15, 2003, through May 14, 2005, shall be appointed to terms in accordance with the provisions of this paragraph.

(B) PRESIDENTIAL APPOINTMENTS.—Of the three members of the Commission appointed by the President under subsection (b)(1)(B)(i), two shall be appointed to a 1-year term and one shall be appointed to a 2-year term.

(C) APPOINTMENTS BY THE PRESIDENT PRO TEMPORE OF THE SENATE.—Of the three members of the Commission appointed by the President pro tempore of the Senate under subsection (b)(1)(B)(ii), one of the appointments made upon the recommendation of the leader in the Senate of the political party that is not the political party of the President shall be appointed to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

(D) APPOINTMENTS BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.—Of the three members of the Commission appointed by the Speaker of the House of Representatives under subsection (b)(1)(B)(iii), one of the appointments made upon the recommendation of the leader in the House of the political party that is not the political party of the President shall be to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

<sup>17</sup>Sec. 1(a)(1)(A) of Public Law 106–55 (113 Stat. 401) struck out “The” and inserted in lieu thereof “(1) IN GENERAL.—The”.

<sup>18</sup>Sec. 1(a)(2) of Public Law 106–55 (113 Stat. 401) inserted “The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.”

<sup>19</sup>Sec. 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1408), added para. (2).

(E) APPOINTMENTS TO 1-YEAR TERMS.—The term of each member of the Commission appointed to a 1-year term shall be considered to have begun on May 15, 2003, and shall end on May 14, 2004, regardless of the date of the appointment to the Commission. Each vacancy which occurs upon the expiration of the term of a member appointed to a 1-year term shall be filled by the appointment of a successor to a 2-year term.

(F) APPOINTMENTS TO 2-YEAR TERMS.—Each appointment of a member to a two-year term shall identify the member succeeded thereby, and each such term shall end on May 14 of the year that is at least two years after the expiration of the previous term, regardless of the date of the appointment to the Commission.

(d) ELECTION OF CHAIR.—At the first meeting of the Commission after May 30 of each<sup>20</sup> year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(e) QUORUM.—Six voting members of the Commission shall constitute a quorum for purposes of transacting business.

(f) MEETINGS.—Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been elected for that calendar year, at the call of six voting members of the Commission.

(g) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made. A member may serve after the expiration of that member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.<sup>21</sup>

(h)<sup>22</sup> ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out the provisions of this title.

(i) FUNDING.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57

<sup>20</sup>Sec. 681(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409), struck out “in each calendar” and inserted in lieu thereof “after May 30 of each”.

<sup>21</sup>Sec. 681(d) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409), added “A member may serve after the expiration of that member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.”

<sup>22</sup>Sec. 1(a)(3) of Public Law 106–55 (113 Stat. 401) amended and restated subsec. (h). It previously read as follows:

“(h) ADMINISTRATIVE SUPPORT.—The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege.”

of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

**SEC. 202.<sup>23</sup> DUTIES OF THE COMMISSION.**

(a) **IN GENERAL.**—The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) **POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO VIOLATIONS.**—The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom, including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) **POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO PROGRESS.**—The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy options, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) **EFFECTS ON RELIGIOUS COMMUNITIES AND INDIVIDUALS.**—Together with specific policy recommendations provided under subsections (b) and (c), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) **MONITORING.**—The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and non-governmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

<sup>23</sup> 22 U.S.C. 6432.

(f)<sup>24</sup> \* \* \* [Repealed—1999]

**SEC. 203.<sup>25</sup> POWERS OF THE COMMISSION.**

(a) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony and receive evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

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

(d) **ADMINISTRATIVE PROCEDURES.**—The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this title.

(e) **VIEWS OF THE COMMISSION.**—The Members of the Commission may speak in their capacity as private citizens. Statements on behalf of the Commission shall be issued in writing over the names of the Members. The Commission shall in its written statements clearly describe its statutory authority, distinguishing that authority from that of appointed or elected officials of the United States Government. Oral statements, where practicable, shall include a similar description.

(f) **TRAVEL.**—The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purpose of this title. Each trip must be approved by a majority of the Commission. This provision shall not apply to the Ambassador-at-Large, whose travel shall not require approval by the Commission.

**SEC. 204.<sup>26</sup> COMMISSION PERSONNEL MATTERS.**

(a) **IN GENERAL.**—The Commission may, without regard to the civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine members of the Commission.

(b) **COMPENSATION.**—The Commission may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and

<sup>24</sup> Sec. 1(b)(1) of Public Law 106–55 (113 Stat. 401) struck out subsec. (f), which had read as follows:

“(f) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this Act.”

<sup>25</sup> 22 U.S.C. 6432a. Added by sec. 1(b)(3) of Public Law 106–55 (113 Stat. 401).

<sup>26</sup> 22 U.S.C. 6432b. Added by sec. 1(b)(3) of Public Law 106–55 (113 Stat. 401).



General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) **PROFESSIONAL STAFF.**—The Commission and the Executive Director shall hire Commission staff on the basis of professional and nonpartisan qualifications. Commissioners may not individually hire staff of the Commission. Staff shall serve the Commission as a whole and may not be assigned to the particular service of a single Commissioner or a specified group of Commissioners. This subsection does not prohibit staff personnel from assisting individual members of the Commission with particular needs related to their duties.

(d) **STAFF AND SERVICES OF OTHER FEDERAL AGENCIES.**—

(1) **DEPARTMENT OF STATE.**—The Secretary of State shall assist the Commission by providing on a reimbursable or nonreimbursable basis to the Commission such staff and administrative services as may be necessary and appropriate to perform its functions.

(2) **OTHER FEDERAL AGENCIES.**—Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this title. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) **SECURITY CLEARANCES.**—The Executive Director shall be required to obtain a security clearance. The Executive Director may request, on a needs-only basis and in order to perform the duties of the Commission, that other personnel of the Commission be required to obtain a security clearance. The level of clearance shall be the lowest necessary to appropriately perform the duties of the Commission.

(f) **COST.**—The Commission shall reimburse all appropriate Government agencies for the cost of obtaining clearances for members of the commission, for the executive director, and for any other personnel.

**SEC. 205.<sup>27</sup> REPORT OF THE COMMISSION.**

(a) **IN GENERAL.**—Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 202.

(b) **CLASSIFIED FORM OF REPORT.**—The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this Act.

(c) **INDIVIDUAL OR DISSENTING VIEWS.**—Each member of the Commission may include the individual or dissenting views of the member.

<sup>27</sup> 22 U.S.C. 6433. Redesignated from sec. 203 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

**SEC. 206.<sup>28</sup> APPLICABILITY OF OTHER LAWS.**

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

**SEC. 207.<sup>29</sup> AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Commission \$3,000,000 for the fiscal year 2003<sup>30</sup> to carry out the provisions of this title.<sup>31</sup>

(b) **AVAILABILITY OF FUNDS.**—Amounts authorized to be appropriated under subparagraph (a) are authorized to remain available until expended but not later than the date of termination of the Commission.

**SEC. 208.<sup>32</sup> STANDARDS OF CONDUCT AND DISCLOSURE.**

(a) **COOPERATION WITH NONGOVERNMENTAL ORGANIZATIONS, THE DEPARTMENT OF STATE, AND CONGRESS.**—The Commission shall seek to effectively and freely cooperate with all entities engaged in the promotion of religious freedom abroad, governmental and nongovernmental, in the performance of the Commission's duties under this title.

(b) **CONFLICT OF INTEREST AND ANTINEPOTISM.**—

(1) **MEMBER AFFILIATIONS.**—Except as provided in paragraph (3), in order to ensure the independence and integrity of the Commission, the Commission may not compensate any nongovernmental agency, project, or person related to or affiliated with any member of the Commission, whether in that member's direct employ or not. Staff employed by the Commission may not serve in the employ of any nongovernmental agency, project, or person related to or affiliated with any member of the Commission while employed by the Commission.

(2) **STAFF COMPENSATION.**—Staff of the Commission may not receive compensation from any other source for work performed in carrying out the duties of the Commission while employed by the Commission.

(3) **EXCEPTION.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), paragraph (1) shall not apply to payments made for items such as conference fees or the purchase of periodicals or other similar expenses, if such payments would not cause the aggregate value paid to any agency, project, or person for a fiscal year to exceed \$250.

(B) **LIMITATION.**—Notwithstanding subparagraph (A), the Commission shall not give special preference to any agency, project, or person related to or affiliated with any member of the Commission.

<sup>28</sup>22 U.S.C. 6434. Redesignated from sec. 204 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

<sup>29</sup>22 U.S.C. 6435. Redesignated from sec. 205 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

<sup>30</sup>Sec. 681(e) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409), inserted “for the fiscal year 2003” after “\$3,000,000”.

<sup>31</sup>Sec. 1(b)(4) of Public Law 106–55 (113 Stat. 403) struck out “for each of the fiscal years 1999 and 2000 to carry out the provisions of this title.” and inserted in lieu thereof “to carry out the provisions of this title.”

<sup>32</sup>22 U.S.C. 6435a. Added by sec. 1(b)(5) of Public Law 106–55 (113 Stat. 403).

(4) DEFINITIONS.—In this subsection, the term “affiliated” means the relationship between a member of the Commission and—

(A) an individual who holds the position of officer, trustee, partner, director, or employee of an agency, project, or person of which that member, or relative of that member of, the Commission is an officer, trustee, partner, director, or employee; or

(B) a nongovernmental agency or project of which that member, or a relative of that member, of the Commission is an officer, trustee, partner, director, or employee.

(c) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Commission may contract with and compensate Government agencies or persons for the conduct of activities necessary to the discharge of its functions under this title. Any such person shall be hired without interruption or loss of civil service or Foreign Service status or privilege. The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, United States Code, except that the Commission may not expend more than \$100,000 in any fiscal year to procure such services.<sup>33</sup>

(2) EXPERT STUDY.—In the case of a study requested under section 605 of this Act, the Commission may, subject to the availability of appropriations, contract with experts and shall provide the funds for such a study. The Commission shall not be required to provide the funds for that part of the study conducted by the Comptroller General of the United States.

(d) GIFTS.—

(1) IN GENERAL.—In order to preserve its independence, the Commission may not accept, use, or dispose of gifts or donations of services or property. An individual Commissioner or employee of the Commission may not, in his or her capacity as a Commissioner or employee, knowingly accept, use or dispose of gifts or donations of services or property, unless he or she in good faith believes such gifts or donations to have a value of less than \$50 and a cumulative value during a calendar year of less than \$100.

(2) EXCEPTIONS.—This subsection shall not apply to the following:

(A) Gifts provided on the basis of a personal friendship with a Commissioner or employee, unless the Commissioner or employee has reason to believe that the gift was provided because of the Commissioner’s position and not because of the personal friendship.

(B) Gifts provided on the basis of a family relationship.

<sup>33</sup>Sec. 681(f) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409), amended and restated this sentence, which previously read as follows: “The Commission may not procure temporary and intermittent services under section 3109(b) of title 5, United States Code, or under other contracting authority other than that allowed under this title.”

(C) The acceptance of training, invitations to attend or participate in conferences or such other events as are related to the conduct of the duties of the Commission, or food or refreshment associated with such activities.

(D) Items of nominal value or gifts of estimated value of \$10 or less.

(E) De minimis gifts provided by a foreign leader or state, not exceeding a value of \$260. Gifts believed by Commissioners to be in excess of \$260, but which would create offense or embarrassment to the United States Government if refused, shall be accepted and turned over to the United States Government in accordance with the Foreign Gifts and Decorations Act of 1966 and the rules and regulations governing such gifts provided to Members of Congress.

(F) Informational materials such as documents, books, videotapes, periodicals, or other forms of communications.

(G) Goods or services provided by any agency or component of the Government of the United States, including any commission established under the authority of such Government.

(e) ANNUAL FINANCIAL REPORT.—In addition to providing the reports required under section 202, the Commission shall provide, each year no later than January 1, to the Committees on International Relations and Appropriations of the House of Representatives, and to the Committees on Foreign Relations and Appropriations of the Senate, a financial report detailing and identifying its expenditures for the preceding fiscal year.

**SEC. 209.<sup>34</sup> TERMINATION.**

The Commission shall terminate on September 30, 2011.<sup>35</sup>

### TITLE III—NATIONAL SECURITY COUNCIL

**SEC. 301.<sup>36</sup> SPECIAL ADVISER ON INTERNATIONAL RELIGIOUS FREEDOM.**

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

“(i) It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on

<sup>34</sup> 22 U.S.C. 6436. Redesignated from sec. 206 by sec. 1(b)(2) of Public Law 106–55 (113 Stat. 401).

<sup>35</sup> Sec. 681(g) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1409), struck out “May 14, 2003” and inserted in lieu thereof “September 30, 2011”. Previously, sec. 1(c) of Public Law 106–55 (113 Stat. 405) struck out “4 years after the initial appointment of all of the Commissioners” and inserted in lieu thereof “on May 14, 2003”.

<sup>36</sup> See *Legislation on Foreign Relations Through 2005*, vol. IV.

International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.”.

#### TITLE IV—PRESIDENTIAL ACTIONS

##### Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

###### SEC. 401.<sup>37</sup> PRESIDENTIAL ACTIONS IN RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.

(a) RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) IN GENERAL.—

(A) UNITED STATES POLICY.—It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b).

(B) REQUIREMENT OF PRESIDENTIAL ACTION.—For each foreign country the government of which engages in or tolerates violations of religious freedom, the President shall oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b).

(2) BASIS OF ACTIONS.—Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 405(c).

(2) DEADLINE FOR ACTIONS.—Not later than September 1 of each year, the President shall take action under any of paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at any time since September 1 of the

<sup>37</sup> 22 U.S.C. 6441.

preceding year, except that in the case of action under any of paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 403 and 404 have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) **AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.**—The President may delay action under paragraph (2) described in any of paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 402(c)(3).

(c) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) **GUIDELINES FOR PRESIDENTIAL ACTIONS.**—In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

**SEC. 402.<sup>38</sup> PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) **RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**—

(1) **UNITED STATES POLICY.**—It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) **REQUIREMENT OF PRESIDENTIAL ACTION.**—Whenever the President determines that the government of a foreign country

<sup>38</sup>22 U.S.C. 6442.

has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.—Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) BASIS OF REVIEW.—Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) IMPLEMENTATION.—Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.

(2) DETERMINATIONS OF RESPONSIBLE PARTIES.—For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) CONGRESSIONAL NOTIFICATION.—Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) PRESIDENTIAL ACTIONS WITH RESPECT TO COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), (4), and (5)<sup>39</sup> with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 403 and 404 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) PRESIDENTIAL ACTIONS.—One or more of the Presidential actions described in paragraphs (9) through (15) of section 405(a), as determined by the President.

(B) COMMENSURATE ACTIONS.—Commensurate action in substitution to any action described in subparagraph (A).

(2) SUBSTITUTION OF BINDING AGREEMENTS.—

(A) IN GENERAL.—In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 405(c). The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this title.

(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period, then the President shall not be required to take action until the expiration of that period of time.

(4)<sup>40</sup> EXCEPTION FOR ONGOING PRESIDENTIAL ACTION UNDER THIS ACT.—The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this Act in a preceding year;

<sup>39</sup>Sec. 2(1) of Public Law 106–55 (113 Stat. 405) struck out “and (4)” and inserted in lieu thereof “(4), and (5)”.

<sup>40</sup>Sec. 2(2)(a) of Public Law 106–55 (113 Stat. 405) inserted “UNDER THIS ACT” after “EXCEPTION FOR ONGOING PRESIDENTIAL ACTION”.



(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and<sup>41</sup>

(C) the President reports to Congress the information described in section 404(a)(1), (2), (3), and (4) regarding the actions in effect with respect to the country.<sup>41</sup>

(5)<sup>41</sup> EXCEPTION FOR ONGOING, MULTIPLE, BROADBASED SANCTIONS IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 404(a)(1), (2), (3), and (4), and, as applicable, to section 408, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to section 409 of this Act.

(d) STATUTORY CONSTRUCTION.—A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n, 2304).

#### SEC. 403.<sup>42</sup> CONSULTATIONS.

(a) IN GENERAL.—As soon as practicable after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall carry out the consultations required in this section.

(b) DUTY TO CONSULT WITH FOREIGN GOVERNMENTS PRIOR TO TAKING PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 401; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) USE OF MULTILATERAL FORA.—If the President determines it to be appropriate, such consultations may be sought and

<sup>41</sup>Sec. 2(2) of Public Law 106–55 (113 Stat. 405) inserted “and” at the end of subpara. (B); struck out “; and” at the end of subpara. (C) and inserted in lieu thereof a period; struck out subpara. designation (D), added “(5) EXCEPTION FOR ONGOING, MULTIPLE, BROADBASED SANCTIONS IN RESPONSE TO HUMAN RIGHTS VIOLATIONS.—At” to convert the text of former subpara. (D) into para. (5).

<sup>42</sup>22 U.S.C. 6443.

may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) ELECTION OF NONDISCLOSURE OF NEGOTIATIONS TO PUBLIC.—If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) DUTY TO CONSULT WITH HUMANITARIAN ORGANIZATIONS.—The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a).

(d) DUTY TO CONSULT WITH UNITED STATES INTERESTED PARTIES.—The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) on economic or other interests of the United States.

**SEC. 404.<sup>43</sup> REPORT TO CONGRESS.**

(a) IN GENERAL.—Subject to subsection (b), not later than 90 days after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall submit a report to Congress containing the following:

(1) IDENTIFICATION OF PRESIDENTIAL ACTIONS.—An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) DESCRIPTION OF VIOLATIONS.—A description of the violations giving rise to the Presidential action or actions to be taken.

(3) PURPOSE OF PRESIDENTIAL ACTIONS.—A description of the purpose of the Presidential action or actions.

(4) EVALUATION.—

(A) DESCRIPTION.—An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 403(c) and (d), and whoever else the President deems appropriate, of—

<sup>43</sup> 22 U.S.C. 6444.

- (i) the impact upon the foreign government;
  - (ii) the impact upon the population of the country;
- and
- (iii) the impact upon the United States economy and other interested parties.

(B) **AUTHORITY TO WITHHOLD DISCLOSURE.**—The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) **STATEMENT OF POLICY OPTIONS.**—A statement that non-economic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 403.

(6) **DESCRIPTION OF MULTILATERAL NEGOTIATIONS.**—A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) **DELAY IN TRANSMITTAL OF REPORT.**—If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 401(b)(3) or 402(c)(3), then the President shall not be required to submit the report to Congress until the expiration of that period of time.

**SEC. 405.<sup>44</sup> DESCRIPTION OF PRESIDENTIAL ACTIONS.**

(a) **DESCRIPTION OF PRESIDENTIAL ACTIONS.**—Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961.
- (10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

<sup>44</sup> 22 U.S.C. 6445.

(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961.

(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

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

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

(b) COMMENSURATE ACTION.—Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 2(b) of this Act. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) BINDING AGREEMENTS.—The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) EXCEPTIONS.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

**SEC. 406.<sup>45</sup> EFFECTS ON EXISTING CONTRACTS.**

The President shall not be required to apply or maintain any Presidential action under this subtitle—

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

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

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

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

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

**SEC. 407.<sup>46</sup> PRESIDENTIAL WAIVER.**

(a) IN GENERAL.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

**SEC. 408.<sup>47</sup> PUBLICATION IN FEDERAL REGISTER.**

(a) IN GENERAL.—Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) DETERMINATIONS OF GOVERNMENTS, OFFICIALS, AND ENTITIES OF PARTICULAR CONCERN.—Any designation of a country of particular concern for religious freedom under section

<sup>45</sup> 22 U.S.C. 6446.

<sup>46</sup> 22 U.S.C. 6447.

<sup>47</sup> 22 U.S.C. 6448.

402(b)(1), together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 402(b)(2).

(2) **PRESIDENTIAL ACTIONS.**—A description of any Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) **DELAYS IN TRANSMITTAL OF PRESIDENTIAL ACTION REPORTS.**—Any delay in transmittal of a Presidential action report, as described in section 404(b).

(4) **WAIVERS.**—Any waiver under section 407.

(b) **LIMITED DISCLOSURE OF INFORMATION.**—The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 654(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2414(c)), if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this Act.

**SEC. 409.<sup>48</sup> TERMINATION OF PRESIDENTIAL ACTIONS.**

Any Presidential action taken under this Act with respect to a foreign country shall terminate on the earlier of the following dates:

(1) **TERMINATION DATE.**—Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) **FOREIGN GOVERNMENT ACTIONS.**—Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

**SEC. 410.<sup>49</sup> PRECLUSION OF JUDICIAL REVIEW.**

No court shall have jurisdiction to review any Presidential determination or agency action under this Act or any amendment made by this Act.

**Subtitle II—Strengthening Existing Law**

**SEC. 421. UNITED STATES ASSISTANCE.**

(a) **IMPLEMENTATION OF PROHIBITION ON ECONOMIC ASSISTANCE.**—Section 116(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(c)) is amended—\* \* \*<sup>50</sup>

(b) **IMPLEMENTATION OF PROHIBITION ON MILITARY ASSISTANCE.**—Section 502B(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)) is amended by adding at the end the following new paragraph: \* \* \*<sup>50</sup>

<sup>48</sup> 22 U.S.C. 6449.

<sup>49</sup> 22 U.S.C. 6450.

<sup>50</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. I–A.

**SEC. 422. MULTILATERAL ASSISTANCE.**

Section 701 of the International Financial Institutions Act (22 U.S.C. 262d) is amended by adding at the end the following new subsection: \* \* \*<sup>51</sup>

**SEC. 423.<sup>52</sup> EXPORTS OF CERTAIN ITEMS USED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) MANDATORY LICENSING.—Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 6(n) of the Export Administration Act of 1979 (22 U.S.C. App. 2405(n)), or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) LICENSING BAN.—The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) shall apply to the export and reexport of any item included pursuant to subsection (a) on the list of crime control instruments.

**TITLE V—PROMOTION OF RELIGIOUS FREEDOM****SEC. 501.<sup>53</sup> ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.**

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

(1) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.

(b) ALLOCATION OF FUNDS FOR INCREASED PROMOTION OF RELIGIOUS FREEDOMS.—Section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)) is amended by inserting “, including the right to free religious belief and practice” after “adherence to civil and political rights”.

**SEC. 502. INTERNATIONAL BROADCASTING.**

Section 303(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6202(a)) is amended—\* \* \*

**SEC. 503. INTERNATIONAL EXCHANGES.**

Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)) is amended—\* \* \*

<sup>51</sup> For amended text, see *Legislation on Foreign Relations Through 2005*, vol. III.

<sup>52</sup> 22 U.S.C. 6461.

<sup>53</sup> 22 U.S.C. 2151n note.

**SEC. 504. FOREIGN SERVICE AWARDS.**

(a) **PERFORMANCE PAY.**—Section 405(d) of the Foreign Service Act of 1980 (22 U.S.C. 3965(d)) is amended by inserting after the first sentence the following: “Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.”.

(b) **FOREIGN SERVICE AWARDS.**—Section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) is amended by adding at the end the following new sentence: “Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.”.

## **TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS**

**SEC. 601.<sup>54</sup> USE OF ANNUAL REPORT.**

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien’s claim.

**SEC. 602. REFORM OF REFUGEE POLICY.**

(a) **TRAINING.**—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following new subsection: \* \* \*

(b) **TRAINING FOR FOREIGN SERVICE OFFICERS.**—Section 708 of the Foreign Service Act of 1980, as added by section 104 of this Act, is further amended—\* \* \*

(c) **GUIDELINES FOR REFUGEE-PROCESSING POSTS.**—

(1) **GUIDELINES FOR ADDRESSING HOSTILE BIASES.**—The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service and of the Department of State<sup>55</sup> that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to provide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) **GUIDELINES FOR REFUGEE-PROCESSING POSTS IN ESTABLISHING AGREEMENTS WITH UNITED STATES GOVERNMENT-DESIGNATED REFUGEE PROCESSING ENTITIES.**—The Attorney General and the Secretary of State shall develop and implement guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee

<sup>54</sup> 22 U.S.C. 6471.

<sup>55</sup> Sec. 253(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-432), inserted “and of the Department of State” after “Service”.



processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(3)<sup>56</sup> Not later than 120 days after the date of the enactment of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, the Secretary of State (after consultation with the Attorney General) shall issue guidelines to ensure that persons with potential biases against any refugee applicant, including persons employed by, or otherwise subject to influence by, governments known to be involved in persecution on account of religion, race, nationality, membership in a particular social group, or political opinion, shall not in any way be used in processing determinations of refugee status, including interpretation of conversations or examination of documents presented by such applicants.

(d) ANNUAL CONSULTATION.—The President shall include in each annual report on proposed refugee admissions under section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)) information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)).

**SEC. 603.<sup>57</sup> REFORM OF ASYLUM POLICY.**

(a) GUIDELINES.—The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

(b) TRAINING FOR ASYLUM AND IMMIGRATION OFFICERS.—The Attorney General, in consultation with the Secretary of State, the

<sup>56</sup> Sec. 253(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–432), added para. (3).

<sup>57</sup> 22 U.S.C. 6473.

Ambassador at Large, and other relevant officials such as the Director of the National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)), on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the treatment of various religious practices and believers.

(c) TRAINING FOR IMMIGRATION JUDGES.—The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and non-governmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

**SEC. 604. INADMISSIBILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) INELIGIBILITY FOR VISAS OR ADMISSION.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:  
\* \* \*

(b)<sup>58</sup> EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens seeking to enter the United States on or after the date of the enactment of this Act.

**SEC. 605.<sup>59</sup> STUDIES ON THE EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.**

(a) STUDIES.—

(1) COMMISSION REQUEST FOR PARTICIPATION BY EXPERTS ON REFUGEE AND ASYLUM ISSUES.—If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) DUTIES OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(A) Improperly encouraging such aliens to withdraw their applications for admission.

<sup>58</sup> 8 U.S.C. 1182 note.

<sup>59</sup> 22 U.S.C. 6474.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) REPORTS.—

(1) PARTICIPATION BY EXPERTS.—In the case of a Commission request under subsection (a), the experts designated by the Commission under that subsection may submit a report to the committees described in paragraph (2). Such report may be submitted with the Comptroller General's report under subsection (a)(2) or independently.

(2) DUTIES OF COMPTROLLER GENERAL.—Not later than September 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subsection (a)(2). If the Commission requests designated experts to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(c) ACCESS TO PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), to facilitate the studies and reports, the Attorney General shall permit the Comptroller General of the United States and, in the case of a Commission request under subsection (a), the experts designated under subsection (a) to have unrestricted access to all stages of all proceedings conducted under section 235(b) of the Immigration and Nationality Act.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the access of experts designated by the Commission under subsection (a) do not contravene international law.

## TITLE VII—MISCELLANEOUS PROVISIONS

### SEC. 701.<sup>60</sup> BUSINESS CODES OF CONDUCT.

(a) CONGRESSIONAL FINDING.—Congress recognizes the increasing importance of transnational corporations as global actors, and their potential for providing positive leadership in their host countries in the area of human rights.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that transnational corporations operating overseas, particularly those corporations operating in countries the governments of which

<sup>60</sup> 22 U.S.C. 6481.

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have engaged in or tolerated violations of religious freedom, as identified in the Annual Report, should adopt codes of conduct—

(1) upholding the right to freedom of religion of their employees; and

(2) ensuring that a worker's religious views and peaceful practices of belief in no way affect, or be allowed to affect, the status or terms of his or her employment.

## 6. Foreign Service Buildings

### a. The Foreign Service Buildings Act, 1926, as amended

Public Law 69-186 [H.R. 10200], 44 Stat. 403, approved May 7, 1926, as amended by Public Law 70-586 [H.R. 10166], 45 Stat. 971, approved May 29, 1928; Public Law 79-33 [H.R. 685], 59 Stat. 53, approved April 19, 1945; Public Law 82-399 [H.R. 6661], 66 Stat. 140, approved June 19, 1952; Public Law 86-723 [S. 2633], 74 Stat. 847, approved September 8, 1960; Public Law 88-94 [H.R. 5207], 77 Stat. 121, approved August 12, 1963; Public Law 88-414 [H.R. 11754], 78 Stat. 387, approved August 10, 1964; Public Law 89-22 [H.R. 7064], 79 Stat. 112, approved May 29, 1965; Public Law 89-636 [H.R. 14019], 80 Stat. 881, approved October 10, 1966; Public Law 90-442 [H.R. 18065], 82 Stat. 461, approved July 30, 1968; Public Law 91-586 [Foreign Service Buildings Appropriations, H.R. 18012], 84 Stat. 1578, approved December 24, 1970; Public Law 93-47 [Foreign Service Buildings Appropriations, H.R. 5610], 87 Stat. 98, approved June 22, 1973; Public Law 93-263 [H.R. 12463], 88 Stat. 83, approved April 12, 1974; Public Law 94-141 [Foreign Relations Authorization Act, Fiscal Year 1976; S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-45 [Department of State Appropriations Authorization, Fiscal Year 1977; H.R. 5040], 91 Stat. 221, approved June 15, 1977; Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844 at 845, approved August 17, 1977; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 2151], 100 Stat. 863, approved August 27, 1986; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT For the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States of America.<sup>1</sup>

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*<sup>2</sup> (a)<sup>3</sup> the Secretary of State is empowered to acquire by purchase or construction in the manner hereinafter provided, within the limits of appropriations made to carry out<sup>4</sup> this Act, or by exchange, in whole or in part, of any building or grounds of the United States in foreign countries and under the jurisdiction and control of the

<sup>1</sup>All references in this Act to the Foreign Service Buildings Commission were deleted by sec. 2 of Public Law 88-94 (77 Stat. 121).

<sup>2</sup>22 U.S.C. 292. Sec. 1 was amended and restated by Public Law 70-586 (45 Stat. 971), and further amended by Public Law 88-94 (77 Stat. 122) and Public Law 89-636 (80 Stat. 881).

<sup>3</sup>Sec. 2 of Public Law 89-636 (80 Stat. 881) inserted subsec. designation "(a)" and added subsec. (b).

<sup>4</sup>Sec. 106(a) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 845) struck out "pursuant to" in subsec. (a) and "under authority of" in subsec. (b), and inserted in lieu thereof in each instance "to carry out".

Secretary of State, sites and buildings in foreign capitals and in other foreign cities, and to alter, repair, and furnish such buildings for the use of the diplomatic and consular establishments of the United States, or for the purpose of consolidating within one or more buildings, the embassies, legation, consulates, and other agencies of the United States Government there maintained.<sup>5</sup> The space in such buildings shall be allotted by the Secretary of State<sup>6</sup> among the several agencies of the United States Government.

(b)<sup>3</sup> Payments made for rent or otherwise by the United States from funds other than appropriations made to carry out<sup>4</sup> this Act may be credited toward the acquisition of property under this Act without regard to limitations of amounts imposed by this Act.

SEC. 2.7 \* \* \* [Repealed—1963]

SEC. 3.<sup>8</sup> Buildings and grounds acquired under this Act or heretofore acquired or authorized for the use of the diplomatic and consular establishments in foreign countries may<sup>9</sup> be used, in the case of buildings and grounds for the diplomatic establishment, as Government offices or residences or as such offices and residences; or, in the case of other buildings and grounds, as such offices or such offices and residences. The contracts for purchases of buildings, for leases, and for<sup>10</sup> all work of construction, alteration, and repair under this Act are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary<sup>9</sup> without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States and without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).<sup>11</sup>

SEC. 4.<sup>12</sup> (a) For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated an amount not exceeding \$10,000,000, and the appropriations made pursuant to this authorization shall constitute a fund to be known as the Foreign Service Buildings Fund, to remain available until expended. Under this authorization not more than \$2,000,000 shall be appropriated for any one year, but within the total authorization

<sup>5</sup>Sec. 134 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended (Public Law 103-236; 108 Stat. 396; 22 U.S.C. 292 note), required the following:

**“SEC. 134. PROPERTY AGREEMENTS.**

“Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations.”

Sec. 105 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 965), directed the Secretary of State to implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under this section.

<sup>6</sup>Sec. 2(b)(4) of Public Law 89-94 (77 Stat. 121) added “The space in such buildings shall be allotted by the Secretary of State”.

<sup>7</sup>Sec. 2(c) of Public Law 88-94 (77 Stat. 122) repealed sec. 2 of the 1926 Act, establishing the Foreign Service Buildings Commission; sec. 2(g) of the 1963 Act repealed all references to the Commission in all of the laws of the United States; and sec. 2(f) of the 1963 Act repealed sec. 1(e) of Reorganization Plan No. 2 of May 9, 1939 (53 Stat. 1432, 66 Stat. 140).

<sup>8</sup>22 U.S.C. 294.

<sup>9</sup>Sec. 2(c)(1) of Public Law 88-94 (70 Stat. 122) deleted the phrases “subject to the direction of the Commission” and “in the judgment of the Commission”.

<sup>10</sup>Sec. 115(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 656), inserted “purchases of buildings, for leases, and for”.

<sup>11</sup>Sec. 2(c)(2) of Public Law 88-94 (70 Stat. 122), inserted “and without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)”.

<sup>12</sup>22 U.S.C. 295.

provided in this Act the Secretary of State<sup>13</sup> may enter into contracts for the acquisition of the buildings and grounds authorized by this Act. In the case of the buildings and grounds authorized by this Act, after the initial alterations, repairs, and furnishings have been completed, subsequent expenditures for such purposes may be made out of the appropriations authorized by this Act in amounts authorized by the Congress each fiscal year.<sup>14</sup>

(b)<sup>15</sup> For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed \$90,000,000, which shall be available exclusively for payments representing the value, in whole or in part, of property or credits in accordance with the provisions of the Act of July 25, 1946 (60 Stat. 663). Sums appropriated pursuant to this authorization shall remain available until expended.

(c)<sup>16</sup> For the purpose of carrying into effect the provisions of this Act there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed \$10,000,000, which shall remain available until expended.

(d) In addition to amounts authorized before the date of enactment of this section, there is hereby authorized to be appropriated to the Secretary of State—

(1)<sup>17</sup> for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) for use in Africa, not to exceed \$7,140,000 of which not to exceed \$3,270,000 may be appropriated for the fiscal year 1964;

(B) for use in the American Republics, not to exceed \$5,360,000, of which not to exceed \$4,030,000 may be appropriated for the fiscal year 1964;

(C) for use in Europe, not to exceed \$6,839,000, of which not to exceed \$1,820,000 may be appropriated for the fiscal year 1964;

(D) for use in the Far East, not to exceed \$2,350,000, of which not to exceed \$2,220,000 may be appropriated for the fiscal year 1964;

(E) for use in the Near East, not to exceed \$2,710,000, of which not to exceed \$2,100,000 may be appropriated for the fiscal year 1964;

(F) for facilities for the United States Information Agency,<sup>18</sup> not to exceed \$1,125,000, of which not to exceed \$720,000 may be appropriated for the fiscal year 1964; and

<sup>13</sup>Sec. 2(d) of Public Law 88-94 (70 Stat. 122) struck out "subject to the direction of the commission".

<sup>14</sup>Sec. 2 of Public Law 82-399 (66 Stat. 140) inserted "in amounts authorized by the Congress each fiscal year".

<sup>15</sup>Sec. 2 of Public Law 82-399 (66 Stat. 140) added subsec. (b).

<sup>16</sup>Sec. 49 of Public Law 86-723 (74 Stat. 847) added subsec. (c).

<sup>17</sup>Sec. 1 of Public Law 88-94 (77 Stat. 121) added para. (1).

<sup>18</sup>Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions in subsecs. (d)(1)(F), (f)(1)(F), (g)(1)(F), (h)(1)(C), and (h)(1)(F), vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International

- (G) for facilities for agricultural and defense attaché housing, not to exceed \$800,000, of which not to exceed \$400,000 may be appropriated for the fiscal year 1964;
- (2)<sup>19</sup> for use to carry out the other purposes of this Act, not to exceed \$11,500,000 for the fiscal year 1964, \$12,000,000 for the fiscal year 1965, \$12,200,000 for the fiscal year 1966, \$12,400,000 for the fiscal year 1967.
- (e)<sup>20</sup> For the purpose of carrying into effect the provisions of this Act in South Vietnam, there is hereby authorized to be appropriated, in addition to amounts previously authorized prior to the enactment of this amendment, \$2,600,000, to remain available until expended.
- (f)<sup>21</sup> In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—
- (1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—
- (A) for use in Africa, not to exceed \$5,485,000, of which not to exceed \$1,885,000 may be appropriated for the fiscal year 1967;
- (B) for use in the American Republics, not to exceed \$7,920,000, of which not to exceed \$3,585,000 may be appropriated for the fiscal year 1967;
- (C) for use in Europe, not to exceed \$3,310,000, of which not to exceed \$785,000 may be appropriated for the fiscal year 1967;
- (D) for use in the Far East, not to exceed \$3,150,000, of which not to exceed \$2,890,000 may be appropriated for the fiscal year 1967;
- (E) for use in the Near East, not to exceed \$6,930,000, of which not to exceed \$1,890,000 may be appropriated for the fiscal year 1967;
- (F) for facilities for the United States Information Agency,<sup>18</sup> not to exceed \$615,000, of which not to exceed \$430,000 may be appropriated for the fiscal year 1967;
- (G) for facilities for agricultural and defense attaché housing, not to exceed \$800,000, of which not to exceed \$400,000 may be appropriated for the fiscal year 1967;
- (2) for use to carry out the other purposes of this Act, not to exceed \$12,600,000 for the fiscal year 1968, not to exceed \$12,750,000 for the fiscal year 1969, not to exceed \$13,500,000 for the fiscal year 1970, not to exceed \$14,300,000 for the fiscal

Communication Agency. Sec. 303(b) of Public Law 97-241 (96 Stat. 291) substituted "United States Information Agency" for "International Communications Agency" in these subsections. Public Law 95-45 repealed subsec. (h)(1)(F).

<sup>19</sup>Sec. 1 of Public Law 88-94 (77 Stat. 121) added para. (2); further amended and restated by Public Law 88-414 (78 Stat. 387); further amended by sec. 1(1) of Public Law 89-636 (80 Stat. 881).

<sup>20</sup>Public Law 89-22 (79 Stat. 112) added subsec. (e); amended by sec. 1(2) of Public Law 89-636 (80 Stat. 881), which struck out "\$1,000,000" and inserted "\$2,600,000".

<sup>21</sup>Sec. 1(3) of Public Law 89-636 (80 Stat. 881) added subsec. (f). Sums for fiscal years 1970 and 1971 were added by Public Law 90-442 (82 Stat. 461); and for fiscal years 1972 and 1973 by Public Law 91-586 (84 Stat. 1578).



year 1971, not to exceed \$15,000,000 for the fiscal year 1972, and not to exceed \$15,900,000 for the fiscal year 1973.

(g)<sup>22</sup> In addition to amounts authorized before the date of enactment of this subsection, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

(A) for use in Africa, not to exceed \$850,000,<sup>23</sup> of which not to exceed \$631,000 may be appropriated for the fiscal year 1974;

(B) for use in the American Republics, not to exceed \$240,000,<sup>24</sup> of which not to exceed \$240,000 may be appropriated for the fiscal year 1974;

(C) for use in Europe, not to exceed \$682,000,<sup>25</sup> of which not to exceed \$985,000 may be appropriated for the fiscal year 1974;

(D) for use in Africa, not to exceed \$1,243,000,<sup>26</sup> of which not to exceed \$204,000 may be appropriated for the fiscal year 1974;

(E) for use in the Near East and South Asia, not to exceed \$10,433,000,<sup>27</sup> of which not to exceed \$2,287,000 may be appropriated for the fiscal year 1974;

(F) for facilities for the United States Information Agency,<sup>18</sup> not to exceed \$45,000 for use beginning in the fiscal year 1975;

(G) for facilities for agricultural and defense attaché housing, not to exceed \$318,000 for use beginning in the fiscal year 1974; and

(2) for use to carry out other purposes of this Act for fiscal years 1974 and 1975, \$48,532,000,<sup>28</sup> of which not to exceed \$23,066,000<sup>28</sup> may be appropriated for fiscal year 1974.

(h)<sup>29</sup> In addition to amounts authorized before the date of enactment of this subsection, there is authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this Act, and for major alterations of buildings acquired under this Act, the following sums—

<sup>22</sup> Public Law 93-47 redesignated former subsec. (g) as subsec. (h) and added this subsec. (g).  
<sup>23</sup> Sec. 171(a)(1) of Public Law 94-141 struck out "\$2,190,000" and inserted in lieu thereof "\$850,000".

<sup>24</sup> Sec. 171(a)(2) of Public Law 94-141 struck out "\$375,000" and inserted in lieu thereof "\$240,000".

<sup>25</sup> Sec. 171(a)(3) of Public Law 94-141 struck out "\$4,780,000" and inserted in lieu thereof "\$682,000".

<sup>26</sup> Sec. 171(a)(4) of Public Law 94-141 struck out "\$2,190,000" and inserted in lieu thereof "\$1,243,000".

<sup>27</sup> Sec. 171(a)(5) of Public Law 94-141 struck out "\$3,518,000" and inserted in lieu thereof "\$10,433,000".

<sup>28</sup> Sec. 1(4) of Public Law 92-263 (88 Stat. 83) struck out "\$45,800,000" and "\$21,700,000" and inserted in lieu thereof "\$48,532,000" and "\$23,066,000," respectively.

<sup>29</sup> Sec. 171(b) of Public Law 94-141 redesignated subsec. (h) as subsec. (i) and inserted this new subsec. (h).

(A)<sup>30</sup> for use in Europe, not to exceed \$225,000 for fiscal year 1977;

(B)<sup>30</sup> for use in the Near East and South Asia, not to exceed \$12,885,000, of which not to exceed \$3,985,000 may be appropriated for fiscal year 1976;

(C)<sup>30</sup> for facilities for the United States Information Agency, not to exceed \$3,400,000, of which not to exceed \$2,800,000 may be appropriated for fiscal year 1976;

(D)<sup>30</sup> for facilities for agricultural and defense attaché housing, not to exceed \$150,000 for fiscal year 1977; and

(E)<sup>30</sup> for facilities for the United States Agency for International Development, not to exceed \$17,200,000 for fiscal year 1977; and

(2) for use to carry out the other purposes of this Act for fiscal years 1976 and 1977, \$73,058,000,<sup>31</sup> of which not to exceed \$32,840,000 may be appropriated for fiscal year 1976.

(i)<sup>32</sup> (1) Sums appropriated under authority of this Act shall remain available until expended. To the maximum extent feasible, expenditures under this Act shall be made out of foreign currencies owned by or owed to the United States.

(2)<sup>33</sup> Not to exceed 10 per centum of the funds authorized by any subparagraph under paragraph (1) of subsections (d), (f), (g), and (h) of this section may be used for any of the purposes for which funds are authorized under any other subparagraph of any of such paragraph (1).

(3)<sup>34</sup> There are hereby authorized to be appropriated to the Secretary of State such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(j)<sup>35</sup> \* \* \* [Repealed—1994]

SEC. 5.<sup>36</sup> For the purposes of this Act the Secretary of State is authorized to supervise, preserve, maintain, operate, and, when deemed necessary, to insure the Foreign Service properties in foreign countries and the other properties acquired in accordance with the provisions of this Act; to rent and insure objects of art; to collect information and formulate plans; and, without regard to civil service and classification laws, to obtain architectural and other expert technical services as may be necessary and pay therefor the scale of professional fees as established by local authority, law or custom, and to make expenditures without regard to that part of 52 Statutes 441 (22 U.S.C. 295a) requiring purchase of articles manufactured in the United States.

<sup>30</sup>Sec. 3 of Public Law 95-45 (91 Stat. 221) struck out subparas. (A) through (G) and inserted the new subparas. (A) through (E).

<sup>31</sup>Sec. 109(1) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), struck out "\$71,600,000" and inserted in lieu thereof "\$73,058,000".

<sup>32</sup>Sec. 1(3) of Public Law 89-636 (80 Stat. 881) added this subsec., subsequently redesignated as subsec. (i) by sec. 171(b)(1) of Public Law 94-141.

<sup>33</sup>Public Law 93-47 added para. (2); amended and restated by sec. 171(b)(2) of Public Law 94-141.

<sup>34</sup>Public Law 93-47 added para. (3).

<sup>35</sup>Subsec. (j), added by sec. 109(2) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), authorizing \$30 million in appropriations for Foreign Service buildings in the Union of Soviet Socialist Republics, was repealed by sec. 503 of Public Law 103-199 (107 Stat. 2327).

<sup>36</sup>22 U.S.C. 296. Sec. 3 of Public Law 82-399 (66 Stat. 140) amended and restated sec. 5.

SEC. 6.<sup>37</sup> The authority granted to acquire sites and buildings by purchase or otherwise shall include authority to acquire leaseholds.<sup>38</sup>

SEC. 7.<sup>39</sup> The Act entitled “An Act providing for the purchase or erection, within certain limits of cost, of embassy, legation, and consular buildings abroad,” approved February 17, 1911, is repealed, but such repeal shall not invalidate appropriations already made under the authority of such Act.

SEC. 8.<sup>40</sup> This Act may be cited as the “Foreign Service Buildings Act, 1926”.

SEC. 9.<sup>41</sup> (a) The Secretary of State is authorized—

(1) to sell, exchange, lease, or license any property or property interest acquired under this Act, or under other authority, for use of diplomatic and consular establishments in foreign countries or in the United States pursuant to section 204(b)(5) of the State Department Basic Authorities Act of 1956,<sup>42</sup>

(2) to receive payment in whatever form, or in kind, he determines to be in the interest of the United States for damage to or destruction of property acquired for use of diplomatic and consular establishments abroad, and the contents of such buildings, and

(3) to accept on behalf of the United States gifts of property or services of any kind made by will or otherwise for the purposes of this Act.

(b) Proceeds derived from dispositions, payments, or gifts under subsection (a) shall, notwithstanding the provisions of any other law, be applied toward acquisition, construction, or other purposes authorized by this Act or held in the Foreign Service Buildings Fund, as in the judgment of the Secretary may best serve the Government’s interest: *Provided*, That the Secretary shall report all such transactions annually to the Congress with the budget estimates of the Department of State.

(c)<sup>43</sup> Notwithstanding subsection (b), proceeds from the disposition of furniture, furnishings, and equipment from diplomatic and consular establishments in foreign countries shall be deposited into the Foreign Service Building Fund to be available for obligation or expenditure as directed by the Secretary.

SEC. 10.<sup>44</sup> (a) LEASES.—Notwithstanding the provisions of this or any other Act no lease or other rental arrangement for a period of less than ten years, and requiring an annual payment in excess of

<sup>37</sup> 22 U.S.C. 297. Sec. 4 of Public Law 82-399 (66 Stat. 140) amended and restated sec. 6.

<sup>38</sup> Sec. 106(b) of the Foreign Relations Authorization Act, Fiscal Year 1978, struck out “of not less than ten years” at this point.

<sup>39</sup> 22 U.S.C. 298.

<sup>40</sup> 22 U.S.C. 299.

<sup>41</sup> 22 U.S.C. 300. Public Law 79-33 (59 Stat. 53) added sec. 9; further amended by sec. 2(e) of Public Law 88-94 (77 Stat. 122); further amended and restated by sec. 3 of Public Law 82-399 (80 Stat. 882).

<sup>42</sup> Sec. 116(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 25), added the reference to the State Department Basic Authorities Act of 1956.

<sup>43</sup> Sec. 401(h)(2) of Public Law 99-399 (100 Stat. 863) added subsec. (c).

<sup>44</sup> 22 U.S.C. 301. Sec. 4 of Public Law 89-636 (80 Stat. 882) added sec. 10. Sec. 115(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655) inserted subsec. designation “(a)”, the subsec. heading, and subsec. (b).

\$50,000,<sup>45</sup> shall be entered into by the Secretary of State for the purpose of renting or leasing offices, buildings, grounds, or living quarters for the use of the Foreign Service abroad, unless such lease or other rental arrangement is approved by the Secretary. The Secretary may delegate his authority under this section only to the Deputy Under Secretary of State for Administration or to the Director of the Office of Foreign Buildings. The Secretary shall keep the Congress fully and currently informed with respect to leases or other rental arrangements approved under this section.

(b)<sup>44, 46</sup> **ADVANCE PAYMENTS FOR LONG-TERM LEASES AND LEASE PURCHASE.**—The Secretary may, subject to the availability of appropriations, make advance payments for long-term leases and lease-purchase agreements, if the Secretary or his designee determines, in each case, that such payments are in the interest of the United States Government in carrying out the purposes of this Act.

SEC. 11.<sup>47</sup> (a) Eligibility for award of contracts under this Act or of any other contract by the Secretary of State, including lease-back or other agreements, the purpose of which is to obtain the construction, alteration, or repair of buildings and grounds abroad, when estimated to exceed \$5,000,000, including any contract alternatives or options, shall be limited, after a determination that adequate competition will be obtained thereby, to (1) American-owned bidders and (2) bidders from countries which permit or agree to permit substantially equal access to American bidders for comparable diplomatic and consular building projects, except that participation may be permitted by or limited to host-country bidders where required by international agreement or by the law of the host country or where determined by the Secretary of State to be necessary in the interest of bilateral relations or necessary, to carry out the construction project.

(b)(1) Generally applicable laws and regulations pertaining to licensing and other qualifications to do business in the country in which the contract is to be performed shall not be deemed a limitation of access for purposes of this section.

(2) For purposes of determining competitive status, bids qualifying under subsection (a)(1) shall be reduced by ten percent.

(3) A determination of adequacy of competition for purposes of subsection (a) shall be made after advance publication by the Secretary of State of the proposed project, and receipt from not less than two prospective responsible bidders of intent to submit a bid or proposal. If competition is not determined to be adequate, contracts may be awarded without regard to subsection (a) and this subsection.

(4) Bidder qualification under subsection (a) shall be determined on the basis of nationality of ownership, the burden of which shall be on the prospective bidder. Qualification under subsection (a)(1) shall require evidence of (A) performance of similar construction

<sup>45</sup>Sec. 115(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 655), increased this lease authority from \$25,000 to \$50,000.

<sup>46</sup>Functions vested in the Secretary of State in this section were further delegated to the Under Secretary for Management by Delegation of Authority No. 193, January 7, 1992 (Public Notice 1555; 57 F.R. 2298; January 21, 1992).

<sup>47</sup>22 U.S.C. 302. Sec. 136 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98-164; 97 Stat. 1029), added sec. 11.

work in the United States or at a United States diplomatic or consular establishment abroad,<sup>48</sup> and (B) either (i) ownership in excess of fifty percent by United States citizens or permanent residents, or (ii) incorporation in the United States for more than three years and employment of United States citizens or permanent residents in more than half of the corporation's permanent full-time professional and managerial positions in the United States.

(5) Qualification under this section shall be established on the basis of determinations at the time bids are requested.

(c) Contracts for construction, alteration, or repair in the United States for or on behalf of any foreign mission (as defined in section 202(a)(4) of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority by bidders qualifying under subsection (a)(1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

(d) Determinations under this section shall be committed to the discretion of the Secretary of State.

(e) This section shall cease to be effective when the Secretary of State determines that there are internationally-agreed-upon rules in effect on bidding for construction contracts.

SEC. 12.<sup>49</sup> Not later than March 1 of each year, the Secretary of State shall submit to Congress a report listing overseas United States surplus properties that are administered under this Act and that have been identified for sale.

<sup>48</sup> Sec. 206(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1364) inserted "or at a United States diplomatic or consular establishment abroad" after "United States".

<sup>49</sup> 22 U.S.C. 303. Sec. 2215 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-814) added sec. 12.

**b. The Act of May 25, 1938**

**Public Law 75-543 [H.R. 5633], 52 Stat. 441, 22 U.S.C. 295a, approved May 25, 1938**

AN ACT To provide additional funds for buildings for the use of the diplomatic and consular establishments of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the purpose of further carrying into effect the provisions of the Foreign Service Buildings Act, 1926, as amended, there is authorized to be appropriated, in addition to the amount authorized by such Act, an amount not to exceed \$5,000,000, of which not more than \$1,000,000 shall be appropriated for any one year. Sums appropriated pursuant to this Act shall be available for the purposes and be subject to the conditions and limitations of such Act, as amended: *Provided,* That in the expenditure of appropriations for the construction of diplomatic and consular establishments, the Secretary of State shall, unless in his discretion the interests of the Government will not permit, purchase or contract for only articles of manufacture of the United States, notwithstanding that such articles, when delivered abroad, may cost more if such excess of cost be not unreasonable.

### **c. The Act of July 25, 1946**

**Public Law 79-547 [H.R. 6627], 60 Stat. 663, 22 U.S.C. 295b, approved July 25, 1946**

AN ACT For the acquisition of buildings and grounds in foreign countries for the use of the Government of the United States of America.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the purpose of further carrying into effect the provisions of the Foreign Service Buildings Act of May 7, 1926, as amended (22 U.S.C. 291-297), there is authorized to be appropriated in addition to the amount authorized by such Act, and the Act of May 25, 1938, an amount not to exceed \$125,000,000, of which \$110,000,000 shall be available exclusively for payments representing the value, in whole or in part, of property or credits of whatever nature acquired through lend-lease settlements, the disposal of surplus property abroad, or otherwise, and held abroad by the Government or owing the Government by any foreign government or by any person or organization residing or situated abroad, which property or credits may be used by the Department of State for sites, buildings, equipment, construction, and leaseholds; such payments to be made to the agency of the United States administering the property or credits and be treated by such agency as though made by the foreign government, person, or organization concerned. Sums appropriated pursuant to this Act shall be available for the purposes and subject to the conditions and limitations of the above Acts, except that there shall be no limitation on the amount to be appropriated in any one year and that expenditures for furnishings shall not be subject to the provisions of section 3709 of the Revised Statutes.

#### **d. Jerusalem Embassy Act of 1995<sup>1</sup>**

**Public Law 104-45 [S. 1322], 109 Stat. 298, enacted without Presidential signature on November 8, 1995**

AN ACT To provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

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

##### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Jerusalem Embassy Act of 1995”.

##### **SEC. 2. FINDINGS.**

The Congress makes the following findings:

- (1) Each sovereign nation, under international law and custom, may designate its own capital.
- (2) Since 1950, the city of Jerusalem has been the capital of the State of Israel.
- (3) The city of Jerusalem is the seat of Israel’s President, Parliament, and Supreme Court, and the site of numerous government ministries and social and cultural institutions.
- (4) The city of Jerusalem is the spiritual center of Judaism, and is also considered a holy city by the members of other religious faiths.
- (5) From 1948–1967, Jerusalem was a divided city and Israeli citizens of all faiths as well as Jewish citizens of all states were denied access to holy sites in the area controlled by Jordan.
- (6) In 1967, the city of Jerusalem was reunited during the conflict known as the Six Day War.
- (7) Since 1967, Jerusalem has been a united city administered by Israel, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

<sup>1</sup>Sec. 214 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1365), provided the following:

##### **“SEC. 214. UNITED STATES POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL.**

“(a) CONGRESSIONAL STATEMENT OF POLICY.—The Congress maintains its commitment to relocating the United States Embassy in Israel to Jerusalem and urges the President, pursuant to the Jerusalem Embassy Act of 1995 (Public Law 104-45; 109 Stat. 398), to immediately begin the process of relocating the United States Embassy in Israel to Jerusalem.

“(b) LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.—None of the funds authorized to be appropriated by this Act may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

“(c) LIMITATION ON USE OF FUNDS FOR PUBLICATIONS.—None of the funds authorized to be appropriated by this Act may be available for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

“(d) RECORD OF PLACE OF BIRTH AS ISRAEL FOR PASSPORT PURPOSES.—For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary shall, upon the request of the citizen or the citizen’s legal guardian, record the place of birth as Israel.”



(8) This year marks the 28th consecutive year that Jerusalem has been administered as a unified city in which the rights of all faiths have been respected and protected.

(9) In 1990, the Congress unanimously adopted Senate Concurrent Resolution 106, which declares that the Congress “strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected”.

(10) In 1992, the United States Senate and House of Representatives unanimously adopted Senate Concurrent Resolution 113 of the One Hundred Second Congress to commemorate the 25th anniversary of the reunification of Jerusalem, and reaffirming congressional sentiment that Jerusalem must remain an undivided city.

(11) The September 13, 1993, Declaration of Principles on Interim Self-Government Arrangements lays out a timetable for the resolution of “final status” issues, including Jerusalem.

(12) The Agreement on the Gaza Strip and the Jericho Area was signed May 4, 1994, beginning the five-year transitional period laid out in the Declaration of Principles.

(13) In March of 1995, 93 members of the United States Senate signed a letter to Secretary of State Warren Christopher encouraging “planning to begin now” for relocation of the United States Embassy to the city of Jerusalem.

(14) In June of 1993, 257 members of the United States House of Representatives signed a letter to the Secretary of State Warren Christopher stating that the relocation of the United States Embassy to Jerusalem “should take place no later than . . . 1999”.

(15) The United States maintains its embassy in the functioning capital of every country except in the case of our democratic friend and strategic ally, the State of Israel.

(16) The United States conducts official meetings and other business in the city of Jerusalem in de facto recognition of its status as the capital of Israel.

(17) In 1996, the State of Israel will celebrate the 3,000th anniversary of the Jewish presence in Jerusalem since King David’s entry.

**SEC. 3. TIMETABLE.**

(a) STATEMENT OF THE POLICY OF THE UNITED STATES.—

(1) Jerusalem should remain an undivided city in which the rights of every ethnic and religious group are protected;

(2) Jerusalem should be recognized as the capital of the State of Israel; and

(3) the United States Embassy in Israel should be established in Jerusalem no later than May 31, 1999.

(b) OPENING DETERMINATION.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 1999 for “Acquisition and Maintenance of Buildings Abroad” may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

**SEC. 4. FISCAL YEARS 1996 AND 1997 FUNDING.**

(a) FISCAL YEAR 1996.—Of the funds authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” for the Department of State in fiscal year 1996, not less than \$25,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(b) FISCAL YEAR 1997.—Of the funds authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” for the Department of State in fiscal year 1997, not less than \$75,000,000 should be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

**SEC. 5. REPORT ON IMPLEMENTATION.**

Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate detailing the Department of State’s plan to implement this Act. Such report shall include—

(1) estimated dates of completion for each phase of the establishment of the United States Embassy, including site identification, land acquisition, architectural, engineering and construction surveys, site preparation, and construction; and

(2) an estimate of the funding necessary to implement this Act, including all costs associated with establishing the United States Embassy in Israel in the capital of Jerusalem.

**SEC. 6. SEMIANNUAL REPORTS.**

At the time of the submission of the President’s fiscal year 1997 budget request, and every six months thereafter, the Secretary of State shall report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made toward opening the United States Embassy in Jerusalem.

**SEC. 7. PRESIDENTIAL WAIVER.**

(a) WAIVER AUTHORITY.—(1) Beginning on October 1, 1998, the President may suspend the limitation set forth in section 3(b) for a period of six months if he determines and reports to Congress in advance that such suspension is necessary to protect the national security interests of the United States.

(2) The President may suspend such limitation for an additional six month period at the end of any period during which the suspension is in effect under this subsection if the President determines and reports to Congress in advance of the additional suspension that the additional suspension is necessary to protect the national security interests of the United States.

(3) A report under paragraph (1) or (2) shall include—

(A) a statement of the interests affected by the limitation that the President seeks to suspend; and

(B) a discussion of the manner in which the limitation affects the interests.

(b) APPLICABILITY OF WAIVER TO AVAILABILITY OF FUNDS.—If the President exercises the authority set forth in subsection (a) in a fiscal year, the limitation set forth in section 3(b) shall apply to funds

appropriated in the following fiscal year for the purpose set forth in such section 3(b) except to the extent that the limitation is suspended in such following fiscal year by reason of the exercise of the authority in subsection (a).

**SEC. 8. DEFINITION.**

As used in this Act, the term “United States Embassy” means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

## 7. International Center Act, as amended

**Public Law 90-553 [H.R. 16175], 82 Stat. 958, approved October 8, 1968; as amended by Public Law 93-40 [International Center for Foreign Chanceries—Appropriations; S. 1235], 87 Stat. 74, approved June 12, 1973; Public Law 97-186 [S. 1611] 99 Stat. 101, approved May 25, 1982; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To authorize the transfer, conveyance, lease, and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for the Organization of American States, as sites for governments of foreign countries, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:* (a)<sup>1</sup> in order to facilitate the conduct of foreign relations by the Department of State in Washington, District of Columbia, through the creation of a more propitious atmosphere for the establishment of foreign government and international organization offices and other facilities, the Secretary of State is authorized to develop in coordination with the Administrator of General Services for, or to sell, exchange, or lease<sup>2</sup> to foreign governments and international organizations property owned by the United States in the Northwest sections of the District of Columbia bounded by Connecticut Avenue, Yuma Street, 36th Street, Reno Road, and Tilden Street, except that portion of lot 802 in square 1964, the jurisdiction over which was transferred to the District of Columbia for use as an educational facility,<sup>3</sup> upon such terms and conditions as the Secretary<sup>4</sup> may prescribe. Every lease, contract of sale, deed, and other document of transfers shall provide (1)<sup>1</sup> that the foreign government shall devote the property transferred to use for legation purposes, or (2)<sup>1</sup> that the international organization shall devote the property transferred to its official uses.

(b)<sup>1</sup> There is established in the Treasury of the United States an account into which may be deposited funds provided as advance payments pursuant to subsection (a).

<sup>1</sup>Sec. 207 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1364) redesignated clauses (a) and (b) as clauses (1) and (2), inserted subsec. designation “(a)”, and added new subsecs. (b) and (c).

<sup>2</sup>Sec. 1(1) of Public Law 97-186 (96 Stat. 101) struck out “sell or lease” and inserted in lieu thereof “develop in coordination with the Administrator of General Services for, or to sell, exchange, or lease”.

<sup>3</sup>Sec. 1(2) of Public Law 97-186 (96 Stat. 101) struck out “Van Ness Street, Reno Road, and Tilden Street” and inserted in lieu thereof “Yuma Street, 36th Street, Reno Road, and Tilden Street, except that portion of lot 802 in square 1964, the jurisdiction over which was transferred to the District of Columbia for use as an educational facility”.

<sup>4</sup>Sec. 1(3) of Public Law 97-186 (96 Stat. 101) struck out “he” and inserted in lieu thereof “the Secretary”.

(c)<sup>1</sup> The Secretary of State may request the Secretary of the Treasury to invest such portion of the funds deposited in that account as is not, in the judgment of the Secretary of State, required to meet the current needs of the account. Such investments shall be made by the Secretary of the Treasury in public debt securities with maturities suitable to the needs of the account, as determined by the Secretary of State, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States of comparable maturity.

SEC. 2.<sup>5</sup> Upon the request of any foreign government or international organization and with funds provided by such government or organization in advance, the Secretary of State, in conjunction with the Administrator of General Services,<sup>6</sup> is authorized to design, construct, and equip a headquarters building or related facilities on property described in<sup>6</sup> the first section of this Act.

SEC. 3.<sup>7</sup> The Act of June 20, 1938 (D.C. Code, secs. 5-413 to 5-428), shall not apply to buildings constructed on property transferred or conveyed pursuant to this Act including section 3 of this Act as in effect January 1, 1980. Plans showing the location, height, bulk, number of stories, and size of, and the provisions for open space and offstreet parking in and around, such buildings shall be approved by the National Capital Planning Commission, and plans showing the height and appearance, color, and texture of the materials of exterior construction of such buildings shall be approved by the Commission of Fine Arts prior to the construction thereof.

SEC. 4.<sup>7, 8</sup> (a) The demolition or removal of existing structures, site preparation, and the<sup>9</sup> construction, reconstruction, relocation, and rebuilding of (1) public streets and sidewalks, (2) public sewers and their appurtenances, (3) water mains, fire hydrants, and other parts of the public water supply and distribution system,<sup>10</sup> (4) the fire alarm system, (5)<sup>11</sup> other utilities, (6) facilities for security maintenance, and (7)<sup>11</sup> related improvements necessary to accomplish the purposes of this Act, which are within or contiguous to<sup>12</sup> the area described in section 1 of this Act and which are occasioned in carrying out the provisions of this Act, shall be provided by the

<sup>5</sup>Sec. 2 of Public Law 97-186 (96 Stat. 101) amended and restated sec. 2.

<sup>6</sup>Sec. 124(1) of Public Law 99-93 (99 Stat. 415) amended sec. 2 by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of State, in conjunction with the Administrator of General Services,"; and by striking out "conveyed pursuant to" and inserting in lieu thereof "described in".

<sup>7</sup>Sec. 3 of Public Law 97-186 (96 Stat. 101) struck out original sec. 3, and redesignated secs. 4 through 6 as secs. 3 through 5. That Act, furthermore, amended and restated the first sentence of the redesignated sec. 3. Original sec. 3 read as follows:

"Sec. 3. The Secretary of State is hereby authorized to transfer or convey to the Organization of American States, without monetary consideration, all right, title, and interest of the United States in and to the property known as lot 800 in square south 173 in the District of Columbia and the buildings and other improvements on such property for use by the Organization of American States."

<sup>8</sup>Sec. 124(2)(A) of Public Law 99-93 (99 Stat. 415) redesignated subsecs. (a) through (e) as clauses (1) through (5), respectively, and redesignated subsec. (f) as clause (7). Sec. 124(2)(B) of that Act inserted subsec. designation "(a)" after "SEC. 4." Sec. 124(2)(C) of that Act struck out "and" at the end of clause (5), as redesignated, and added clause (6).

<sup>9</sup>Sec. 4(1) of Public Law 97-186 (96 Stat. 101) inserted "demolition or removal of existing structures, site preparation, and the" after "The".

<sup>10</sup>Sec. 4(2) of Public Law 97-186 (96 Stat. 101) struck out "and" at this point.

<sup>11</sup>Sec. 4(3) of Public Law 97-186 (96 Stat. 101) added clauses (e) and (f), later redesignated as clauses (5) and (7) by sec. 124(2)(A) of Public Law 99-93 (99 Stat. 415).

<sup>12</sup>Sec. 4(4) of Public Law 97-186 (96 Stat. 101) inserted "or contiguous to" after "within".

Secretary of State, in coordination with the Administrator of General Services and the government of the District of Columbia.

(b)<sup>13</sup> The Secretary of State shall periodically advise the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives<sup>14</sup> and the Committee on Foreign Relations of the Senate on construction of facilities for security or maintenance under this section.

(c)<sup>15</sup> (1)(A) The Department of State is authorized to require the payment of a fee by other executive agencies of the United States for the lease or use of facilities located at the International Center which are used for the purposes of security and maintenance. Any payments received for lease or use of such facilities shall be credited to the account entitled "International Center, Washington, District of Columbia" and shall be available, without fiscal year limitation, to cover the operation and maintenance expenses of such facilities, including administration, maintenance, utilities, repairs, and alterations.

(B) The authority of subparagraph (A) shall be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

(2) For purposes of paragraph (1), the term "Executive agencies" is used within the meaning of section 105 of title 5, United States Code.

SEC. 5.<sup>7, 16</sup> There is hereby authorized to be appropriated, without fiscal year limitation, not to exceed \$2,200,000 to carry out the purposes of section 5 of this Act: *Provided*, That such sums as may be appropriated hereunder shall be reimbursed to the Treasury from proceeds of the sale, exchange,<sup>17</sup> or lease of property to foreign governments and international organizations as provided for in this first section of this Act. All proceeds received from such sales, exchanges,<sup>17</sup> or leases shall, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484) or any other law, be paid into a special account with the Treasurer of the United States, such account to be administered by the Secretary of State for the purposes set out in section 5 of this Act. All sums remaining in such special account after completion of the projects authorized in section 5 shall be covered into the Treasury as miscellaneous receipts. The Secretary may retain therefrom a reserve for maintenance and security of those public improvements authorized

<sup>13</sup>Sec. 124(2)(D) of Public Law 99-93 (99 Stat. 415) added subsec. (b).

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

<sup>15</sup>Sec. 120 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 26), added subsec. (c).

Under "Administration of Foreign Affairs; Diplomatic and Consular Programs", the Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2319), provided:

"In addition, not to exceed \$1,469,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section;"

<sup>16</sup>Public Law 93-40 (87 Stat. 74) amended and restated the first sentence of this section.

<sup>17</sup>Sec. 5 of Public Law 97-186 (96 Stat. 102) inserted " , exchange," after "sale", and inserted " , exchanges," after "sales".

by this Act which have not been conveyed to a government or international organization under the first section of this Act, and for surveys and plans related to development of additional areas within the Nation's Capital for chancery and diplomatic purposes. Amounts in the reserve will be available only to the extent and in such amounts as provided in advance in appropriations Acts.<sup>18</sup>

SEC. 6.<sup>19</sup> This Act may be cited as the International Center Act.

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<sup>18</sup>Sec. 5(2) of Public Law 97-186 (96 Stat. 102) added "The Secretary may retain therefrom a reserve for maintenance and security of those public improvements authorized by this Act which have not been conveyed to a government or international organization under the first section of this Act, and for surveys and plans related to development of additional areas within the Nation's Capital for chancery and diplomatic purposes. Amounts in the reserve will be available only to the extent and in such amounts as provided in advance in appropriations Acts."

<sup>19</sup>Sec. 6 of Public Law 97-186 (96 Stat. 102) added sec. 6.

## 8. Foreign Gifts and Decorations

### a. Foreign Gifts and Decorations Act of 1966, as amended

Public Law 89-673 [S. 2463], 80 Stat. 592, approved October 15, 1966; as amended by Public Law 90-83 [H.R. 5876], 81 Stat. 195, approved September 11, 1967

AN ACT To grant the consent of the Congress to the acceptance of certain gifts and decorations from foreign governments, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Foreign Gifts and Decorations Act of 1966”.

SEC. 2.<sup>1</sup> In this Act—

(1) The term “person” includes every person who occupies an office or a position in the Government of the United States, its territories and possessions, the Canal Zone government, and the government of the District of Columbia, or is a member of the Armed Forces of the United States, or a member of the family and household of any such person.

(2) The term “foreign government” includes every foreign government and every official, agent, or representative thereof.

(3) The term “gift” includes any present or thing, other than a decoration, tendered by or received from a foreign government.

(4) The term “decoration” includes any order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

SEC. 3.<sup>2</sup> \* \* \* [Repealed—1967]

SEC. 4.<sup>2</sup> \* \* \* [Repealed—1967]

SEC. 5.<sup>2</sup> \* \* \* [Repealed—1967]

SEC. 6.<sup>3</sup> Any gift or decoration on deposit with the Department of State on the date of enactment of this Act shall, when approved by the Secretary of State and the appropriate department, agency, office, or other entity, be released to the donee or his legal representative. Such donee may, if authorized, be entitled to wear any decoration so approved. A gift or decoration not approved for release, because of any special or unusual circumstances involved, shall be deemed a gift to the United States and shall be deposited by the donee in accordance with the rules and regulations issued pursuant to this Act.

SEC. 7.<sup>2</sup> \* \* \* [Repealed—1967]

SEC. 8.<sup>2</sup> \* \* \* [Repealed—1967]

<sup>1</sup> 22 U.S.C. 2621.

<sup>2</sup> Secs. 3, 4, 5, 7, and 8 were repealed by sec. 10(b) of Public Law 90-83 (81 Stat. 224). They were superseded by sec. 1(45)(c) of Public Law 90-83 (81 Stat. 200), as amended and restated by sec. 515 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105; 91 Stat. 862).

<sup>3</sup> 22 U.S.C. 2625.



## **b. Receipt and Disposition of Foreign Gifts and Decorations**

5 U.S.C., added by Public Law 90-83 [H.R. 5876], 81 Stat. 195, approved September 11, 1967; as amended by Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844, approved August 17, 1977; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963, approved October 7, 1978; Public Law 107-217 [H.R. 2068], 116 Stat. 1062, approved August 21, 2002; and Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004<sup>1</sup>

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### FOREIGN GIFTS AND DECORATIONS

#### **§ 7342. Receipt and disposition of foreign gifts and decorations**

(a) For the purpose of this section—

(1) “employee” means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of

<sup>1</sup>Sec. 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95-105; 91 Stat. 862), amended and restated 5 U.S.C. 7342. The previous comprehensive amendment to sec. 7342 was contained in Public Law 90-83 (81 Stat. 195). Sec. 7342 was further amended by sec. 712 of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426; 92 Stat. 994). Sec. 712(d) of such Act further stated:

“(d) In the event that the space and facilities available to the Secretary of the Senate for carrying out his responsibilities in storing and safeguarding property in his custody under section 7342 of title 5, United States Code, are insufficient for such purpose, he may, with the approval of the Committee on Rules and Administration of the Senate, lease such space and facilities as may be necessary for such purpose. Rental payments under any such lease and expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.”

Sec. 515(a)(2) and (b) of Public Law 95-105 (91 Stat. 862) further provided:

“(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

“(b)(1) After September 30, 1977, no appropriated funds, other than funds from the ‘Emergencies in the Diplomatic and Consular Service’ account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

“(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.”

the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) “foreign government” means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) “gift” means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) “decoration” means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) “minimal value” means a retail value in the United States at the time of acceptance of \$100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, “minimal value” shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define “minimal value” for its employees to be less than the value established under this paragraph; and

(6) “employing agency” means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections

- (c)(2), (d) and (g)(2)(B) shall be carried out by the Secretary of the Senate;<sup>2</sup>
- (C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and
- (D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.
- (b) An employee may not—
- (1) request or otherwise encourage the tender of a gift or decoration; or
- (2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).
- (c)(1) The Congress consents to—
- (A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and
- (B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—
- (i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and
- (ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by employing agency.
- (2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—
- (A) deposit the gift for disposal with his or her employing agency; or
- (B) subject to the approval of the employing agency, deposit the gift with that agency for official use.
- Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).<sup>3</sup>
- (3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in

<sup>2</sup>Sec. 712(a)(2) of Public Law 95-426 (92 Stat. 994) added the words to this point beginning with "except that".

<sup>3</sup>Sec. 712(b)(1) of Public Law 95-426 (92 Stat. 994) added the words to this point beginning with "(1) or provide".

paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for provide for its disposal in accordance with subsection (e)(2).<sup>3</sup>

(e)(1)<sup>4</sup> Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of subtitle I of title 40 and title III of<sup>5</sup> the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).<sup>6</sup> However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2)<sup>4</sup> Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold

<sup>4</sup>Sec. 712(c) of Public Law 95-426 (92 Stat. 994) added the para. designation "(1)" and added para. (2).

<sup>5</sup>Sec. 3(a)(1)(A) of Public Law 107-217 (116 Stat. 1295) inserted "subtitle I of title 40 and title III of" before "the Federal".

<sup>6</sup>Sec. 3(a)(1)(B) of Public Law 107-217 (116 Stat. 1295) inserted "(41 U.S.C. 251 et seq.)" after "of 1949".

only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4)(A)<sup>7</sup> In transmitting such listings for the Central Intelligence Agency, the Director of the Central Intelligence Agency<sup>8</sup> may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

(B)<sup>9</sup> In transmitting such listings for the Office of the Director of National Intelligence, the Director of National Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

<sup>7</sup>Sec. 1079(b)(1) of Public Law 108-458 (118 Stat. 3696) inserted "(A)" after "(4)".

<sup>8</sup>Sec. 1079(b)(2) of Public Law 108-458 (118 Stat. 3696) struck out "the Director of Central Intelligence" and inserted in lieu thereof "the Director of the Central Intelligence Agency".

<sup>9</sup>Sec. 1079(b)(3) of Public Law 108-458 (118 Stat. 3696) added subpara. (B).

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

### **c. Gifts and Decorations Regulations**

**Regulations of the Secretary of State, Department Regulation 108.556, 22 CFR 3.1 through 3.12, April 28, 1967, 32 F.R. 6569; as revised by Dept. Reg. 108.798, December 8, 1980, 45 F.R. 80819**

#### **PART 3—GIFTS AND DECORATIONS FROM FOREIGN GOVERNMENTS**

AUTHORITY: Sec. 515(a)(1), 91 Stat. 862, amending 5 U.S.C. 7342 (1976).

##### **§ 3.1 Purpose.**

These regulations provide basic standards for employees of the Department of State, the United States International Development Cooperation Agency (IDCA), the Agency for International Development (AID), and the United States Information Agency (USIA),<sup>1</sup> their spouses (unless separated) and their dependents to accept and retain gifts and decorations from foreign governments.

##### **§ 3.2 Authority.**

(a) Section 515(a)(1) of the Foreign Relations Authorization Act of 1978 (91 Stat. 862–866), approved August 17, 1977 (hereafter referred to as “the Act”) amended Section 7342 of Title 5, U.S. Code (1976), making substantial changes in the law relating to the acceptance and retention of gifts and decorations from foreign governments.

(b) 5 U.S.C. 7342(g) authorizes each employing agency to prescribe regulations as necessary to carry out the new law.

##### **§ 3.3 Definitions.**

When used in this part, the following terms have the meanings indicated:

(a) “Employee” means (1) an officer or employee of the Department, AID, IDCA, or USIA,<sup>1</sup> including an expert or consultant, however appointed, and (2) a spouse (unless separated) or a dependent of such a person, as defined in section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(b) “Foreign government” means: (1) any unit of foreign governmental authority, including any foreign national, State, local, or municipal government; (2) any international or multinational organization whose membership is composed of any unit of foreign government as described in subsection (b)(1) of this section; (3) any

<sup>1</sup>“United States Information Agency” was substituted for “International Communication Agency” pursuant to sec. 303(b) of Public Law 97–241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: “Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).”

agent or representative of any such unit or organization, while acting as such;

(c) “Gift” means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(d) “Decoration” means an order, device, medal, badge, insignia, emblem or award tendered by, or received from, a foreign government;

(e) “Minimal value” means retail value in the United States at the time of acceptance of \$100 or less, except that on January 1, 1981, and at 3-year intervals thereafter, “minimal value” is to be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

### **§ 3.4 Restriction on acceptance of gifts and decorations.**

(a) An employee is prohibited from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government. An employee is also prohibited from accepting a gift or decoration from a foreign government, except in accordance with these regulations.

(b) An employee may accept and retain a gift of minimal value tendered and received as a souvenir or mark of courtesy, subject, however, to the following restrictions—

(1) Where more than one tangible item is included in a single presentation, the entire presentation shall be considered as one gift, and the aggregate value of all items taken together must not exceed “minimal value”.

(2) The donee is responsible for determining that a gift is of minimal value in the United States at the time of acceptance. However, should any dispute result from a difference of opinion concerning the value of a gift, the employing agency will secure the services of an outside appraiser to establish whether the gift is one of “minimal value”. If, after an appraisal has been made, it is established that the value of the gift in question is \$200 or more at retail in the United States, the donee will bear the costs of the appraisal. If, however, the appraised value is established to be less than \$200, the employing agency will bear the costs.

(c) An employee may accept a gift of more than minimal value when (1) such gift is in the nature of an educational scholarship or medical treatment, or (2) it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States.

(d) An employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency. Except where the employing agency has specific interests which may be favorably affected by employee travel wholly outside the United States, even



though it would not normally authorize its employees to engage in such travel, the standards normally applied to determine when proposed travel will be in the best interests of the employing agency and of the United States Government shall be applied in approving acceptance of travel or travel expenses offered by a foreign government.

(1) There are two circumstances under which employees may accept gifts of travel or expenses:

(i) When the employee is issued official travel orders placing him or her in the position of accepting travel or travel expenses offered by a foreign government which are directly related to the authorized purpose of the travel; or

(ii) When the employee's travel orders specifically anticipate the acceptance of additional travel and travel expenses incident to the authorized travel.

(2) When an employee is traveling under circumstances described in paragraph (d)(1)(i) of this section, that is, without specific instructions authorizing acceptance of additional travel expenses from a foreign government, the employee must file a report with the employing agency under the procedures prescribed in § 3.6.

(e) Since tangible gifts of more than minimal value may not lawfully become the personal property of the donee, all supervisory officials shall, in advising employees of their responsibilities under the regulations, impress upon them their obligation to decline acceptance of such gifts, whenever possible, at the time they are offered, or to return them if they have been sent or delivered without a prior offer. All practical measures, such as periodic briefings, shall be taken to minimize the number of gifts which employees must deposit and which thus become subject to disposal as provided by law and regulation. Employees should not accept gifts of more than minimal value on the assumption that refusal would be likely to "cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States". In many instances it should be possible, by explanation of the prohibition against an employee's retention of such gifts, to avoid consequences of acceptance, including possible return of the gift to the donor. Refusal of the gift at the inception should typically be regarded as in the interest both of the foreign government donor and the U.S. Government.

### **§ 3.5 Designation of officials and offices responsible for administration of foreign gifts and decorations.**

(a) The Act effects a significant degree of decentralization of administration relative to the disposal of foreign gifts and decorations which become U.S. Government property. Each agency is now responsible for receiving from its employees deposits of foreign gifts of more than minimal value, as well as of foreign decorations not meeting the statutory criteria for retention by the recipient. The agency is also responsible for disposing of this property by return to the donor, for retaining it in the agency if official use of it is approved, for reporting to the General Services Administration within 30 calendar days after deposit items neither disposed of nor retained, and for assuming custody, proper care and handling of such property pending removal from that custody pursuant to disposal

arrangements by the General Services Administration. The Secretary of State, however, is made responsible for providing guidance to other executive agencies in the development of their own regulations to implement the Act, as well as for the annual publication of lists of all gifts of more than minimal value deposited by Federal employees during the preceding year. [See § 3.5(c).] Authority for the discharge of the Secretary's responsibilities is delegated by these regulations to the Chief of Protocol.

(b) The Office of the Chief of Protocol retains primary responsibility for administration of the Act within the Department of State. That Office will, however, serve as the depository only for those foreign gifts and decorations which are turned in by State Department employees. The Director of Personnel Services of the USIA<sup>1</sup> will have responsibility for administration of the Act within that agency and will serve as the depository of foreign gifts and decorations. Employees of the other foreign affairs agencies must deposit with their respective agencies any gifts or decorations deposit of which is required by law.

(c) Any questions concerning the implementation of these regulations or interpretation of the law should be directed to the following:

- (1) For the Department of State, to the Office of Protocol or to the Office of the Assistant Legal Adviser for Management, as appropriate;
- (2) For IDCA, to the Office of the General Counsel;
- (3) For AID, to the Assistant General Counsel for Employee and Public Affairs; and
- (4) For USIA,<sup>1</sup> to the General Counsel.

**§ 3.6 Procedure to be followed by employees in depositing gifts of more than minimal value and reporting acceptance of travel or travel expenses.**

(a) An employee who has accepted a tangible gift of more than minimal value shall, within 60 days after acceptance, relinquish it to the designated depository office for the employing agency for disposal or with the approval of that office, deposit it for official use at a designated location in the employing agency or at a specified Foreign Service post. The designated depository offices are:

- (1) For the Department of State, the Office of Protocol;
- (2) For IDCA, the General Services Division of the Office of Management Planning in AID;
- (3) For AID, the General Services Division of the Office of Management Planning; and
- (4) For USIA,<sup>1</sup> the Office of Personnel Services.

(b) At the time that an employee deposits gifts of more than minimal value for disposal or for official use pursuant to paragraph (a) of this section, or within 30 days after accepting a gift of travel or travel expenses as provided in § 3.4(d) (unless the gift of such travel or travel expenses has been accepted in accordance with specific instructions from the Department or agency), the employee shall file a statement with the designated depository office with the following information:

- (1) For each tangible gift reported:
  - (i) The name and position of the employee;

- (ii) A brief description of the gift and the circumstances justifying acceptance;
  - (iii) The identity of the foreign government and the name and position of the individual who presented the gift;
  - (iv) The date of acceptance of the gift;
  - (v) The donee's best estimate in specific dollar terms of the value of the gift in the United States at the time of acceptance; and
  - (vi) Disposition or current location of the gift. (For State Department employees, forms for this purpose are available in the Office of Protocol.)
- (2) For each gift of travel or travel expenses:
- (i) The name and position of the employee;
  - (ii) A brief description of the gift and the circumstances justifying acceptance; and
  - (iii) The identity of the foreign government and the name and position of the individual who presented the gift.
- (c) The information contained in the statements called for in paragraph b of this section is needed to comply with the statutory requirement that, not later than January 31 of each year, the Secretary of State publish in the Federal Register a comprehensive listing of all such statements filed by Federal employees concerning gifts of more than minimal value received by them during the preceding year.

### § 3.7 Decorations.

(a) Decorations tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance may be accepted, retained, and worn by an employee, subject to the approval of the employing agency. Without such approval, the decoration is deemed to have been accepted on behalf of the United States and, like tangible gifts of more than minimal value, must be deposited by the employee with the designated depository office for the employing agency within sixty days after acceptance, for retention for official use or for disposal in accordance with § 3.9.

(b) The decision as to whether a decoration has been awarded for outstanding or unusually meritorious performance will be made:

(1) For the Department of State, by the supervising Assistant Secretary of State or comparable official, except that, in the case of a decoration awarded to an Assistant Secretary or other officer of comparable or higher rank, the decision shall be made by the Office of Protocol;

(2) For IDCA, by the Assistant Director for Administration;

(3) For AID, by the Director of Personnel Management; and

(4) For USIA,<sup>1</sup> by the Supervising Associate Director, the General Counsel, or the Director of the Office of Congressional and Public Liaison (for domestic employees), and by the Director of Area Offices (for overseas employees).

(c) To justify an affirmative decision, a statement from the foreign government, preferably in the form of a citation which shows the specific basis for the tender of the award, should be supplied. An employee who has received or been tendered a decoration should forward to the designated depository office of the employing

agency a request for review of the case. This request should contain a statement of circumstances of the award and such documentation from the foreign government as has accompanied it. The depository office will obtain the decision of the cognizant office as to whether the award meets the statutory criteria and thus whether the decoration may be retained and worn. Pending receipt of that decision, the decoration should remain in the custody of the recipient.

**§ 3.8 Approval of retention of gifts or decorations with employing agency for official use.**

(a) At the request of an overseas post or an office within the employing agency, a gift or decoration deemed to have been accepted on behalf of the United States may be retained for official use. Such retention should be approved:

- (1) For the Department of State, by the Chief of Protocol;
- (2) For IDCA, by AID's Director of Management Operations;
- (3) For AID, by the Director of Management Operations; and
- (4) For USIA,<sup>1</sup> by the Associate Director for Management.

However, to qualify for such approval, the gift or decoration should be an item which can be used in the normal conduct of agency business, such as a rug or a tea service, or an art object meriting display, such as a painting or sculpture. Personal gift items, such as wristwatches, jewelry, or wearing apparel, should not be regarded as suitable for "official use". Only under unusual circumstances will retention of a decoration for official use be authorized. Every effort should be made to place each "official use" item in a location that will afford the largest number of employees, and, if feasible, members of the public, the maximum opportunity to receive the benefit of its display, provided the security of the location is adequate.

(b) Items approved for official use must be accounted for and safeguarded as Federal property at all times under standard Federal property management procedures. Within 30 days after the official use of a gift has been terminated, the gift or decoration shall be deposited with the designated depository office of the employing agency to be held pending completion of disposal arrangements by the General Services Administration.

**§ 3.9 Disposal of gifts and decorations which become the property of the United States.**

(a) Gifts and decorations which have been reported to an employing agency shall either be returned to the donor or kept in safe storage pending receipt of instructions from the General Services Administration for transfer, donation or other disposal under the provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and the Federal Property Management Regulations (41 CFR Part 101–49). The employing agency shall examine each gift or decoration and the circumstances surrounding its donation and assess whether any adverse effect upon the foreign relations of the United States might result from a return of the gift (or decoration) to the donor, which shall be the preferred means of disposal. If this is not deemed feasible, the employing agency is required by GSA regulations to report deposit of the gift or decoration within 30 calendar days, using Standard Form

120, Report of Excess Personal Property and, as necessary, Standard Form 120A, Continuation Sheet, and citing Section 7342 of Title 5, U.S. Code (1976), on the reporting document. Such reports shall be submitted to the General Services Administration, Washington National Capital Region (WDPO), Attention: Federal Property Resources Service, Seventh and D Streets, S.W., Washington, D.C. 20407.

(b) No gift or decoration deposited with the General Services Administration for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. When depositing gifts or decorations with the designated depository office of their employing agency, employees may indicate their interest in participating in any subsequent sale of the items by the Government. Before gifts and decorations may be considered for sale by the General Services Administration, however, they must first have been offered for transfer to Federal agencies and for donation to the States. Consequently, employees should understand that there is no assurance that an item will be offered for sale, or, if so offered, that it will be feasible for an employee to participate in the sale. Employees are reminded in this connection that the primary aim of the Act is to discourage employees' acceptance of gifts of more than minimal value.

### **§ 3.10 Enforcement.**

(a) Each employing agency is responsible under the Act for reporting to the Attorney General cases in which there is reason to believe that one of its employees has violated the Act. The Attorney General in turn may file a civil action in any United States District Court against any Federal employee who has knowingly solicited or accepted a gift from a foreign government in violation of the Act, or who has failed to deposit or report such gift, as an Act required by the Act. In such case, the court may assess a maximum penalty of the retail value of a gift improperly solicited or received, plus \$5,000.

(b) Supervisory officials at all levels within employing agencies shall be responsible for providing periodic reorientation of all employees under their supervision on the basic features of the Act and these regulations, and for ensuring that those employees observe the requirements for timely reporting and deposit of any gifts of more than minimal value they may have accepted.

(c) Employees are advised of the following actions which may result from failure to comply with the requirements of the Act and these regulations:

(1) Any supervisor who has substantial reason to believe that an employee under his or her supervision has violated the reporting or other compliance provisions of the Act shall report the facts and circumstances in writing to the senior official in charge of administration within the cognizant bureau or office or at the post abroad. If that official upon investigation decides that an employee who is the donee of a gift or is the recipient of travel or travel expenses has, through actions within the

employee's control, failed to comply with the procedures established by the Act and these regulations, the case shall be referred to the Attorney General for appropriate action.

(2) In cases of confirmed evidence of a violation, whether or not such violation results in the taking of action by the Attorney General, the senior administrative official referred to in § 3.10(c)(1) as responsible for forwarding a violation report to the Attorney General shall institute appropriate disciplinary action against an employee who has failed to (i) Deposit tangible gifts within 60 days after acceptance, (ii) account properly for the acceptance of travel expenses or (iii) comply with the Act's requirements respecting disposal of gifts and decorations retained for official use.

(3) In cases where there is confirmed evidence of a violation, but no evidence that the violation was willful on the part of the employee, the senior administrative official referred to in § 3.10(c)(1) shall institute appropriate disciplinary action of a lesser degree than that called for in § 3.10(c)(2) in order to deter future violations by the same or another employee.

**§ 3.11 Responsibility of chief of mission to inform host government of restrictions on employee's receipt of gifts and decorations.**

A special provision of the Act requires the President to direct every chief of a United States diplomatic mission to inform the host government that it is a general policy of the United States Government to prohibit its employees from receiving gifts of more than minimal value or decorations that have not been tendered "in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance." Accordingly, all Chiefs of Mission shall in January of each year conduct a thorough and explicit program of orientation aimed at appropriate officials of the host government concerning the operation of the Act.

**§ 3.12 Exemption of grants and other foreign government assistance in cultural exchange programs from coverage of foreign gifts and decorations legislation.**

The Act specifically excludes from its application grants and other forms of assistance "to which section 108A of the Mutual Education and Cultural Exchange Act of 1961 applies". See 22 U.S.C. 2558 (a) and (b) for the terms and conditions under which Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such employee in a cultural exchange.

## 9. Immigration, Migration and Refugee Assistance

### a. Administration

#### (1) Migration and Refugee Assistance Act of 1962, as amended

Public Law 87-510 [H.R. 8291], 76 Stat. 121, approved June 28, 1962; as amended by Public Law 88-634 [H.R. 11812], 78 Stat. 1021, approved October 7, 1964; Public Law 94-141 [Foreign Relations Authorization Act, Fiscal Year 1976; S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 96-212 [Refugee Act of 1980, S. 643], 94 Stat. 102, approved March 17, 1980; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2162, approved October 17, 1980; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To enable the United States to participate in the assistance rendered to certain migrants and refugees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Migration and Refugee Assistance Act of 1962.”

SEC. 2.<sup>1</sup> (a)<sup>2</sup> (1) The President is authorized to continue membership for the United States in the International Organization for Migration in accordance with the constitution of such organization approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on November 24, 1998, upon entry into force of such amendments.

(2) For the purpose of assisting in the movement of refugees and migrants, there are authorized to be appropriated to the President such amounts as may be necessary from time to time for payment

<sup>1</sup> 22 U.S.C. 2601. See also sec. 251 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-431), relating to U.S. policy regarding the involuntary return of refugees.

<sup>2</sup> Sec. 242 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1374), amended and restated subsec. (a). It previously read, as amended by Public Law 103-236 (108 Stat. 459), as follows:

“(a) The President is hereby authorized to continue membership for the United States in the International Organization for Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on May 20, 1987. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Organization and all necessary salaries and expenses incidental to United States participation in the Organization.”.

by the United States of its contributions to the International Organization for Migration and all necessary salaries and expenses incidental to United States participation in such organization.

(b)<sup>3</sup> There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the International Organization for Migration,<sup>4</sup> the International Committee of the Red Cross, and to other relevant international organizations; and

(2)<sup>5</sup> for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.

(c)<sup>6</sup> (1)<sup>7</sup> Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms

<sup>3</sup>Sec. 312(b)(1) of Public Law 96-212 (94 Stat. 116) amended subsec. (b) by striking paras. (1) through (6) and adding new paras. (1) and (2).

Appropriations for Migration and Refugee Assistance administered by the Department of State are provided in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act. For fiscal year 2006, title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102; 119 Stat. 2188), provided:

“MIGRATION AND REFUGEE ASSISTANCE

“For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$791,000,000, to remain available until expended: *Provided*, That not more than \$23,000,000 may be available for administrative expenses: *Provided further*, That not less than \$40,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: *Provided further*, That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement: *Provided further*, That funds appropriated under this heading should be made available to develop effective responses to protracted refugee situations, including the development of programs to assist long-term refugee populations within and outside traditional camp settings that support refugees living or working in local communities such as integration of refugees into local schools and services, resource conservation projects and other projects designed to diminish conflict between refugee hosting communities and refugees, and encouraging dialogue among refugee hosting communities, the United Nations High Commissioner for Refugees, and international and non-governmental refugee assistance organizations to promote the rights to which refugees are entitled under the Convention Relating to the Status of Refugees of July 28, 1951 and the Protocol Relating to the Status of Refugees, done at New York January 31, 1967.”

<sup>4</sup>Sec. 430(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459), struck out “Intergovernmental Committee for European Migration” and inserted in lieu thereof “International Organization for Migration”.

<sup>5</sup>In Presidential Determination No. 99-6 of November 30, 1998, the President delegated the functions and authorities under sec. 2(b)(2) to the Secretary of State, who was authorized, in turn, to redelegate the functions and authorities consistent with applicable law.

<sup>6</sup>Sec. 501(a) of Public Law 94-141 amended and restated subsec. (c).

<sup>7</sup>Presidential Determination No. 2005-33 of April 29, 2005 (70 F.R. 25457), provided the following pursuant to sec. 2(c)(1):

“\* \* \* I hereby determine that it is important to the national interest that up to \$34.7 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to support unexpected urgent humanitarian needs in the West Bank and Gaza, and refugee repatriation to Burundi and the Democratic Republic of the Congo. These funds may be used, as appropriate,



and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed \$100,000,000.<sup>8</sup> Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

(d) The President shall keep the appropriate committees of Congress currently informed of the use of funds and the exercise of functions authorized in this Act.

(e) Unexpended balances of funds made available under authority of the Mutual Security Act of 1954, as amended, and of the Foreign Assistance Act of 1961, as amended and allocated or transferred for the purposes of sections 405(a), 405(c), 405(d) and 451(c) of the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the purposes of this section and may be consolidated with appropriations authorized by this section.<sup>9</sup>

(f)<sup>10</sup> The President may furnish assistance and make contributions under this Act notwithstanding any provision of law which restricts assistance to foreign countries.

SEC. 3.<sup>11</sup> (a) In carrying out the purpose of this Act, the President is authorized—

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to provide contributions to international, governmental, and nongovernmental organizations, and, as necessary, for administrative expenses of the Bureau of Population, Refugees, and Migration.”

Presidential Determination No. 2006-4 of November 22, 2005 (70 F.R. 72057) provided the following pursuant to sec. 2(c)(1):

“\* \* \* I hereby determine that it is important to the national interest that up to \$5 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet unexpected urgent humanitarian needs of refugees and other victims of the October 2005 earthquake in Pakistan. These funds may be used, as appropriate, to provide contributions to international, governmental, and nongovernmental organizations.”

<sup>8</sup>Sec. 430(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 459), struck out “\$50,000,000” and inserted in lieu thereof “\$100,000,000”.

Previously, sec. 312(b)(2) of Public Law 96-212 (94 Stat. 117) struck out “\$25,000,000” and inserted in lieu thereof “\$50,000,000”.

Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109-102; 119 Stat. 2189), provided the following:

“UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

“For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), \$30,000,000, to remain available until expended.”

<sup>9</sup>The final sentence in sec. 2(e) of this Act, repealed by the Foreign Assistance and Related Agencies Appropriation Act, 1965 (Public Law 88-634; 78 Stat. 1021), read: “Funds appropriated for the purposes of this section shall remain available until expended.”

<sup>10</sup>Sec. 111 of Public Law 99-93 (99 Stat. 405) added subsec. (f).

<sup>11</sup>22 U.S.C. 2602.

(1) to make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations;

(2) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(b) Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951 (65 Stat. 7), as amended)<sup>12</sup> regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

SEC. 4.<sup>13</sup> (a)(1) The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this Act. If the President shall so specify, any individual so designated under this subsection is authorized to redelegate to any of his subordinates any functions authorized to be performed by him under this subsection, except the function of exercising the waiver authority specified in section 3(b) of this Act.

(2) Section 104(b) of the Immigration and Nationality Act (8 U.S.C. 1104(b)), is amended by inserting after the first sentence the following: "He shall be appointed by the President by and with the advice and consent of the Senate."

(b)<sup>14</sup> The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred. Funds allocated or transferred pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

SEC. 5.<sup>15</sup> (a) Funds made available for the purposes of this Act shall be available for—

(1) compensation, allowances, and travel of personnel, including members of the Foreign Service<sup>16</sup> whose services are utilized primarily for the purpose of this Act, and without regard to the provisions of any other law, for printing and binding, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and

<sup>12</sup>50 U.S.C. app. 1211 note.

<sup>13</sup>22 U.S.C. 2603.

<sup>14</sup>22 U.S.C. 2604.

<sup>15</sup>22 U.S.C. 2605.

<sup>16</sup>Sec. 2206(a)(6) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2162) struck out "Foreign Service personnel" and inserted in lieu thereof "members of the Foreign Service".

operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act;

(2) employment or assignment of members of the Foreign Service serving under limited appointments<sup>17</sup> for the duration of operations under this Act;

(3) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), and loss by exchanges;

(4) expenses authorized by the Foreign Service Act of 1980,<sup>18</sup> not otherwise provided for;

(5) expenses authorized by the Act of August 1, 1956 (70 Stat. 890-892), as amended;<sup>19</sup> and

(6)<sup>20</sup> contracting for personal services abroad, and individuals employed by contract to perform such services shall not be considered to be employees of the United States for purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary concerning the employment of such individuals abroad; and

(7) all other expenses determined by the President to be necessary to carry out the purposes of this Act.

(b) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this Act shall continue in full force and effect until modified, revoked, or superseded under the authority of this Act.

(c)<sup>21</sup> Personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau charged with carrying out this Act.

SEC. 6. Subsections (a), (c) and (d) of section 405 of the Mutual Security Act of 1954, as amended, subsection (c) of section 451 of the said Act, and the last sentence of section 2(a) of the Act of July 14, 1960 (74 Stat. 504), are hereby repealed.

SEC. 7. Until the enactment of legislation appropriating funds for activities under this Act, such activities may be conducted with funds made available under section 451(a) of the Foreign Assistance Act of 1961, as amended.

SEC. 8.<sup>22</sup> AUDITS OF U.S. FUNDS RECEIVED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

<sup>17</sup>Sec. 2206(a)(6) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2162) struck out "Foreign Service Reserve officers" and inserted in lieu thereof "members of the Foreign Service serving under limited appointments".

<sup>18</sup>Sec. 2206(a)(6) of Public Law 96-465 (94 Stat. 2162) struck out "Foreign Service Act of 1946" and inserted in lieu thereof "Foreign Service Act of 1980".

<sup>19</sup>22 U.S.C. 2662 *et seq.*

<sup>20</sup>Sec. 112 of Public Law 99-93 (99 Stat. 405) inserted sec. 5(a)(6), applicable only to funds appropriated after August 16, 1985.

<sup>21</sup>Sec. 164(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended (Public Law 103-236; 108 Stat. 411), added subsec. (c).

<sup>22</sup>22 U.S.C. 2606. Sec. 113 of Public Law 99-93 (99 Stat. 405) added sec. 8.

(a)<sup>23</sup> PROGRAM AUDITS.—Funds may not be available to the United Nations High Commissioner for Refugees (UNHCR) under this or any other Act unless provision is made for—

(1) annual program audits to determine the use of UNHCR funds, including the use of such funds by implementing partners; and

(2) such audits are made available through the Department of State for inspection by the Comptroller General of the United States.

(b)<sup>24</sup> FIRST PROGRAM AUDIT.—The first program audit pursuant to subsection (a)(1) shall begin not later than June 1, 1986.

<sup>23</sup>Sec. 701 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 74), amended and restated subsec. (a).

<sup>24</sup>Sec. 1111(a) of Public Law 104-66 (109 Stat. 723) struck out subsec. (b) and redesignated subsec. (c) as subsec. (b). Former subsec. (b) had required that the U.S. Comptroller General inspect and report to Congress on each program audit.

## (2) Administration of the Migration and Refugee Assistance Act of 1962

Executive Order 11077,<sup>1</sup> January 22, 1963, 28 F.R. 629; as amended by Executive Order 11922, June 16, 1976, 41 F.R. 24573; and Executive Order 12608, September 9, 1987, 52 F.R. 34617

By virtue of the authority vested in me by the Migration and Refugee Assistance Act of 1962 (76 Stat. 121–124; hereinafter referred to as the Act), and as President of the United States, it is ordered as follows:

**Section 1. Department of State.** (a) The Secretary of State is hereby designated to perform the following:

(1) The functions provided for in sections 2(a) and 2(b)(1) of the Act.

(2) The functions provided for in section 2(b)(2) of the Act, exclusive of so much thereof as is assigned or reserved by the provisions of section 2(1) of this order.

(3) In connection with functions under the Act assigned to the Secretary of State, the functions provided for in sections 3(a), 4(b), and 5(a) of the Act.

(b) The Secretary of State shall from time to time furnish the President documents appropriate for the discharge by the President of his responsibilities under section 2(d) of the Act.<sup>2</sup>

(c) With due regard for other relevant considerations (including the interests of<sup>3</sup> any other executive agencies which may be concerned), the Secretary of State shall assume the leadership and provide the guidance for assuring that programs authorized under the Act best serve the foreign policy objectives of the United States.

(d)<sup>4</sup> Funds appropriated or otherwise made available to the President for the United States Emergency Refugee and Migration Assistance Fund established by Section 2(c) of the Act (22 U.S.C. 2601) shall be deemed to be allocated without further action of the President to the Secretary of State, and the Secretary may allocate or transfer as appropriate, such funds to any agency, or part thereof, for obligation or expenditure consistent with the provisions of this order, the Act, and other applicable law: *Provided*, That such funds may not be transferred, obligated, or expended until the President shall have made the determinations provided for in Section 2(c)(1) of the Act, which determinations are reserved to the President, and the designations and determinations provided for in Section 2(b)(2) of the Act.

<sup>1</sup> 22 U.S.C. 2603 note.

<sup>2</sup> Sec. 14(a) of Executive Order 12608 (56 F.R. 34619) struck out the second sentence of subsec. (b), relating to the Secretary of Health, Education, and Welfare.

<sup>3</sup> Sec. 14(b) of Executive Order 12608 (56 F.R. 34619) struck out reference to the Department of Health, Education, and Welfare.

<sup>4</sup> Executive Order 11922 (41 F.R. 24573; June 16, 1976) added subsec. (d).

**Sec. 2.<sup>5</sup> Redlegation.** (a) The Secretary of State may redelegate any of his functions under this order to any of his subordinates.

(b) The Secretary of State may assign to the head of any executive department or to the head of any other agency of the executive branch of the Government, with the consent of the head of the department or agency concerned, the performance or agency concerned, the performance of any functions of the Secretary under this order whenever he deems that such action would be advantageous to the Government.

**Sec. 3.<sup>5</sup> Waivers.** (a) In accordance with Section 3(b) of the Act, it is hereby determined that it is in furtherance of the purposes of the Act that the functions authorized under the Act may be performed (by any department or agency of the Government authorized to perform those functions) without regard to the following-specified provisions of law:

(1) the Act of March 26, 1934, c. 90, 48 Stat. 500, as amended (15 U.S.C. 616a) (shipment of certain exports in United States vessels).

(2) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(3) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(4) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(5) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(6) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(7) Sections 302-305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252-255) (competitive bids; negotiated contracts; advances).

(8) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. 1241(a)) (official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States).

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps shall be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

**Sec. 4.<sup>5</sup> Definition.** As used in this order, the word "function" or "functions" includes any executive duty, obligation, power, authority, responsibility, right, privilege, discretion or activity.

<sup>5</sup> Sec. 14(c) of Executive Order 12608 (56 F.R. 34619) struck out sec. 2, designating functions of the Secretary of Health, Education, and Welfare in matters pertaining to the Migration and Refugee Assistance Act of 1962. Sec. 14(d) of that Executive Order renumbered subsequent sections.

Sec. 14(e) of Executive Order 12608 (56 F.R. 34619) struck out reference to the Secretary of Health, Education, and Welfare throughout sec. 2.

**Sec. 5.<sup>5</sup> Saving provisions.** Except to the extent that they may be inconsistent with law or with this order, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in force and effect until amended, modified, or terminated by appropriate authority.

**Sec. 6.<sup>5</sup> Effective date.** The provisions of this order shall be effective as of July 1, 1962.

### (3) The Immigration and Nationality Act, as amended

Partial text of Public Law 82-414 [H.R. 5678], 66 Stat. 163, approved June 27, 1952; as amended by Public Law 87-301, 75 Stat. 651, approved September 26, 1961; Public Law 87-510 [Migration and Refugee Assistance Act of 1962; H.R. 8291], 76 Stat. 121, approved June 28, 1962; Public Law 88-426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 89-236, 79 Stat. 918, approved October 3, 1965; Public Law 95-105 [Foreign Relations Authorization Act, Fiscal Year 1978; H.R. 6689], 91 Stat. 844, approved August 17, 1977; Public Law 97-116 [Immigration and Nationality Act Amendments of 1981; H.R. 4327], 95 Stat. 1620, approved December 29, 1981; Public Law 99-603 [Immigration Reform and Control Act of 1986; S. 1200], 100 Stat. 3359, approved November 6, 1986; Public Law 99-653 [Immigration and Nationality Act Amendments of 1986; H.R. 4444], 100 Stat. 3656, approved November 14, 1986; Public Law 100-525 [Immigration Technical Corrections Act of 1988; S. 2479], 102 Stat. 2609, approved October 24, 1988; Public Law 101-649 [Immigration Act of 1990; S. 358], 104 Stat. 5012, approved November 29, 1990; Public Law 102-232 [Miscellaneous and Technical Immigration and Nationality Amendments of 1991; H.R. 3049], 105 Stat. 1746, approved December 12, 1991; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4301, approved October 25, 1994; Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4312, approved October 25, 1994; Public Law 104-132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104-208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 105-119 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998; H.R. 2267], 111 Stat. 2440, approved November 26, 1997; Public Law 105-173 [Visa Waiver Pilot Program Reauthorization Act of 1997; S. 1178], 112 Stat. 56, approved April 27, 1998; Public Law 106-396 [Visa Waiver Permanent Program Act; H.R. 3767], 114 Stat. 1637, approved October 30, 2000; Public Law 107-56 [Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorists (USA PATRIOT ACT) Act of 2001; H.R. 3162], 115 Stat. 355, approved October 26, 2001; Public Law 107-173 [Enhanced Border Security and Visa Entry Reform Act of 2002; H.R. 3525], 116 Stat. 543, approved May 14, 2002; and Public Law 108-458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004

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#### TITLE I—GENERAL PROVISIONS

\* \* \* \* \*

##### POWERS AND DUTIES OF THE SECRETARY OF STATE

SEC 104.<sup>1</sup> (a) The Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to (1) the

<sup>1</sup>8 U.S.C. 1104. Section heading formerly also referred to “BUREAU OF SECURITY AND CONSULAR AFFAIRS”. Sec. 9(d) of Public Law 100-525 (102 Stat. 2620) struck out “SECURITY AND”; sec. 162(h)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “BUREAU OF CONSULAR AFFAIRS”.



powers, duties and functions of diplomatic and consular officers of the United States, except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties and functions of the Administrator;<sup>2</sup> and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b)<sup>3</sup> The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this Act which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.

(c) Within the Department of State<sup>4</sup> there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter

<sup>2</sup> Formerly read "Bureau of Security and Consular Affairs". Sec. 109(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847) struck out "Security and"; sec. 162(h)(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "Bureau of Consular Affairs".

<sup>3</sup> Sec. 162(h)(2)(C) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), amended and restated subsec. (b). Subsec. (b) formerly read as follows:

"(b) There is hereby established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this Act which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe."

In Department of State Public Notice No. 2047 of July 29, 1994 (Delegation of Authority No. 213; 59 F.R. 42323), the Secretary of State designated the Assistant Secretary of State for Consular Affairs as Administrator.

<sup>4</sup> Sec. 162(h)(2)(D) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out "Bureau" and inserted in lieu thereof "Department of State".

be performed by the Passport Office and the Visa Office, respectively.<sup>5</sup>

(e) There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this Act.

(f)<sup>6</sup> \* \* \* [Repealed—1977]

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## TITLE II—ADMISSION QUALIFICATIONS FOR ALIENS, TRAVEL CONTROL OF CITIZENS AND ALIENS

\* \* \* \* \*

### VISA WAIVER PROGRAM FOR CERTAIN VISITORS

SEC. 217.<sup>7</sup> (a) ESTABLISHMENT OF PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a program (hereinafter in this section referred to as the “program”) under which the requirement of paragraph (7)(B)(i)(II) of section 212(a) may be waived by the Attorney General, in consultation with the Secretary of State and in accordance with this section, in the case of an alien who meets the following requirements:

(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the program as a non-immigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

(2) NATIONAL OF PROGRAM COUNTRY.—The alien is a national of, and presents a passport issued by, a country which—

(A) extends (or agrees to extend), either on its own or in conjunction with one or more other countries that are described in subparagraph (B) and that have established with it a common area for immigration admissions, reciprocal privileges to citizens and nationals of the United States, and

(B) is designated as a pilot program country under subsection (c).

(3) MACHINE READABLE PASSPORT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), on or after October 1, 2003, the alien at the time of

<sup>5</sup>Sec. 162(h)(2)(E) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 407), struck out “, of the Bureau of Consular Affairs” after “respectively”.

<sup>6</sup>Sec. 109(b)(1)(D) of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 847), repealed subsec. (f). It formerly read as follows:

“(f) The Bureau shall be under the immediate jurisdiction of the Deputy Under Secretary of State for Administration.”

<sup>7</sup>8 U.S.C. 1187. Added by sec. 313(a) of Public Law 99-603 (100 Stat. 3435). Substantially amended and restated by sec. 2(p) of Public Law 100-525 (102 Stat. 2613); Sec. 201(a) of Public Law 101-649 (104 Stat. 5012); secs. 303(a) and 307(l)(3) of Public Law 102-232 (105 Stat. 1746, 1756); sec. 1(m) of Public Law 103-415 (108 Stat. 4301); secs. 210, 211 of Public Law 103-416 (108 Stat. 4312, 4313); secs. 308(d)(4)(F), 308(e)(9), and 635(a), (b), (c)(1) and (c)(3) of Public Law 104-208 (110 Stat. 3009-618, 3009-620, 3009-702, 3009-703, respectively); sec. 125 of Public Law 105-119 (111 Stat. 2471); secs. 1 and 3 of Public Law 105-173 (112 Stat. 56); sec. 101(a), secs. 201 through 207, sec. 403 of Public Law 106-396 (114 Stat. 1637, 1638, 1647, respectively); sec. 417 of Public Law 107-56 (115 Stat. 355); and sec. 307(a) of Public Law 107-173 (116 Stat. 556).

application for admission is in possession of a valid unexpired machine-readable passport that satisfies the internationally accepted standard for machine readability.

(B) LIMITED WAIVER AUTHORITY.—For the period beginning October 1, 2003, and ending September 30, 2007, the Secretary of State may waive the requirement of subparagraph (A) with respect to nationals of a program country (as designated under subsection (c)), if the Secretary of State finds that the program country—

(i) is making progress toward ensuring that passports meeting the requirement of subparagraph (A) are generally available to its nationals; and

(ii) has taken appropriate measures to protect against misuse of passports the country has issued that do not meet the requirement of subparagraph (A).

(4) EXECUTES IMMIGRATION FORMS.—The alien before the time of such admission completes such immigration form as the Attorney General shall establish.

(5) ENTRY INTO THE UNITED STATES.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier, including any carrier conducting operations under part 135 of title 14, Code of Federal Regulations, or a non-commercial aircraft that is owned or operated by a domestic corporation conducting operations under part 91 of title 14, Code of Federal Regulations which has entered into an agreement with the Attorney General pursuant to subsection (e). The Attorney General is authorized to require a carrier conducting operations under part 135 of title 14, Code of Federal Regulations, or a domestic corporation conducting operations under part 91 of that title, to give suitable and proper bond, in such reasonable amount and containing such conditions as the Attorney General may deem sufficient to ensure compliance with the indemnification requirements of this section, as a term of such an agreement.

(6) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

(7) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

(8) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations or the alien is arriving at the port of entry on an aircraft operated under part 135 of title 14, Code of Federal Regulations, or a non-commercial aircraft that is owned or operated by a domestic corporation conducting operations under part 91 of title 14, Code of Federal Regulations).

(9) AUTOMATED SYSTEM CHECK.—The identity of the alien has been checked using an automated electronic database containing information about the inadmissibility of aliens to uncover any grounds on which the alien may be inadmissible to the United States, and no such ground has been found.

Operators of aircraft under part 135 of title 14, Code of Federal Regulations, or operators of noncommercial aircraft that are owned or operated by a domestic corporation conducting operations under part 91 of title 14, Code of Federal Regulations, carrying any alien passenger who will apply for admission under this section shall furnish such information as the Attorney General by regulation shall prescribe as necessary for the identification of any alien passenger being transported and for the enforcement of the immigration laws. Such information shall be electronically transmitted not less than one hour prior to arrival at the port of entry for purposes of checking for inadmissibility using the automated electronic database.

(b) **WAIVER OF RIGHTS.**—An alien may not be provided a waiver under the program unless the alien has waived any right—

(1) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

(2) to contest, other than on the basis of an application for asylum, any action for removal of the alien.

(c) **DESIGNATION OF PROGRAM COUNTRIES.**—

(1) **IN GENERAL.**—The Attorney General, in consultation with the Secretary of State, “may designate” any country as a program country if it meets the requirements of paragraph (2).

(2) **QUALIFICATIONS.**—Except as provided in subsection (f), a country may not be designated as a program country unless the following requirements are met:

(A) **LOW NONIMMIGRANT VISA REFUSAL RATE.**—Either—

(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during—

(I) the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years; and

(II) either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year; or

(ii) such refusal rate for nationals of that country during the previous full fiscal year was less than 3.0 percent.

(B) **MACHINE READABLE PASSPORT PROGRAM.**—

(i) **IN GENERAL.**—Subject to clause (ii), the government of the country certifies that it issues to its citizens machine-readable passports that satisfy the internationally accepted standard for machine readability.

(ii) **DEADLINE FOR COMPLIANCE FOR CERTAIN COUNTRIES.**—In the case of a country designated as a program country under this subsection prior to May 1, 2000, as a condition on the continuation of that designation, the country—

(I) shall certify, not later than October 1, 2000, that it has a program to issue machine-readable

passports to its citizens not later than October 1, 2003; and

(II) shall satisfy the requirement of clause (i) not later than October 1, 2003.

(C) LAW ENFORCEMENT AND SECURITY INTERESTS.—The Attorney General, in consultation with the Secretary of State—

(i) evaluates the effect that the country's designation would have on the law enforcement and security interests of the United States (including the interest in enforcement of the immigration laws of the United States and the existence and effectiveness of its agreements and procedures for extraditing to the United States individuals, including its own nationals, who commit crimes that violate United States law);

(ii) determines that such interests would not be compromised by the designation of the country; and

(iii) submits a written report to the Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate regarding the country's qualification for designation that includes an explanation of such determination.

(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country.

(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year after the initial period—

(A) CONTINUING QUALIFICATION.—In the case of a country which was a program country in the previous fiscal year, a country may not be designated as a program country unless the sum of—

(i) the total of the number of nationals of that country who were denied admission at the time of arrival or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a program country unless the following requirements are met:

(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was

less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

(ii) **LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.**—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

(4) **INITIAL PERIOD.**—For purposes of paragraphs (2) and (3), the term “initial period” means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

(5) **WRITTEN REPORTS ON CONTINUING QUALIFICATION; DESIGNATION TERMINATIONS.**—

(A) **PERIODIC EVALUATIONS.**—

(i) **IN GENERAL.**—The Attorney General, in consultation with the Secretary of State, periodically (but not less than once every 2 years)—

(I) shall evaluate the effect of each program country's continued designation on the law enforcement and security interests of the United States (including the interest in enforcement of the immigration laws of the United States and the existence and effectiveness of its agreements and procedures for extraditing to the United States individuals, including its own nationals, who commit crimes that violate United States law);

(II) shall determine, based upon the evaluation in subclause (I), whether any such designation ought to be continued or terminated under subsection (d); and

(III) shall submit a written report to the Committee on the Judiciary and the Committee on International Relations of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate regarding the continuation or termination of the country's designation that includes an explanation of such determination and the effects described in subclause (I).

(ii) **EFFECTIVE DATE.**—A termination of the designation of a country under this subparagraph shall take effect on the date determined by the Attorney General, in consultation with the Secretary of State.

(iii) **REDESIGNATION.**—In the case of a termination under this subparagraph, the Attorney General shall redesignate the country as a program country, without regard to subsection (f) or paragraph (2) or (3), when

the Attorney General, in consultation with the Secretary of State, determines that all causes of the termination have been eliminated.

(B) EMERGENCY TERMINATION.—

(i) IN GENERAL.—In the case of a program country in which an emergency occurs that the Attorney General, in consultation with the Secretary of State, determines threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States), the Attorney General shall immediately terminate the designation of the country as a program country.

(ii) DEFINITION.—For purposes of clause (i), the term “emergency” means—

(I) the overthrow of a democratically elected government;

(II) war (including undeclared war, civil war, or other military activity) on the territory of the program country;

(III) a severe breakdown in law and order affecting a significant portion of the program country’s territory;

(IV) a severe economic collapse in the program country; or

(V) any other extraordinary event in the program country that threatens the law enforcement or security interests of the United States (including the interest in enforcement of the immigration laws of the United States) and where the country’s participation in the program could contribute to that threat.

(iii) REDESIGNATION.—The Attorney General may redesignate the country as a program country, without regard to subsection (f) or paragraph (2) or (3), when the Attorney General, in consultation with the Secretary of State, determines that—

(I) at least 6 months have elapsed since the effective date of the termination;

(II) the emergency that caused the termination has ended; and

(III) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the period of termination under this subparagraph was less than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such period.

(C) TREATMENT OF NATIONALS AFTER TERMINATION.—For purposes of this paragraph—

(i) nationals of a country whose designation is terminated under subparagraph (A) or (B) shall remain eligible for a waiver under subsection (a) until the effective date of such termination; and

(ii) a waiver under this section that is provided to such a national for a period described in subsection (a)(1) shall not, by such termination, be deemed to have been rescinded or otherwise rendered invalid, if the waiver is granted prior to such termination.

(6) COMPUTATION OF VISA REFUSAL RATES.—For purposes of determining the eligibility of a country to be designated as a program country, the calculation of visa refusal rates shall not include any visa refusals which incorporate any procedures based on, or are otherwise based on, race, sex, or disability, unless otherwise specifically authorized by law or regulation. No court shall have jurisdiction under this paragraph to review any visa refusal, the denial of admission to the United States of any alien by the Attorney General, the Secretary's computation of the visa refusal rate, or the designation or nondesignation of any country.

(7) VISA WAIVER INFORMATION.—

(A) IN GENERAL.—In refusing the application of nationals of a program country for United States visas, or the applications of nationals of a country seeking entry into the visa waiver program, a consular officer shall not knowingly or intentionally classify the refusal of the visa under a category that is not included in the calculation of the visa refusal rate only so that the percentage of that country's visa refusals is less than the percentage limitation applicable to qualification for participation in the visa waiver program.

(B) REPORTING REQUIREMENT.—On May 1 of each year, for each country under consideration for inclusion in the visa waiver program, the Secretary of State shall provide to the appropriate congressional committees—

(i) the total number of nationals of that country that applied for United States visas in that country during the previous calendar year;

(ii) the total number of such nationals who received United States visas during the previous calendar year;

(iii) the total number of such nationals who were refused United States visas during the previous calendar year;

(iv) the total number of such nationals who were refused United States visas during the previous calendar year under each provision of this Act under which the visas were refused; and

(v) the number of such nationals that were refused under section 214(b) as a percentage of the visas that were issued to such nationals.

(C) CERTIFICATION.—Not later than May 1 of each year, the United States chief of mission, acting or permanent, to each country under consideration for inclusion in the visa waiver program shall certify to the appropriate congressional committees that the information described in subparagraph (B) is accurate and provide a copy of that certification to those committees.

(D) CONSIDERATION OF COUNTRIES IN THE VISA WAIVER PROGRAM.—Upon notification to the Attorney General that



a country is under consideration for inclusion in the visa waiver program, the Secretary of State shall provide all of the information described in subparagraph (B) to the Attorney General.

(E) DEFINITION.—In this paragraph, the term “appropriate congressional committees” means the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on International Relations of the House of Representatives.

(d) AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General, in consultation with the Secretary of State, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section.

(e) CARRIER AGREEMENTS.—

(1) IN GENERAL.—The agreement referred to in subsection (a)(4) is an agreement between a carrier (including any carrier conducting operations under part 135 of title 14, Code of Federal Regulations) or a domestic corporation conducting operations under part 91 of that title and the Attorney General under which the carrier (including any carrier conducting operations under part 135 of title 14, Code of Federal Regulations) or a domestic corporation conducting operations under part 91 of that title agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the program—

(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A),

(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the program,

(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General, and

(D) to collect, provide, and share passenger data as required under subsection (h)(1)(B).

(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier (including any carrier conducting operations under part 135 of title 14, Code of Federal Regulations) or a domestic corporation conducting operations under part 91 of that title for the failure by a carrier (including any carrier conducting operations under part 135 of title 14, Code of Federal Regulations) or a domestic corporation conducting operations under part 91 of that title to meet the terms of such agreement.

(3) BUSINESS AIRCRAFT REQUIREMENTS.—

(A) IN GENERAL.—For purposes of this section, a domestic corporation conducting operations under part 91 of title 14, Code of Federal Regulations that owns or operates a noncommercial aircraft is a corporation that is organized under the laws of any of the States of the United States or the District of Columbia and is accredited by or a member of a national organization that sets business aviation standards. The Attorney General shall prescribe by regulation the provision of such information as the Attorney General deems necessary to identify the domestic corporation, its officers, employees, shareholders, its place of business, and its business activities.

(B) COLLECTIONS.—In addition to any other fee authorized by law, the Attorney General is authorized to charge and collect, on a periodic basis, an amount from each domestic corporation conducting operations under part 91 of title 14, Code of Federal Regulations, for nonimmigrant visa waiver admissions on noncommercial aircraft owned or operated by such domestic corporation equal to the total amount of fees assessed for issuance of nonimmigrant visa waiver arrival/departure forms at land border ports of entry. All fees collected under this paragraph shall be deposited into the Immigration User Fee Account established under section 286(h).

(f) DURATION AND TERMINATION OF DESIGNATION.—

(1) IN GENERAL.—

(A) DETERMINATION AND NOTIFICATION OF DISQUALIFICATION RATE.—Upon determination by the Attorney General that a program country's disqualification rate is 2 percent or more, the Attorney General shall notify the Secretary of State.

(B) PROBATIONARY STATUS.—If the program country's disqualification rate is greater than 2 percent but less than 3.5 percent, the Attorney General shall place the program country in probationary status for a period not to exceed 2 full fiscal years following the year in which the determination under subparagraph (A) is made.

(C) TERMINATION OF DESIGNATION.—Subject to paragraph (3), if the program country's disqualification rate is 3.5 percent or more, the Attorney General shall terminate the country's designation as a program country effective at the beginning of the second fiscal year following the fiscal year in which the determination under subparagraph (A) is made.

(2) TERMINATION OF PROBATIONARY STATUS.—

(A) IN GENERAL.—If the Attorney General determines at the end of the probationary period described in paragraph (1)(B) that the program country placed in probationary status under such paragraph has failed to develop a machine-readable passport program as required by section (c)(2)(C), or has a disqualification rate of 2 percent or more, the Attorney General shall terminate the designation of the

country as a program country. If the Attorney General determines that the program country has developed a machine-readable passport program and has a disqualification rate of less than 2 percent, the Attorney General shall redesignate the country as a program country.

(B) EFFECTIVE DATE.—A termination of the designation of a country under subparagraph (A) shall take effect on the first day of the first fiscal year following the fiscal year in which the determination under such subparagraph is made. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraph (1)(C) shall not apply unless the total number of nationals of a program country described in paragraph (4)(A) exceeds 100.

(4) DEFINITION.—For purposes of this subsection, the term “disqualification rate” means the percentage which—

(A) the total number of nationals of the program country who were—

(i) denied admission at the time of arrival or withdrew their application for admission during the most recent fiscal year for which data are available; and

(ii) admitted as nonimmigrant visitors during such fiscal year and who violated the terms of such admission; bears to

(B) the total number of nationals of such country who applied for admission as nonimmigrant visitors during such fiscal year.

(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.

(g) VISA APPLICATION SOLE METHOD TO DISPUTE DENIAL OF WAIVER BASED ON A GROUND OF INADMISSIBILITY.—In the case of an alien denied a waiver under the program by reason of a ground of inadmissibility described in section 212(a) that is discovered at the time of the alien’s application for the waiver or through the use of an automated electronic database required under subsection (a)(9), the alien may apply for a visa at an appropriate consular office outside the United States. There shall be no other means of administrative or judicial review of such a denial, and no court or person otherwise shall have jurisdiction to consider any claim attacking the validity of such a denial.

(h) USE OF INFORMATION TECHNOLOGY SYSTEMS.—

(1) AUTOMATED ENTRY-EXIT CONTROL SYSTEM.—

(A) SYSTEM.—Not later than October 1, 2001, the Attorney General shall develop and implement a fully automated entry and exit control system that will collect a record of arrival and departure for every alien who arrives and departs by sea or air at a port of entry into the United States and is provided a waiver under the program.

(B) REQUIREMENTS.—The system under subparagraph (A) shall satisfy the following requirements:

(i) DATA COLLECTION BY CARRIERS.—Not later than October 1, 2001, the records of arrival and departure described in subparagraph (A) shall be based, to the maximum extent practicable, on passenger data collected and electronically transmitted to the automated entry and exit control system by each carrier that has an agreement under subsection (a)(4).

(ii) DATA PROVISION BY CARRIERS.—Not later than October 1, 2002, no waiver may be provided under this section to an alien arriving by sea or air at a port of entry into the United States on a carrier unless the carrier is electronically transmitting to the automated entry and exit control system passenger data determined by the Attorney General to be sufficient to permit the Attorney General to carry out this paragraph.

(iii) CALCULATION.—The system shall contain sufficient data to permit the Attorney General to calculate, for each program country and each fiscal year, the portion of nationals of that country who are described in subparagraph (A) and for whom no record of departure exists, expressed as a percentage of the total number of such nationals who are so described.

(C) REPORTING.—

(i) PERCENTAGE OF NATIONALS LACKING DEPARTURE RECORD.—As part of the annual report required to be submitted under section 110(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Attorney General shall include a section containing the calculation described in subparagraph (B)(iii) for each program country for the previous fiscal year, together with an analysis of that information.

(ii) SYSTEM EFFECTIVENESS.—Not later than December 31, 2004, the Attorney General shall submit a written report to the Committee on the Judiciary of the United States House of Representatives and of the Senate containing the following:

(I) The conclusions of the Attorney General regarding the effectiveness of the automated entry and exit control system to be developed and implemented under this paragraph.

(II) The recommendations of the Attorney General regarding the use of the calculation described in subparagraph (B)(iii) as a basis for evaluating whether to terminate or continue the designation of a country as a program country.

The report required by this clause may be combined with the annual report required to be submitted on that date under section 110(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(2) AUTOMATED DATA SHARING SYSTEM.—

(A) SYSTEM.—The Attorney General and the Secretary of State shall develop and implement an automated data

sharing system that will permit them to share data in electronic form from their respective records systems regarding the admissibility of aliens who are nationals of a program country.

(B) REQUIREMENTS.—The system under subparagraph (A) shall satisfy the following requirements:

(i) SUPPLYING INFORMATION TO IMMIGRATION OFFICERS CONDUCTING INSPECTIONS AT PORTS OF ENTRY.—Not later than October 1, 2002, the system shall enable immigration officers conducting inspections at ports of entry under section 235 to obtain from the system, with respect to aliens seeking a waiver under the program—

(I) any photograph of the alien that may be contained in the records of the Department of State or the Service; and

(II) information on whether the alien has ever been determined to be ineligible to receive a visa or ineligible to be admitted to the United States.

(ii) SUPPLYING PHOTOGRAPHS OF INADMISSIBLE ALIENS.—The system shall permit the Attorney General electronically to obtain any photograph contained in the records of the Secretary of State pertaining to an alien who is a national of a program country and has been determined to be ineligible to receive a visa.

(iii) MAINTAINING RECORDS ON APPLICATIONS FOR ADMISSION.—The system shall maintain, for a minimum of 10 years, information about each application for admission made by an alien seeking a waiver under the program, including the following:

(I) The name or Service identification number of each immigration officer conducting the inspection of the alien at the port of entry.

(II) Any information described in clause (i) that is obtained from the system by any such officer.

(III) The results of the application.

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#### SEC. 219.<sup>8</sup> DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) DESIGNATION.—

(1) IN GENERAL.—The Secretary is authorized to designate an organization as a foreign terrorist organization in accordance with this subsection if the Secretary finds that—

(A) the organization is a foreign organization;

(B) the organization engages in terrorist activity (as defined in section 212(a)(3)(B)); and

(C) the terrorist activity of the organization threatens the security of United States nationals or the national security of the United States.

(2) PROCEDURE.—

<sup>8</sup> 8 U.S.C. 1189. Added by sec. 302(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat. 1248). On October 2, 1997, the Secretary of State issued a list designating organizations as foreign terrorist organizations as required by sec. 219(a)(2)(A)(ii). See Department of State Public Notice 2612; 62 F.R. 52650.

- (A) NOTICE.—Seven days before making a designation under this subsection, the Secretary shall, by classified communication—
- (i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and
  - (ii) seven days after such notification, publish the designation in the Federal Register.
- (B) EFFECT OF DESIGNATION.—
- (i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A).
  - (ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.
- (C) FREEZING OF ASSETS.—Upon notification under paragraph (2), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any foreign organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.
- (3) RECORD.—
- (A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.
  - (B) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court *ex parte* and *in camera* for purposes of judicial review under subsection (c).
- (4) PERIOD OF DESIGNATION.—
- (A) IN GENERAL.—Subject to paragraphs (5) and (6), a designation under this subsection shall be effective for all purposes for a period of 2 years beginning on the effective date of the designation under paragraph (2)(B).
  - (B) REDESIGNATION.—The Secretary may redesignate a foreign organization as a foreign terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) if the Secretary finds that—

(i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation of the designation; or

(ii) the national security of the United States warrants a revocation of the designation.

(B) PROCEDURE.—The procedural requirements of paragraphs (2) through (4) shall apply to a revocation under this paragraph.

(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (1)(B), a defendant in a criminal action shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

(b) JUDICIAL REVIEW OF DESIGNATION.—

(1) IN GENERAL.—Not later than 30 days after publication of the designation in the Federal Register, an organization designated as a foreign terrorist organization may seek judicial review of the designation in the United States Court of Appeals for the District of Columbia Circuit.

(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation.

(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation the court finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity; or

(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right.

(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation shall not affect the application of this section, unless the court issues a final order setting aside the designation.

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

(1) the term “classified information” has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term “national security” means the national defense, foreign relations, or economic interests of the United States;

(3) the term “relevant committees” means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives; and

(4) the term “Secretary” means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.

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### PART III—ISSUANCE OF ENTRY DOCUMENTS

#### ISSUANCE OF VISAS

##### SEC. 221.<sup>9</sup> (a) IMMIGRANTS; NONIMMIGRANTS.—

(1) Under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations issued thereunder, a consular officer may issue (A) to an immigrant who has made proper application therefor, an immigrant visa which shall consist of the application provided for in section 222, visaed by such consular officer, and shall specify the foreign state, if any, to which the immigrant is charged, the immigrant’s particular status under such foreign state, the preference, immediate relative, or special immigrant classification to which the alien is charged, the date on which the validity of the visa shall expire, and such additional information as may be required; and (B) to a nonimmigrant who has made proper application therefor, a nonimmigrant visa, which shall specify the classification under section 101(a)(15) of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.

(2) The Secretary of State shall provide to the Service an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at the United States ports of entry before the arrival of the alien at such a port of entry.

(b) REGISTRATION; PHOTOGRAPHS; WAIVER OF REQUIREMENT.—Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

(c) PERIOD OF VALIDITY; REQUIREMENT OF VISA.—An immigrant visa shall be valid for such period, not exceeding six months, as shall be by regulations prescribed, except that any visa issued to

<sup>9</sup>8 U.S.C. 1201. Enacted in Public Law 82-414; substantially amended by sec. 4 of Public Law 87-301 (75 Stat. 651); secs. 11 and 17 of Public Law 89-236 (79 Stat. 918, 919); sec. 18(f) of Public Law 97-116 (95 Stat. 1620); sec. 5 of Public Law 99-653 (100 Stat. 3656); sec. 8(d)(1) of Public Law 100-525 (102 Stat. 2617); sec. 603(a)(9) of Public Law 101-649 (104 Stat. 5083); sec. 302(e)(8)(C) of Public Law 102-232 (105 Stat. 1746); secs. 308 and 631 of Public Law 104-208 (110 Stat. 3009); sec. 301 of Public Law 107-173 (116 Stat. 552); and sec. 5304(a) of Public Law 108-458 (118 Stat. 3736).



a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States. An immigrant visa may be replaced under the original number during the fiscal year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided*, That the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fees for an application and an immigrant visa.

(d) PHYSICAL EXAMINATION.—Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in accordance with such regulations as may be prescribed. Prior to the issuance of a nonimmigrant visa to any alien, the consular officer may require such alien to submit to a physical or mental examination, or both, if in his opinion such examination is necessary to ascertain whether such alien is eligible to receive a visa.

(e) SURRENDER OF VISA.—Each immigrant shall surrender his immigrant visa to the immigration officer at the port of entry, who shall endorse on the visa the date and the port of arrival, the identity of the vessel or other means of transportation by which the immigrant arrived, and such other endorsements as may be by regulations required.

(f) SURRENDER OF DOCUMENTS.—Each nonimmigrant shall present or surrender to the immigration officer at the port of entry such documents as may be by regulation required. In the case of an alien crewman not in possession of any individual documents other than a passport and until such time as it becomes practicable to issue individual documents, such alien crewman may be admitted, subject to the provisions of this title, if his name appears in the crew list of the vessel or aircraft on which he arrives and the crew list is visaed by a consular officer, but the consular officer shall have the right to deny admission to any alien crewman from the crew list visa.

(g) NON-ISSUANCE OF VISAS OR OTHER DOCUMENTS.—No visa or other documentation shall be issued to an alien if (1) it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law, (2) the application fails to comply with the provisions of this Act, or the regulations issued thereunder, or (3) the consular officer knows or has reason to believe that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law: *Provided*, That a visa or other documentation may be issued to an alien who is within the purview of section 212(a)(4), if such alien is otherwise entitled to receive a visa or other documentation, upon receipt of notice by the consular officer from the Attorney General of the giving of a bond or undertaking providing indemnity as in the case of aliens admitted under section 213; *Provided further*, That a visa may be issued to an alien defined in section 101(a)(15)(B) or (F), if such alien is otherwise entitled to receive a visa, upon receipt of a notice by the consular officer from the Attorney General of the giving of a bond with sufficient surety in such sum and containing such conditions as the consular officer shall prescribe, to insure that at the expiration of the time for which such alien has been admitted by the Attorney General, as provided in section 214(a), or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248 of the Act, such alien will depart from the United States.

(h) NONADMISSION UPON ARRIVAL.—Nothing in this Act shall be construed to entitle any alien, to whom a visa or other documentation has been issued, to be admitted to<sup>10</sup> the United States, if, upon arrival at a port of entry in the United States, he is found to be inadmissible under this Act, or any other provision of law. The substance of this subsection shall appear upon every visa application.

(i) REVOCATION OF VISAS OR DOCUMENTS.—After the issuance of a visa or other documentation to any alien, the consular officer or the Secretary of State may at any time, in his discretion, revoke such visa or other documentation. Notice of such revocation shall be communicated to the Attorney General, and such revocation shall invalidate the visa or other documentation from the date of issuance: *Provided*, That carriers or transportation companies, and masters, commanding officers, agents, owners, charterers, or consignees, shall not be penalized under section 273(b) for action taken in reliance on such visas or other documentation, unless they received due notice of such revocation prior to the alien's embarkation. There shall be no means of judicial review (including review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title) of a revocation under this subsection, except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 237(a)(1)(B).

<sup>10</sup> As enrolled; should probably read "into".

## APPLICATION FOR VISAS

SEC. 222.<sup>11</sup> (a) IMMIGRANT VISAS.—Every alien applying for an immigrant visa and for alien registration shall make application therefor in such form and manner and at such place as shall be by regulations prescribed. In the application the alien shall state his full and true name, and any other name which he has used or by which he has been known; age and sex; the date and place of his birth; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(b) OTHER DOCUMENTARY EVIDENCE FOR IMMIGRANT VISA.—Every alien applying for an immigrant visa shall present a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Secretary of State. The immigrant shall furnish to the consular officer with his application a copy of a certification by the appropriate police authorities stating what their records show concerning the immigrant; a certified copy of any existing prison record, military record, and record of his birth; and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer. The copy of each document so furnished shall be permanently attached to the application and become a part thereof. In the event that the immigrant establishes to the satisfaction of the consular officer that any document or record required by this subsection is unobtainable, the consular officer may permit the immigrant to submit in lieu of such document or record other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain. All immigrant visa applications shall be reviewed and adjudicated by a consular officer.

(c) NONIMMIGRANT VISAS; IMMIGRANT REGISTRATION; FORM, MANNER AND CONTENTS OF APPLICATION.—Every alien applying for a nonimmigrant visa and for alien registration shall make application therefor in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of birth, his nationality, the purpose and length of his intended stay in the United States; his marital status; and such additional information necessary to the identification of the applicant, the determination of his eligibility for a nonimmigrant visa, and the enforcement of the immigration and nationality laws as may be by regulations prescribed. The alien shall provide complete and accurate information in response to any request for information contained in the application. At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.

<sup>11</sup>8 U.S.C. 1202. Enacted in Public Law 82-414; substantially amended by sec. 6 of Public Law 87-301 (75 Stat. 653); sec. 11(c) of Public Law 89-236 (79 Stat. 918); sec. 6 of Public Law 99-653 (100 Stat. 3656); secs. 8(e) and 9(j) of Public Law 100-525 (102 Stat. 2617, 2620); sec. 205(a) of Public Law 103-416 (108 Stat. 4311); sec. 632(a) of Public Law 104-208 (110 Stat. 3009-701); sec. 413 of Public Law 107-56 (115 Stat. 353) and secs. 5301, 5302, and 7203(b) of Public Law 108-458 (118 Stat. 3735, 3814).

(d) OTHER DOCUMENTARY EVIDENCE FOR NONIMMIGRANT VISA.—Every alien applying for a nonimmigrant visa and alien registration shall furnish to the consular officer, with his application, a certified copy of such documents pertaining to him as may be by regulations required. All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.

(e) SIGNING AND VERIFICATION OF APPLICATION.—Except as may be otherwise prescribed by regulations, each application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp, or other<sup>12</sup> placed in the alien's passport.

(f) CONFIDENTIAL NATURE OF RECORDS.—The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that—

(1) in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.<sup>13</sup>

(2) the Secretary of State, in the Secretary's discretion and on the basis of reciprocity, may provide to a foreign government information in the Department of State's computerized visa lookout database and, when necessary and appropriate, other records covered by this section related to information in the database—

(A) with regard to individual aliens, at any time on a case-by-case basis for the purpose of preventing, investigating, or punishing acts that would constitute a crime in the United States, including, but not limited to, terrorism or trafficking in controlled substances, persons, or illicit weapons; or

(B) with regard to any or all aliens in the database, pursuant to such conditions as the Secretary of State shall establish in an agreement with the foreign government in which that government agrees to use such information and records for the purposes described in subparagraph (A) or to deny visas to persons who would be inadmissible to the United States.

(g) ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.—

(1) In the case of an alien who has been admitted on the basis of a nonimmigrant visa and remained in the United

<sup>12</sup> As enrolled.

<sup>13</sup> As enrolled.

States beyond the period of stay authorized by the Attorney General, such visa shall be void beginning after the conclusion of such period of stay.

(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant, except—

(A) on the basis of a visa (other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

(B) where extraordinary circumstances are found by the Secretary of State to exist.

(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a non-immigrant visa—

(1) who is at least 14 years of age and not more than 79 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

(A) by a consular official and such alien is—

(i) within that class of nonimmigrants enumerated in subparagraph (A) or (G) of section 101(a)(15);

(ii) within the NATO visa category;

(iii) within that class of nonimmigrants enumerated in section 101(a)(15)(C)(iii) (referred to as the "C-3 visa" category); or

(iv) granted a diplomatic or official visa on a diplomatic or official passport or on the equivalent thereof;

(B) by a consular official and such alien is applying for a visa—

(i) not more than 12 months after the date on which such alien's prior visa expired;

(ii) for the visa classification for which such prior visa was issued;

(iii) from the consular post located in the country of such alien's usual residence, unless otherwise prescribed in regulations that require an applicant to apply for a visa in the country of which such applicant is a national; and

(iv) the consular officer has no indication that such alien has not complied with the immigration laws and regulations of the United States; or

(C) by the Secretary of State if the Secretary determines that such waiver is—

(i) in the national interest of the United States; or

(ii) necessary as a result of unusual or emergent circumstances; and

(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

(A) is not a national or resident of the country in which such alien is applying for a visa;

(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

(D) is a national of a country officially designated by the Secretary of State as a state sponsor of terrorism, except such nationals who possess nationalities of countries that are not designated as state sponsors of terrorism;

(E) requires a security advisory opinion or other Department of State clearance, unless such alien is—

(i) within that class of nonimmigrants enumerated in subparagraph (A) or (G) of section 101(a)(15);

(ii) within the NATO visa category;

(iii) within that class of nonimmigrants enumerated in section 101(a)(15)(C)(iii) (referred to as the “C-3 visa” category); or

(iv) an alien who qualifies for a diplomatic or official visa, or its equivalent; or

(F) is identified as a member of a group or sector that the Secretary of State determines—

(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

(iii) poses a security threat to the United States.

\* \* \* \* \*

#### (4) Immigration Reform and Control Act of 1986

Partial text of Public Law 99-603 [S. 1200], 100 Stat. 5649, approved November 5, 1986; as amended by Public Law 100-525 [Immigration Technical Corrections Act of 1988, S. 2479], 102 Stat. 2609 at 2614, approved October 24, 1988

AN ACT To amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes.

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

\* \* \* \* \*

#### TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

##### SEC. 601.<sup>1</sup> COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the “Commission”), to be composed of twelve members—

(A) three members to be appointed by the Speaker of the House of Representatives;

(B) three members to be appointed by the Minority Leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For

<sup>1</sup> 8 U.S.C. 1101 note.

purposes of this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing the results of the Commission's examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d)<sup>2</sup> COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.<sup>3</sup> Not more than 1 percent of the amounts appropriated for the Commission may be used, at the sole discretion of the Chairman, for official entertainment.<sup>4</sup>

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

\* \* \* \* \*

<sup>2</sup>Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1019), provided \$1,290,000 for salaries and expenses of the Commission, to remain until expended.

<sup>3</sup>Sec. 304 established a Commission on Agricultural Workers.

<sup>4</sup>Sec. 2(r) of Public Law 100-525 (102 Stat. 2614) added this last sentence.



## (5) Refugee Act of 1980

**Partial text of Public Law 96-212 [S. 643] 94 Stat. 102, approved March 17, 1980; as amended by Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994**

AN ACT To amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Refugee Act of 1980”.

NOTE.—This Act primarily consists of amendments to the Immigration and Nationality Act (8 U.S.C. 1101). Only those portions directly relating to the Department of State are set out below.

### TITLE I—PURPOSE

SEC. 101.<sup>1</sup> (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

\* \* \* \* \*

<sup>1</sup> 8 U.S.C. 1521 note.

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TITLE III—ASSISTANCE FOR EFFECTIVE RESETTLEMENT  
OF REFUGEES IN THE UNITED STATES<sup>2</sup>

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<sup>2</sup>Formerly read "TITLE III—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES". Sec. 162(m)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 409), struck out reference to U.S. Coordinator. Para. (2) of that subsec. struck out designation for "Part A—United States Coordinator for Refugee Affairs" under Title III. Para. (3) of that subsec. repealed sec. 301 (8 U.S.C. 1525), which established the position of "United States Coordinator for Refugee Affairs", with the rank of Ambassador at Large.

## (6) Bring Them Home Alive Act of 2000

**Public Law 106-484 [S. 484], 114 Stat. 2195, approved November 9, 2000; as amended by Public Law 107-258 [Persian Gulf War POW/MIA Accountability Act of 2002; S. 1339], 116 Stat. 1738, approved October 29, 2002**

AN ACT To provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

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

### SECTION 1.<sup>1</sup> SHORT TITLE.

This Act may be cited as the “Bring Them Home Alive Act of 2000”.

### SEC. 2.<sup>1</sup> AMERICAN VIETNAM WAR POW/MIA ASYLUM PROGRAM.

(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

(1) any alien who—

(A) is a national of Vietnam, Cambodia, Laos, China, or any of the independent states of the former Soviet Union; and

(B) personally delivers into the custody of the United States Government a living American Vietnam War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) DEFINITIONS.—In this section:

(1) AMERICAN VIETNAM WAR POW/MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “American Vietnam War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Vietnam War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Vietnam War.

<sup>1</sup> 8 U.S.C. 1157 note.

(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

(2) MISSING STATUS.—The term “missing status”, with respect to the Vietnam War, means the status of an individual as a result of the Vietnam War if immediately before that status began the individual—

(A) was performing service in Vietnam; or

(B) was performing service in Southeast Asia in direct support of military operations in Vietnam.

(3) VIETNAM WAR.—The term “Vietnam War” means the conflict in Southeast Asia during the period that began on February 28, 1961, and ended on May 7, 1975.

**SEC. 3.<sup>1</sup> AMERICAN KOREAN WAR POW/MIA ASYLUM PROGRAM.**

(a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) ELIGIBILITY.—Refugee status shall be granted under subsection (a) to—

(1) any alien—

(A) who is a national of North Korea, China, or any of the independent states of the former Soviet Union; and

(B) who personally delivers into the custody of the United States Government a living American Korean War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) DEFINITIONS.—In this section:

(1) AMERICAN KOREAN WAR POW/MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “American Korean War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Korean War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Korean War.

(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual's post of duty without authority.

(2) KOREAN WAR.—The term “Korean War” means the conflict on the Korean peninsula during the period that began on June 27, 1950, and ended January 31, 1955.

(3) **MISSING STATUS.**—The term “missing status”, with respect to the Korean War, means the status of an individual as a result of the Korean War if immediately before that status began the individual—

- (A) was performing service in the Korean peninsula; or
- (B) was performing service in Asia in direct support of military operations in the Korean peninsula.

**SEC. 3A.<sup>2</sup> AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.**

(a) **ASYLUM FOR ELIGIBLE ALIENS.**—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) **ELIGIBILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an alien described in this subsection is—

(A) any alien who—

(i) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

(ii) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

(B) any parent, spouse, or child of an alien described in subparagraph (A).

(2) **EXCEPTIONS.**—An alien described in this subsection does not include a terrorist, a persecutor, a person who has been convicted of a serious criminal offense, or a person who presents a danger to the security of the United States, as set forth in clauses (i) through (v) of section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)).

(c) **DEFINITIONS.**—In this section:

(1) **AMERICAN PERSIAN GULF WAR POW/MIA.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “American Persian Gulf War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Persian Gulf War, or any successor conflict, operation, or action; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Persian Gulf War, or any successor conflict, operation, or action.

(B) **EXCLUSION.**—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that

<sup>2</sup>Sec. 2(a) of the Persian Gulf War POW/MIA Accountability Act of 2002 (Public Law 107-258; 116 Stat. 1738) added sec. 3A.

such individual is officially absent from such individual's post of duty without authority.

(2) **MISSING STATUS.**—The term “missing status”, with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or such conflict, operation, or action, if immediately before that status began the individual—

(A) was performing service in Kuwait, Iraq, or another nation of the Greater Middle East Region; or

(B) was performing service in the Greater Middle East Region in direct support of military operations in Kuwait or Iraq.

(3) **PERSIAN GULF WAR.**—The term “Persian Gulf War” means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

**SEC. 4.<sup>1</sup> BROADCASTING INFORMATION ON THE “BRING THEM HOME ALIVE” PROGRAM.**

(a) **REQUIREMENT.**—

(1) **IN GENERAL.**—The International Broadcasting Bureau shall broadcast, through WORLDNET Television and Film Service and Radio, VOA-TV, VOA Radio, or otherwise, information that promotes the “Bring Them Home Alive” refugee program under this Act to foreign countries covered by paragraph (2).

(2) **COVERED COUNTRIES.**—The foreign countries covered by paragraph (1) are—

(A) Vietnam, Cambodia, Laos, China, and North Korea;<sup>3</sup>

(B) Russia and the other independent states of the former Soviet Union; and<sup>3</sup>

(C)<sup>3</sup> Iraq, Kuwait, or any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State).

(b) **LEVEL OF PROGRAMMING.**—The International Broadcasting Bureau shall broadcast—

(1) at least 20 hours of the programming described in subsection (a)(1) during the 30-day period that begins 15 days after the date of enactment of this Act; and

(2) at least 10 hours of the programming described in subsection (a)(1) in each calendar quarter during the period beginning with the first calendar quarter that begins after the date of enactment of this Act and ending five years after the date of enactment of this Act.

(c) **AVAILABILITY OF INFORMATION ON THE INTERNET.**—The International Broadcasting Bureau shall ensure that information regarding the “Bring Them Home Alive” refugee program under this Act is readily available on the World Wide Web sites of the Bureau.

<sup>3</sup>Sec. 2(b) of the Persian Gulf War POW/MIA Accountability Act of 2002 (Public Law 107-258; 116 Stat. 1739) struck out “and” at the end of subpara. (A); struck out a period at the end of subpara. (B) and inserted in lieu thereof “; and” and added a new subpara. (C).

(d) SENSE OF CONGRESS.—It is the sense of Congress that RFE/RL, Incorporated, Radio Free Asia, and any other recipient of Federal grants that engages in international broadcasting to the countries covered by subsection (a)(2) should broadcast information similar to the information required to be broadcast by subsection (a)(1).

(e) DEFINITION.—The term “International Broadcasting Bureau” means the International Broadcasting Bureau of the United States Information Agency or, on and after the effective date of title XIII of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277), the International Broadcasting Bureau of the Broadcasting Board of Governors.

**SEC. 5.<sup>1</sup> INDEPENDENT STATES OF THE FORMER SOVIET UNION DEFINED.**

In this Act, the term “independent states of the former Soviet Union” has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

## **(7) Syrian Nationals—Adjustment of Immigration Status<sup>1</sup>**

**Public Law 106–378 [H.R. 4681], 114 Stat. 1442, approved October 27, 2000**

AN ACT To provide for the adjustment of status of certain Syrian nationals.

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

### **SECTION 1. FINDINGS.**

The Congress finds as follows:

(1) President Bush and President Clinton successively conducted successful negotiations with the Government of Syria to bring about the release of members of the Syrian Jewish population and their immigration to the United States.

(2) In order to accommodate the Syrian Government, the United States was required to admit these aliens by first granting them temporary nonimmigrant visas and subsequently granting them asylum, rather than admitting them as refugees (as is ordinarily done when the United States grants refuge to members of a persecuted alien minority group).

(3) The asylee status of these aliens has resulted in a long and unnecessary delay in their adjustment to lawful permanent resident status that would not have been encountered had they been admitted as refugees.

(4) This delay has impaired these aliens' ability to work in their chosen professions, travel freely, and apply for naturalization.

(5) The Attorney General should act without further delay to grant lawful permanent resident status to these aliens in accordance with section 2.

### **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN SYRIAN NATIONALS.**

(a) ADJUSTMENT OF STATUS.—Subject to subsection (c), the Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence, if the alien—

(1) applies for adjustment of status under this section not later than 1 year after the date of the enactment of this Act or applied for adjustment of status under the Immigration and Nationality Act before the date of the enactment of this Act;

(2) has been physically present in the United States for at least 1 year after being granted asylum;

(3) is not firmly resettled in any foreign country; and

(4) is admissible as an immigrant under the Immigration and Nationality Act at the time of examination for adjustment of such alien.

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<sup>1</sup> 8 U.S.C. 1255 note.



(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who—

(A) is a Jewish national of Syria;

(B) arrived in the United States after December 31, 1991, after being permitted by the Syrian Government to depart from Syria; and

(C) is physically present in the United States at the time of filing the application described in subsection (a)(1); or

(2) who is the spouse, child, or unmarried son or daughter of an alien described in paragraph (1).

(c) NUMERICAL LIMITATION.—The total number of aliens whose status may be adjusted under this section may not exceed 2,000.

(d) RECORD OF PERMANENT RESIDENCE.—Upon approval of an application for adjustment of status under this section, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date 1 year before the date of the approval of the application.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)).

(f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—Whenever an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(g) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

**(8) Irish Peace Process Cultural and Training Program Act  
of 1998<sup>1</sup>**

**Public Law 105-319 [H.R. 4293], 112 Stat. 3013, approved October 30, 1998;  
as amended by Public Law 107-234 [H.R. 4558], 116 Stat. 1481, approved  
October 4, 2002; and Public Law 108-449 [H.R. 2655], 118 Stat. 3469, ap-  
proved December 10, 2004**

AN ACT To establish a cultural training program for disadvantaged individuals to  
assist the Irish peace process.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Irish Peace Process Cultural and Training Program Act of 1998”.

**SEC. 2. IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.**

(a) PURPOSE.—

(1) IN GENERAL.—The Secretary of State and the Secretary of Homeland Security<sup>2</sup> shall establish a program to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish peace process. The program shall promote cross-community and cross-border initiatives to build grassroots support for long-term peaceful coexistence. The Secretary of State and the Secretary of Homeland Security<sup>2</sup> shall cooperate with nongovernmental organizations to assist those admitted to participate fully in the economic, social, and cultural life of the United States.

(2) SCOPE AND DURATION OF PROGRAM.—

(A) IN GENERAL.—The program under paragraph (1) shall provide for the admission of not more than 4,000 aliens under section 101(a)(15)(Q)(ii) of the Immigration and Nationality Act (including spouses and minor children) in each of 4<sup>3</sup> consecutive program years.

(B) OFFSET IN NUMBER OF H-2B NONIMMIGRANT ADMISSIONS ALLOWED.—Notwithstanding any other provision of law, for each alien so admitted in a fiscal year, the numerical limitation specified under section 214(g)(1)(B) of the

<sup>1</sup>8 U.S.C. 1101 note.

<sup>2</sup>Sec. 2(a)(4)(A) of Public Law 108-449 (118 Stat. 3470) struck out “Attorney General” and inserted in lieu thereof “Secretary of Homeland Security” throughout the Act.

<sup>3</sup>Sec. 1(1) of Public Law 107-234 (116 Stat. 1481) struck out “3” and inserted in lieu thereof “4”.

Immigration and Nationality Act shall be reduced by 1 for that fiscal year or the subsequent fiscal year.

(3) RECORDS AND REPORT.—The Department of Homeland Security<sup>4</sup> shall maintain records of the nonimmigrant status and place of residence of each alien admitted under the program. Not later than 120 days after the end of each program year,<sup>5</sup> the Department of Homeland Security<sup>4</sup> shall compile and submit to the Congress a report on the number of aliens admitted with nonimmigrant status under section 101(a)(15)(Q)(ii) who have overstayed their visas.

(4) DESIGNATED COUNTIES DEFINED.—For the purposes of this Act, the term “designated counties” means the six counties of Northern Ireland and the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland.

(5)<sup>6</sup> PROGRAM PARTICIPANT REQUIREMENTS.—An alien entering the United States as a participant in the program shall satisfy the following requirements:

(A) The alien shall be a citizen of the United Kingdom or the Republic of Ireland.

(B) The alien shall be between 21 and 35 years of age on the date of departure for the United States.

(C) The alien shall have resided continuously in a designated county for not less than 18 months before such date.

(D) The alien shall have been continuously unemployed for not less than 12 months before such date.

(E) The alien may not have a degree from an institution of higher education.

(b) TEMPORARY NONIMMIGRANT VISA.—

(1) IN GENERAL.—Section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by inserting “(i)” after “(Q)”; and

(B) by inserting after the semicolon at the end the following: “or (ii)(I) an alien 35 years of age or younger having a residence in Northern Ireland, or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, which the alien has no intention of abandoning who is coming temporarily (for a period not to exceed 36 months) to the United States as a participant in a cultural and training program approved by the Secretary of State and the Secretary of Homeland Security<sup>2</sup> under section 2(a) of the Irish Peace Process Cultural and Training Program Act of 1998 for the purpose of providing practical training, employment, and the experience of coexistence and conflict resolution in a diverse society, and (II) the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien;”.

<sup>4</sup>Sec. 2(a)(4)(B) of Public Law 108-449 (118 Stat. 3470) struck out “Immigration and Naturalization Service” and inserted in lieu thereof “Department of Homeland Security” throughout the Act.

<sup>5</sup>Sec. 1(a)(2)(A) of Public Law 108-449 (118 Stat. 3469) struck out “the third program year and for the 4 subsequent years,” and inserted in lieu thereof “each program year.” Previously, sec. 1(2) of Public Law 107-234 (116 Stat. 1481) struck out “3” and inserted in lieu thereof “4”.

<sup>6</sup>Sec. 1(a)(1) of Public Law 108-449 (118 Stat. 3469) added para. (5).

(c)<sup>7</sup> COST-SHARING.—The Secretary of State shall verify that the United Kingdom and the Republic of Ireland continue to pay a reasonable share of the costs of the administration of the cultural and training programs carried out pursuant to this Act.

(d)<sup>7</sup> AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(e)<sup>7, 8</sup> SUNSET.—

(1) Effective October 1, 2008, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

(2) Effective October 1, 2008, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

- (A) by striking “or” at the end of clause (i);
- (B) by striking “(i)” after “(Q)”; and
- (C) by striking clause (ii).

<sup>7</sup>Sec. 1(a)(3) of Public Law 108–449 (118 Stat. 3470) redesignated subsecs. (c) and (d) as subsecs. (d) and (e), respectively, and added a new subsec. (c).

<sup>8</sup>Sec. 2(a)(2)(B) of Public Law 108–449 (118 Stat. 3469) amended and restated subsec. (d), subsequently redesignated as subsec. (e). As amended by sec. 1(3) of Public Law 107–234 (116 Stat. 1481), the subsec. had read as follows:

“(d) SUNSET.—

“(1) Effective October 1, 2006, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

“(2) Effective October 1, 2006, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

- “(A) by striking ‘or’ at the end of clause (i);
- “(B) by striking ‘(i)’ after ‘(Q)’; and
- “(C) by striking clause (ii).”.

## (9) Interdiction of Illegal Aliens

**Executive Order 12807, May 24, 1992, 57 F.R. 23133, 8 U.S.C. 1182 note; as amended by Executive Order 13286, February 28, 2003, 68 F.R. 10619**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), and whereas:

(1) The President has authority to suspend the entry of aliens coming by sea to the United States without necessary documentation, to establish reasonable rules and regulations regarding, and other limitations on, the entry or attempted entry of aliens into the United States, and to repatriate aliens interdicted beyond the territorial sea of the United States;

(2) The international legal obligations of the United States under the United Nations Protocol Relating to the Status of Refugees (U.S. T.I.A.S. 6577; 19 U.S.T. 6223) to apply Article 33 of the United Nations Convention Relating to the Status of Refugees do not extend to persons located outside the territory of the United States;

(3) Proclamation No. 4865 suspends the entry of all undocumented aliens into the United States by the high seas; and

(4) There continues to be a serious problem of persons attempting to come to the United States by sea without necessary documentation and otherwise illegally;

I, GEORGE BUSH, President of the United States of America, hereby order as follows:

**Section 1.** The Secretary of States shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

**Sec. 2.** (a) The Secretary of the Department in which the Coast Guard is operating in consultation, where appropriate, with the Secretary of Defense, the Attorney General, and the Secretary of State, shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens by sea and the interdiction of any defined vessel carrying such aliens.

(b) Those instruments shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented or numbered pursuant to the laws of the United States, or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accord

with Article 5 of the Convention on the High Seas of 1958 (U.S. T.I.A.S. 5200; 13 U.S.T. 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the convention on the High Seas of 1958 (U.S. T.I.A.S. 5222; 13 U.S.T. 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to carry out this order.

(3) To return the vessel and its passengers to the country from which it came, or to another country, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that the Secretary of Homeland Security,<sup>1</sup> in his unreviewable discretion, may decide that a person who is a refugee will not be returned without his consent.

(d) these actions, pursuant to this section, as authorized to be undertaken only beyond the territorial sea of the United States.

**Sec. 3.** This order is intended only to improve the internal management of the Executive Branch. Neither this order nor any agency guidelines, procedures, instructions, directives, rules or regulations implementing this order shall create, or shall be construed to create, any right or benefit, substantive or procedural (including without limitation any right or benefit under the Administrative Procedure Act), legally enforceable by any party against the United States, its agencies or instrumentalities, officers, employees, or any other person. Nor shall this order be construed to require any procedures to determine whether a person is a refugee.

**Sec. 4.** Executive Order 12324 is hereby revoked and replaced by this order.

**Sec. 5.** This order shall be effective immediately.

<sup>1</sup>Sec. 30 of Executive Order 13286 (February 28, 2003; 68 F.R. 10625) struck out "the Attorney General" and inserted in lieu thereof "the Secretary of Homeland Security".

## (10) Consultations on the Admission of Refugees

**Executive Order 12208, April 15, 1980, 45 F.R. 25789, 8 U.S.C. 1157 note; as amended by Executive Order 12608, September 9, 1987, 52 F.R. 34620; and by Executive Order 13286, February 28, 2003, 68 F.R. 10619**

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Refugee Act of 1980 (P.L. 96-212; 8 U.S.C. 1101 note), the Immigration and Nationality Act, as amended (8 U.S.C. 1101 *et seq.*), and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

**1-101.** Exclusive of the functions otherwise delegated, or reserved to the President, by this Order, there are hereby delegated to<sup>1</sup> the Secretary of State and the Secretary of Homeland Security,<sup>2</sup> or either of them, the functions of initiating and carrying out appropriate consultations with members of the Committees on the Judiciary of the Senate and of the House of Representatives for purposes of Sections 101(a)(42)(B) and 207 (a), (b), (d), and (e) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(42)(B) and 1157(a), (b), (d), and (e)).

**1-102.**<sup>1</sup> There are reserved to the President the following functions under the Immigration and Nationality Act, as amended:

(a) To specify special circumstances for purposes of qualifying persons as refugees under Section 101(a)(42)(B).

(b) To make determinations under Sections 207(a)(1), 207(a)(2), 207(a)(3) and 207(b).

(c) To fix the number of refugees to be admitted under Section 207(b).

**1-103.**<sup>1</sup> Except to the extent inconsistent with this Order, all actions previously taken pursuant to any function delegated or assigned by this Order shall be deemed to have been taken and authorized by this Order.

<sup>1</sup> Sec. 49(a) of Executive Order 13286 (February 28, 2003; 68 F.R. 10628) struck out “the following functions: (a) To” and inserted in lieu thereof “to”. Sec. 49(c) of that Order struck out secs. 1-101(b) and 1-102; sec. 49(d) redesignated secs. 1-103 and 1-104 as secs. 1-102 and 1-103, respectively.

<sup>2</sup> Sec. 49(b) of Executive Order 13286 (February 28, 2003; 68 F.R. 10628) struck out “the Attorney General” and inserted in lieu thereof “the Secretary of Homeland Security”.

## b. Caribbean

### (1) Haitian Refugee Immigration Fairness Act of 1998

Title IX of of Public Law 105-277 [H.R. 4328], 112 Stat. 2681-538, approved October 21, 1998; as amended by Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; Public Law 106-554 [H.R. 4577], 114 Stat. 2763, approved December 21, 2000; and Public Law 109-162 [Violence Against Women and Department of Justice Reauthorization Act of 2005; H.R. 3402], 119 Stat. 2960, approved January 5, 2006

#### TITLE IX—HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998<sup>1</sup>

SEC. 901. SHORT TITLE.—This title may be cited as the “Haitian Refugee Immigration Fairness Act of 1998”.

SEC. 902.<sup>2</sup> ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS.—(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2)<sup>3</sup> INAPPLICABILITY OF CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

<sup>1</sup> 8 U.S.C. 1101 note.

<sup>2</sup> 8 U.S.C. 1255 note.

<sup>3</sup> Sec. 1505(b)(1) of Public Law 106-554 (114 Stat. 2763A-326) redesignated para. (2) as para. (3), and added a new para. (2). Sec. 1505(b)(2) of that Act provided:

“(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Haiti who has become eligible for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.”.



In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3)<sup>3</sup> RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995,

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the

United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B)<sup>4</sup> (i) the alien is the spouse, child, or unmarried son or daughter of an alien who is or was eligible for classification<sup>5</sup> under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien who is or was eligible for classification<sup>6</sup> under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

(iii) in acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(J).<sup>7</sup>

<sup>4</sup>Sec. 1511(a) of Public Law 106-386 (114 Stat. 1532) amended and restated subpara. (B). It previously read as follows:

“(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that he or she has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed.”

<sup>5</sup>Sec. 824(a)(1) of Public Law 109-162 (119 Stat. 3063) struck out “whose status is adjusted to that of an alien lawfully admitted for permanent residence” and inserted in lieu thereof “who is or was eligible for classification”. Sec. 824(b) of that Act provided that such amendment “shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).”

<sup>6</sup>Sec. 824(a)(2) of Public Law 109-162 (119 Stat. 3063) struck out “whose status is adjusted to that of an alien lawfully admitted for permanent residence” and inserted in lieu thereof “who is or was eligible for classification”. Sec. 824(b) of that Act provided that such amendment “shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).”

<sup>7</sup>Sec. 824(a)(3) of Public Law 109-162 (119 Stat. 3063) struck out “204(a)(1)(H)” and inserted in lieu thereof “204(a)(1)(J)”. Sec. 824(b) of that Act provided that such amendment “shall take

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien

effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491).”

under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 598), for purposes of determining the alien's eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

(k) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter (until all applications for adjustment of status under this section have been finally adjudicated), the Comptroller General of the United States shall submit to the Committees on the Judiciary and the Committees on Appropriations of the United States House of Representatives and the United States Senate a report containing the following:

(1)(A) The number of aliens who applied for adjustment of status under subsection (a), including a breakdown specifying the number of such applicants who are described in subparagraph (A), (B), or (C) of subsection (b)(1), respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

(2)(A) The number of aliens who applied for adjustment of status under subsection (d), including a breakdown specifying the number of such applicants who are sponsors, children, or unmarried sons or daughters described in such subsection, respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

SEC. 903.<sup>8</sup> COLLECTION OF DATA ON DETAINED ASYLUM SEEKERS.—(a) IN GENERAL.—The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.

(2) An identification of the countries of origin of the detainees.

(3) The percentage of each gender within the total number of detainees.

(4) The number of detainees listed by each year of age of the detainees.

(5) The location of each detainee by detention facility.

(6) With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals.

(7) The number and frequency of the transfers of detainees between detention facilities.

(8) The average length of detention and the number of detainees by category of the length of detention.

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.

<sup>8</sup> 8 U.S.C. 1377.

(10) A description of the disposition of cases.

(b) ANNUAL REPORTS.—Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsection (a) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

SEC. 904.<sup>9</sup> COLLECTION OF DATA ON OTHER DETAINED ALIENS.—

(a) IN GENERAL.—The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 903, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) LENGTH OF DETENTION, TRANSFERS, AND DISPOSITIONS.—With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;

(2) the average length of detention of each category of detainee;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) CRIMINAL ALIENS.—With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

<sup>9</sup>8 U.S.C. 1378.

(d) ANNUAL REPORTS.—Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

## (2) Nicaraguan Adjustment and Central American Relief Act

Partial text of Public Law 105-100 [H.R. 2607], 111 Stat. 2160, November 19, 1997; as amended by Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; and Public Law 106-554 [H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

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

### TITLE II—CLARIFICATION OF ELIGIBILITY FOR RELIEF FROM REMOVAL AND DEPORTATION FOR CERTAIN ALIENS

SEC. 201.<sup>1</sup> SHORT TITLE.—This title may be cited as the “Nicaraguan Adjustment and Central American Relief Act”.

SEC. 202.<sup>2</sup> ADJUSTMENT OF STATUS OF CERTAIN NICARAGUANS AND CUBANS.—(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The<sup>3</sup> status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B)<sup>4</sup> is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B)<sup>5</sup> of section 212(a) of the Immigration and Nationality Act shall not apply.

(2)<sup>6</sup> RULES IN APPLYING CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

<sup>1</sup> 8 U.S.C. 1101 note.

<sup>2</sup> 8 U.S.C. 1255 note.

<sup>3</sup> Sec. 1(a)(1) of Public Law 105-139 (111 Stat. 2644) struck out “Notwithstanding section 245(c) of the Immigration and Nationality Act, the” and inserted in lieu thereof “The”.

<sup>4</sup> Sec. 1(a)(2)(A) of Public Law 105-139 (111 Stat. 2644) struck out “is otherwise eligible to receive an immigrant visa and” at the beginning of subpara. (B).

<sup>5</sup> Sec. 1(a)(2)(B) of Public Law 105-139 (111 Stat. 2644) added reference to para. (9)(B).

<sup>6</sup> Sec. 1505(a)(1) of Public Law 106-554 (114 Stat. 2763A-326) redesignated para. (2) as para. (3), and added a new para. (2). Sec. 1505(a)(2) of that Act provided the following:

“(2) PERMITTING MOTION TO REOPEN.—Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act)), a national of Cuba or Nicaragua who has become eligible for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act as a result of the amendments made by paragraph (1), may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustments under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act.”

(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply; and

(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act.

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3)<sup>6</sup> RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The benefits provided by subsection (a) shall apply to any alien who is a national of Nicaragua or Cuba and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under such subsection is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced not later than December 1, 1995, an alien—

(A) shall demonstrate that the alien, prior to December 1, 1995—

- (i) applied to the Attorney General for asylum;
- (ii) was issued an order to show cause under section 242 or 242B of the Immigration and Nationality Act (as in effect prior to April 1, 1997);
- (iii) was placed in exclusion proceedings under section 236 of such Act (as so in effect);
- (iv) applied for adjustment of status under section 245 of such Act;
- (v) applied to the Attorney General for employment authorization;
- (vi) performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or



(vii) applied for any other benefit under the Immigration and Nationality Act by means of an application establishing the alien's presence in the United States prior to December 1, 1995; or

(B) shall make such other demonstration of physical presence as the Attorney General may provide for by regulation.

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien subject to a final order of deportation or removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The<sup>7</sup> status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Nicaragua or Cuba;

(B)<sup>8</sup> the alien—

(i) is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for adjustment under this subsection is filed; or

<sup>7</sup>Sec. 1(b)(1) of Public Law 105-139 (111 Stat. 2644) struck out “Notwithstanding section 245(c) of the Immigration and Nationality Act, the” and inserted in lieu thereof “The”.

<sup>8</sup>Sec. 1510(a)(1) of Public Law 106-386 (114 Stat. 1531) amended and restated subpara. (B). It previously read as follows:

“(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under this subsection is filed;”

(ii) was, at the time at which an alien filed for adjustment under subsection (a), the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien that filed for adjustment under subsection (a);

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed;

(D) the alien<sup>9</sup> is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility<sup>10</sup> specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B)<sup>11</sup> of section 212(a) of the Immigration and Nationality Act shall not apply; and

(E) applies for such adjustment before April 1, 2000.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien—

(A) shall demonstrate that such period commenced not later than December 1, 1995, in a manner consistent with subsection (b)(2); and

(B) shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period in the aggregate not exceeding 180 days.

(3)<sup>12</sup> PROCEDURE.—In acting on an application under this section with respect to a spouse or child who has been battered or subjected to extreme cruelty, the Attorney General shall apply section 204(a)(1)(H).

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall

<sup>9</sup>Sec. 1(b)(2)(A) of Public Law 105-139 (111 Stat. 2644) struck out “is otherwise eligible to receive an immigrant visa and” after “the alien”.

<sup>10</sup>Sec. 1(b)(2)(B) of Public Law 105-139 (111 Stat. 2644) struck out “exclusion” and inserted in lieu thereof “inadmissibility”.

<sup>11</sup>Sec. 1(b)(2)(C) of Public Law 105-139 (111 Stat. 2644) added the reference to para. (9)(B).

<sup>12</sup>Sec. 1510(a)(2) of Public Law 106-386 (114 Stat. 1531) added para. (3).

not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. MODIFICATION OF CERTAIN TRANSITION RULES.—(a) TRANSITIONAL RULES WITH REGARD TO SUSPENSION OF DEPORTATION.—

(1) IN GENERAL.—Section 309(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-627) is amended to read as follows: \* \* \*

(2) CONFORMING AMENDMENT.—Subsection (c) of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-625) is amended by striking the subsection designation and the subsection heading and inserting the following: \* \* \*

(b) SPECIAL RULE FOR CANCELLATION OF REMOVAL.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-625) is amended by adding at the end the following: \* \* \*

(c) MOTIONS TO REOPEN DEPORTATION OR REMOVAL PROCEEDINGS.—Section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-625), as amended by subsection (b), is further amended by adding at the end the following: \* \* \*

(d)<sup>13</sup> TEMPORARY REDUCTION IN DIVERSITY VISAS.—

(1) Beginning in fiscal year 1999, subject to paragraph (2), the number of visas available for a fiscal year under section 201(e) of the Immigration and Nationality Act shall be reduced by 5,000 from the number of visas otherwise<sup>14</sup> available under that section for such fiscal year.

(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

(A) one-half of the total number of individuals described in subclauses (I), (II), (III), and (IV) of section

<sup>13</sup> 8 U.S.C. 1151 note.

<sup>14</sup> Sec. 1(d)(1) of Public Law 105-139 (111 Stat. 2644) inserted “otherwise” before “available under that section”.

309(c)(5)(C)(i)<sup>15</sup> of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 who have adjusted their status to that of aliens lawfully admitted for permanent residence under the Nicaraguan Adjustment and Central American Relief Act as of the end of the previous fiscal year;<sup>16</sup> exceeds—

(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

(e)<sup>17</sup> TEMPORARY REDUCTION IN OTHER WORKERS' VISAS.—

(1) Beginning in the fiscal year following the fiscal year in which a visa has been made available under section 203(b)(3)(A)(iii) of the Immigration and Nationality Act for all aliens who are the beneficiary of a petition approved under section 204 of such Act as of the date of the enactment of this Act for classification under section 203(b)(3)(A)(iii) of such Act, subject to paragraph (2), visas available under section 203(b)(3)(A)(iii) of that Act shall be reduced by 5,000 from the number of visas otherwise available under that section for such fiscal year.

(2) In no case shall the reduction under paragraph (1) for a fiscal year exceed the amount by which—

(A) the number computed under subsection (d)(2)(A);<sup>18</sup> exceeds—

(B) the total of the reductions in available visas under this subsection for all previous fiscal years.

(f)<sup>19</sup> EFFECTIVE DATE.—The amendments made by this section to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 shall take effect as if included in the enactment of such Act.

SEC. 204. LIMITATION ON CANCELLATIONS OF REMOVAL AND SUSPENSIONS OF DEPORTATION.—(a) ANNUAL LIMITATION.—Section 240A(e) of the Immigration and Nationality Act (8 U.S.C. 1229b(e)) is amended to read as follows: \* \* \*

(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended in each of paragraphs (1) and (2) \* \* \*

(c) RECORDATION OF DATE.—Section 240A(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(3)) is amended to read as follows: \* \* \*

(d) APRIL 1 EFFECTIVE DATE FOR AGGREGATE LIMITATION.—Section 309(c)(7) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; division C; 110 Stat. 3009-627) is amended to read as follows: \* \* \*

<sup>15</sup> Sec. 1(d)(2)(A) of Public Law 105-139 (111 Stat. 2645) struck out “309(c)(5)(C)” and inserted in lieu thereof “309(c)(5)(C)(i)”.

<sup>16</sup> Sec. 1(d)(2)(B) of Public Law 105-139 (111 Stat. 2645) inserted the semicolon.

<sup>17</sup> 8 U.S.C. 1153 note.

<sup>18</sup> Sec. 1(e) of Public Law 105-139 (111 Stat. 2645) replaced a comma with a semicolon at this point.

<sup>19</sup> 8 U.S.C. 1101 note.

(e)<sup>20</sup> EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-546).

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<sup>20</sup> 8 U.S.C. 1229b note.

### (3) Cuban Political Prisoners and Immigrants

**Partial text of Public Law 100-202 [Sec. 101(a) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-39, approved December 22, 1987; as amended by Public Law 104-208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996**

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—*

\* \* \* \* \*

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

\* \* \* \* \*

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

\* \* \* \* \*

#### TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

SEC. 701.<sup>1</sup> This title may be cited as “Cuban Political Prisoners and Immigrants”.

SEC. 702.<sup>1</sup> (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures

<sup>1</sup> 8 U.S.C. 1201 note. See also sec. 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1401), relating to processing of Cuban nationals for admission to the United States.

applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(d)<sup>2</sup> of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “process” means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term “refugee” has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

\* \* \* \* \*

<sup>2</sup>Sec. 308(g)(7)(C)(ii) of Public Law 104-208 (110 Stat. 3009-624) struck out “243(g)” and inserted in lieu thereof “243(d)”.

#### (4) Refugee Education Assistance Act of 1980

Partial text of Public Law 96-422 [H.R. 7859], 94 Stat. 1799, approved October 10, 1980; as amended by Public Law 96-424 [S. 3180], 94 Stat. 1820, approved October 10, 1980; and Public Law 104-208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996

AN ACT To provide general assistance educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid of such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Refugee Education Assistance Act of 1980”.

\* \* \* \* \*

#### TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

##### AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501.<sup>1</sup> (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the president, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

<sup>1</sup> 8 U.S.C. 1522 note.



(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or non-reimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(5) [Repealed—1980]<sup>2</sup>

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term “Cuban and Haitian entrant” means—

(1) any individual granted parole status as a Cuban-Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of removal<sup>3</sup> proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of removal<sup>4</sup> has not been entered.

<sup>2</sup>Public Law 96-424 (94 Stat. 1820) repealed sec. 501(c)(5), which had read as follows:

“(5) To facilitate the transfer of the functions described in paragraph (1) from the Federal Emergency Management Agency to other Federal agencies pursuant to this subsection, the purposes for which the funds appropriated to the President in the first paragraph under the heading “FEDERAL EMERGENCY MANAGEMENT AGENCY” in chapter VII of title I of the Supplemental Appropriations and Rescission Act, 1980, are available may be construed to include use in carrying out this subsection to the extent that those funds are allocated for use for any of the purposes described in paragraph (1) of this subsection.”

<sup>3</sup>Sec. 308(d)(4)(T)(i) of Public Law 104-208 (110 Stat. 3009-619) struck out “exclusion or deportation” and inserted in lieu thereof “removal”.

<sup>4</sup>Sec. 308(d)(4)(T)(ii) of Public Law 104-208 (110 Stat. 3009-619) struck out “deportation or removal” and inserted in lieu thereof “removal”.

## (5) Cuban Refugee Adjustment Act of 1966<sup>1</sup>

Partial text of Public Law 89-732 [H.R. 15183], 80 Stat. 1161, approved November 2, 1966; as amended by Public Law 94-571 [Immigration and Nationality Act Amendments of 1976, H.R. 14535], 90 Stat. 2703, approved October 20, 1976; Public Law 96-212 [Refugee Act of 1980, S. 643], 94 Stat. 102, approved March 17, 1980; Public Law 106-386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; and Public Law 109-162 [Violence Against Women and Department of Justice Reauthorization Act of 2005; H.R. 3402], 119 Stat. 2960, approved January 5, 2006

AN ACT To adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes.

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

Notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act, the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year,<sup>2</sup> may be adjusted by the Attorney General, in his direction and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States, except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(J).<sup>3</sup> An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on

<sup>1</sup>8 U.S.C. 1255 note.

<sup>2</sup>Sec. 203(i) of the Refugee Act of 1980 (Public Law 96-212; 94 Stat. 108) struck out "two years" and inserted in lieu thereof "one year".

<sup>3</sup>Sec. 1509(a) of Public Law 106-386 (114 Stat. 1530) added text to this point beginning with "except that such spouse". Sec. 823(a)(1) of Public Law 109-162 (119 Stat. 3063) struck out

which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.<sup>4</sup>

SEC. 2. In the case of any alien described in section 1 of this Act who, prior to the effective date thereof, has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act, whichever date is later.

\* \* \* \* \*

SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101(a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.

SEC. 5.<sup>5</sup> The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976.

<sup>4</sup>“204(a)(1)(H)” and inserted in lieu thereof “204(a)(1)(J)”, effective “as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106-386; 114 Stat. 1491)” pursuant to sec. 823(b) of that Act.

<sup>5</sup>Sec. 823(a)(2) of Public Law 109-162 (119 Stat. 3063) added this sentence.

<sup>5</sup>Added by sec. 8 of Public Law 94-571 (90 Stat. 2706).

## (6) Cuban and Haitian Entrants

**Executive Order 12341, January 21, 1982, 47 F.R. 3341, 8 U.S.C. 1522 note; as amended by Executive Order 13286, February 28, 2003, 68 F.R. 10619**

By the authority vested in me as President of the United States of America by Section 501 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) and Section 301 of Title 3 of the United States Code, and to reassign some responsibilities for providing assistance to Cuban and Haitian entrants, it is hereby ordered as follows:

**Section 1.** The functions vested in the President by Sections 501 (a) and (b) of the Refugee Education Assistance Act of 1980, hereinafter referred to as the Act (8 U.S.C. 1522 note), are delegated to the Secretary of Health and Human Services.

**Sec. 2.** The Secretary of Homeland Security<sup>1</sup> shall ensure that actions are taken to provide such assistance to Cuban and Haitian entrants as provided for by Section 501(c) of the Act. To that end, the functions vested in the President by Section 501(c) of the Act are delegated to the Secretary of Homeland Security.<sup>1</sup>

**Sec. 3.** All actions taken pursuant to Executive Order No. 12251 shall continue in effect until superseded by actions under this Order.

**Sec. 4.** Executive Order No. 12251 of November 15, 1980, is revoked.

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<sup>1</sup>Sec. 48 of Executive Order 13286 (February 28, 2003; 68 F.R. 10628) struck out "The Attorney General" and inserted in lieu thereof "The Secretary of Homeland Security", and struck out "the Attorney General" and inserted in lieu thereof "the Secretary of Homeland Security", respectively.

**c. China and Indochina**

**(1) Visas for Officials of Taiwan**

**Partial text of Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305 at 4320, approved October 25, 1994; as amended by Public Law 104-208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996**

AN ACT To amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

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

\* \* \* \* \*

**SEC. 221.<sup>1</sup> VISAS FOR OFFICIALS OF TAIWAN.**

Whenever the President of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning—

- (1) trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;
- (2) prevention of nuclear proliferation;
- (3) threats to the national security of the United States;
- (4) the protection of the global environment;
- (5) the protection of endangered species; or
- (6) regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise inadmissible<sup>2</sup> under the immigration laws of the United States.

\* \* \* \* \*

<sup>1</sup>8 U.S.C. 1101 note.

<sup>2</sup>Sec. 308(d)(3)(E) of Public Law 104-208 (110 Stat. 3009-617) struck out “excludable” and inserted in lieu thereof “inadmissible”.

## (2) Chinese Student Protection Act of 1992

Public Law 102–404 [S. 1216], 106 Stat. 1969, approved October 9, 1992

AN ACT To provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state.

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

### SECTION 1.<sup>1</sup> SHORT TITLE.

This Act may be cited as the “Chinese Student Protection Act of 1992”.

### SEC. 2.<sup>1</sup> ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

<sup>1</sup> 8 U.S.C. 1255 note.

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

(c) CONDITION; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(e) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term “applicable fiscal year” means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

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(e) APPLICATION PERIOD DEFINED.—In this section, the term “application period” means the 12-month period beginning July 1, 1993.



**(3) Indochinese Refugee Resettlement and Protection Act of 1987**

**Partial text of Public Law 100-202 [Sec. 101(a) of the Continuing Appropriations for 1988, H.J. Res. 395], 101 Stat. 1329-40, approved December 22, 1987**

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—*

\* \* \* \* \*

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

\* \* \* \* \*

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

\* \* \* \* \*

**TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987<sup>1</sup>**

SEC. 801. This title may be cited as the “Indochinese Refugee Resettlement and Protection Act of 1987”.

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region’s camps is negligible for the foreseeable future;

<sup>1</sup>Legislation nearly identical to secs. 801 through 803 of this Act was enacted as sec. 904 of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100-204; 101 Stat. 1402).

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804.<sup>2</sup> FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

\* \* \* \* \*

<sup>2</sup>Sec. 804 was also enacted as sec. 905(a), paras. (1) through (5), of the Foreign Relations Authorization Act, 1988 and 1989 (Public Law 100-204; 101 Stat. 1404).

**(4) Eligibility Criteria for Admission of Refugees from  
Cambodia**

**Partial text of Public Law 95-624 [Department of Justice Appropriation Authorization Act, Fiscal Year 1979; S. 3151], 92 Stat. 3459, approved November 9, 1978**

AN ACT To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

\* \* \* \* \*

SEC. 16.<sup>1</sup> The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

\* \* \* \* \*

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<sup>1</sup> 8 U.S.C. 1255 note.

## (5) Indochina Refugees—Status Adjustment

**Partial text of Public Law 95-145 [H.R. 7769], 91 Stat. 1223, approved October 28, 1977; amended by Public Law 96-212 [Refugee Act of 1980, S. 643], 94 Stat 102, approved March 17, 1980**

AN ACT To authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.

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

### TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES<sup>1</sup>

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraph (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least one year.<sup>2</sup>

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 102. Upon approval of an application for adjustment of status under section 101 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that

<sup>1</sup>8 U.S.C. 1255 note.

<sup>2</sup>Sec. 203(i) of the Refugee Act of 1980 (Public Law 96-212; 94 Stat. 108) struck out "two years" and inserted in lieu thereof "one year".

status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

SEC. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

\* \* \* \* \*

## **(6) Policy Implementation With Respect to Nationals of the People's Republic of China**

### **Executive Order 12711, April 11, 1990, 55 F.R. 13897, 8 U.S.C. 1101 note**

By the authority vested in me as President by the Constitution and laws of the United States of America, the Attorney General and the Secretary of State are hereby ordered to exercise their authority, including that under the Immigration and Nationality Act (8 U.S.C. 1101-1557), as follows:

**Section 1.** The Attorney General is directed to take any steps necessary to defer until January 1, 1994, the enforced departure of all nationals of the People's Republic of China (PRC) and their dependents who were in the United States on or after June 5, 1989, up to and including the date of this order (hereinafter "such PRC nationals").

**Sec. 2.** The Secretary of State and the Attorney General are directed to take all steps necessary with respect to such PRC nationals (a) to waive through January 1, 1994, the requirement of a valid passport and (b) to process and provide necessary documents, both within the United States and at U.S. consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status such PRC nationals had upon departure.

**Sec. 3.** The Secretary of State and the Attorney General are directed to provide the following protections:

(a) irrevocable waiver of the 2-year home country residence requirement that may be exercised until January 1, 1994, for such PRC nationals;

(b) maintenance of lawful status for purposes of adjustment of status or change of nonimmigrant status for such PRC nationals who were in lawful status at any time on or after June 5, 1989, up to and including the date of this order;

(c) authorization for employment of such PRC nationals through January 1, 1994; and

(d) notice of expiration of nonimmigrant status (if applicable) rather than the institution of deportation proceedings, and explanation of options available for such PRC nationals eligible for deferral of enforced departure whose nonimmigrant status has expired.

**Sec. 4.** The Secretary of State and the Attorney General are directed to provide for enhanced consideration under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization, as implemented by the Attorney General's regulation effective January 29, 1990.

**Sec. 5.** The Attorney General is directed to ensure that the Immigration and Naturalization Service finalizes and makes public its position on the issue of training for individuals in F-1 visa status



and on the issue of reinstatement into lawful nonimmigrant status of such PRC nationals who have withdrawn their applications for asylum.

**Sec. 6.** The Departments of Justice and State are directed to consider other steps to assist such PRC nationals in their efforts to utilize the protections that I have extended pursuant to this order.

**Sec. 7.** This order shall be effective immediately.

#### **d. Former Soviet Union**

##### **(1) Soviet Scientists Immigration Act of 1992**

**Public Law 102-509 [S. 2201], 106 Stat. 3316, approved October 24, 1992; as amended by Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act.

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

##### **SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Soviet Scientists Immigration Act of 1992”.

##### **SEC. 2.<sup>1</sup> DEFINITIONS.**

For purposes of this Act—

(1) the term “Baltic states” means the sovereign nations of Latvia, Lithuania, and Estonia;

(2) the term “independent states of the former Soviet Union” means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term “eligible independent states and Baltic scientists” means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

##### **SEC. 3.<sup>1</sup> WAIVER OF JOB OFFER REQUIREMENT.**

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)) that an alien’s services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

##### **SEC. 4.<sup>1</sup> CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.**

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess “exceptional ability in the sciences”, for purposes of section 203(b)(2)(A) of the Immigration

<sup>1</sup> 8 U.S.C. 1153 note.

and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees. A scientist is not eligible for designation under this subsection if the scientist has previously been granted the status of an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).<sup>2</sup>

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 950<sup>3</sup> eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d)<sup>4</sup> DURATION OF AUTHORITY.—The authority under subsection (a) shall be in effect during the following periods:

(1) The period beginning on the date of the enactment of this Act and ending 4 years after such date.

(2) The period beginning on the date of the enactment of the Security Assistance Act of 2002 and ending 4 years after such date.

<sup>2</sup>Sec. 1304(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1437), added this sentence. Sec. 1304(d) of that Act, furthermore, provided the following:

“(d) CONSULTATION REQUIREMENT.—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

“(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

“(2) any changes that those officials would recommend in the regulations prescribed under that Act.”

<sup>3</sup>Sec. 1304(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1436), struck out “750” and inserted in lieu thereof “950”.

<sup>4</sup>Sec. 1304(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1436), amended and restated subsec. (d). Previously, subsec. (d) stated the termination of authority of subsec. (a) “4 years after the date of enactment of this Act.”

## (2) Adjustment of Status for Soviet and Indochinese Parolees

Partial text of Public Law 101-167 [H.R. 3743], 103 Stat. 1195, approved November 21, 1989; as amended by Public Law 101-513 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; H.R. 5114], 104 Stat. 1979, approved November 5, 1990; Public Law 101-649 [Immigration Act of 1990; S. 358], 104 Stat. 4978, approved November 29, 1990; Public Law 102-232 [Miscellaneous and Technical Immigration and Naturalization Amendments of 1991; H.R. 3049], 105 Stat. 1733, approved December 12, 1991; Public Law 102-391 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993; H.R. 5368], 106 Stat. 1633, approved October 6, 1992; Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 104-208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; Public Law 104-319 [Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996; H.R. 4036], 110 Stat. 3864, approved October 19, 1996; Public Law 105-118 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998; H.R. 2159], 111 Stat. 2386, approved November 26, 1997; Public Law 105-277 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f)); H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Department of Health and Human Services Appropriations Act, 2000; title II of H.R. 3424, enacted by reference in sec. 1000(a)(4) of Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; Public Law 106-554 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001; H.R. 5656, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000; Public Law 107-116 [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002; H.R. 3061], 115 Stat. 2177, approved January 10, 2002; Public Law 108-7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003; Public Law 108-199 [Consolidated Appropriations Resolution, 2004; H.R. 2673], 118 Stat. 3, approved January 23, 2004; Public Law 108-447 [Consolidated Appropriations Resolution, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; and Public Law 109-102 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006; H.R. 3057], 119 Stat. 2172, approved November 14, 2005

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and

related programs for the fiscal year ending September 30, 1990, and for other purposes, namely:

\* \* \* \* \*

#### TITLE V—GENERAL PROVISIONS

\* \* \* \* \*

##### ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

SEC. 599E.<sup>1</sup> (a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,<sup>2</sup> Vietnam, Laos, or Cambodia, and

(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 2006,<sup>3</sup> after being denied refugee status.

<sup>1</sup> 8 U.S.C. 1255 note.

<sup>2</sup> Sec. 582(b)(2) of Public Law 102-391 (106 Stat. 1686) struck out “of the Soviet Union,” and inserted in lieu thereof “of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania.” Sec. 905(b)(2) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3356) made the same amendment.

<sup>3</sup> Sec. 598(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 2063), struck out “September 30, 1990” at this point and inserted in lieu thereof “September 30, 1992”. Subsequently, sec. 582(a)(2) of Public Law 102-391 (106 Stat. 1686) extended the date to September 30, 1994. Sec. 512(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 466) further extended this date to September 30, 1996. Sec. 575(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; Public Law 104-208; 110 Stat. 3009) further extended the date to September 30, 1997. Sec. 101(2) of Public Law 104-319 (110 Stat. 3864) made the same amendment as Public Law 104-208. Sec. 574(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118; 111 Stat. 2432) extended the date to September 30, 1998. Sec. 705(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (division A, sec. 101(f), of Public Law 105-277; 112 Stat. 2681), extended the date to September 30, 1999. Sec. 214(2) of the Department of Health and Human Services Appropriations Act, 2000 (H.R. 3424, enacted by reference in sec. 1000(a)(4) of Public Law 106-113; 113 Stat. 1501A-240), extended the date to September 30, 2000. Sec. 212(2) of the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(1) of Public Law 106-554; 114 Stat. 2763), extended the date to September 30, 2001. Sec. 213(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Public Law 107-116; 115 Stat. 2200), extended the date to September 30, 2002. Sec. 213(2) of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7; 117 Stat. 324), extended the date to September 30, 2003. Sec. 213(2) of the Consolidated Appropriations Resolution, 2004 (Public Law 108-199; 118 Stat. 253), extended the date to September 30, 2004. Sec. 213(2) of the Consolidated Appropriations Resolution, 2005 (Public Law 108-447; 118 Stat. 3140), extended the date to September 30, 2005. Sec. 534(m)(2) of the Foreign Operations, Export Financing, and

Continued

(c) **WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.**—The provisions of paragraphs (4), (5), and (7)(A)<sup>4</sup> of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph<sup>5</sup> (A), (B), (C), or (E) of paragraph (3))<sup>6</sup> with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) **DATE OF APPROVAL.**—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

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Related Programs Appropriations Act, 2006 (Public Law 109-102; 119 Stat. 2211), extended the date to September 30, 2006.

<sup>4</sup>Sec. 603(a)(22) of Public Law 101-649 (104 Stat. 5084) struck out “(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)” and inserted in lieu thereof “(4), (5), and (7)(A)”.

<sup>5</sup>Sec. 219(bb) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416; 108 Stat. 4319) struck out “and subparagraphs” and inserted in lieu thereof “or subparagraph”.

<sup>6</sup>Sec. 307(l)(9) of Public Law 102-232 (105 Stat. 1757) struck out “(23)(B), (27), (29), or (33)” and inserted in lieu thereof “(2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)”.

## **10. Recognition by the United States of Foreign Governments**

**Senate Resolution 205, 91st Congress, Report No. 91-338, agreed to September 25, 1969**

RESOLUTION To set forth as an expression of the sense of the Senate a basic principle regarding the recognition by the United States of foreign governments.

Whereas official statements over the last fifty years concerning the policy of the United States in granting or withholding recognition of a foreign government have given rise to uncertainty as to whether United States recognition of a foreign government implies approval of such a government; and

Whereas recognition by the United States of foreign governments has been interpreted by many Americans and by many foreigners as implying United States approval of those foreign governments; and

Whereas such uncertainty adversely affects the interests of the United States in its relations with foreign nations: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not of itself imply that the United States approves of the form, ideology, or policy of that foreign government.

## 11. The Asia Foundation Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1038, approved November 22, 1983; as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 1987; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

\* \* \* \* \*

### TITLE IV—THE ASIA FOUNDATION

#### SHORT TITLE

SEC. 401. This title may be cited as “The Asia Foundation Act”.

#### FINDINGS

SEC. 402.<sup>1</sup> The Congress finds that—

(1) The Asia Foundation, a private nonprofit corporation incorporated in 1954 in the State of California, has long been active in promoting Asian-American friendship and cooperation and in lending encouragement and assistance to Asians in their own efforts to develop more open, more just, and more democratic societies;

(2) The Asia Foundation’s commitment to strengthening indigenous Asian institutions which further stable national development, constructive social change, equitable economic growth, and cooperative international relationships is fully consistent with and supportive of long-term United States interests in Asia;

(3) The Asia Foundation, as a private organization, is able to conduct programs in response to Asian initiatives that would

<sup>1</sup> 22 U.S.C. 4401.



be difficult or impossible for an official United States instrumentality, and it is in a position in Asia to respond quickly and flexibly to meet new opportunities;

(4) in recognition of the valuable contributions of The Asia Foundation to long-range United States foreign policy interests, the United States Government has, through a variety of agencies, provided financial support for The Asia Foundation; and

(5) it is in the interest of the United States, and the further strengthening of Asian-American friendship and cooperation, to establish a more permanent mechanism for United States Government financial support for the ongoing activities of The Asia Foundation, while preserving the independent character of the Foundation.

#### GRANTS TO THE ASIA FOUNDATION

SEC. 403.<sup>2</sup> (a) The Secretary of State shall make an annual grant to The Asia Foundation with the funds made available under section 404. Such grants shall be in general support of the Foundation's programs and operations. The terms and conditions of grants pursuant to this section shall be set forth in a grant agreement between the Secretary of State and The Asia Foundation.

(b) If funds made available to The Asia Foundation pursuant to this title or pursuant to any other provision of law are, with the permission of the head of the Federal agency making the funds available, invested by the Foundation or any of its subgrantees pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if that interest is used for the purposes for which the funds were made available.

#### FUNDING

SEC. 404.<sup>3</sup> There is authorized to be appropriated to the Secretary of State \$15,000,000 for the fiscal year 2003 for grants to The Asia Foundation pursuant to this title.

<sup>2</sup>22 U.S.C. 4402.

<sup>3</sup>22 U.S.C. 4403. Sec. 116 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1360), provided the current text of this section.

The authorization for each of fiscal years 1986 and 1987 was \$10,500,000; fiscal year 1988—\$13,700,000; fiscal year 1989—\$15,000,000; fiscal year 1990—13,900,000 and fiscal year 1991—\$18,000,000 (Public Law 101-246); fiscal year 1992—\$16,000,000 and fiscal year 1993—\$18,000,000 (Public Law 102-138); fiscal years 1998 and 1999—\$10,000,000 (Public Law 105-277); and fiscal years 2000 and 2001—\$15,000,000 (Public Law 106-113).

For fiscal years 1990 and 1991, this section also provided that:

“(b) ALLOCATION OF FUNDS.—Of amounts authorized to be appropriated under subsection (a), \$1,324,000 for the fiscal year 1990 and \$1,324,000 for the fiscal year 1991 shall be available only for the expansion of programs and services (including the establishment of a field office) for Oceania, comprised of Polynesia, Micronesia, and Melanesia.”

Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 90) waived sec. 404(b), as amended by sec. 501 of that Act, for fiscal years 1990 and 1991, effective on date of enactment of this Act (February 16, 1990).

The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2324), provided the following:

#### “PAYMENT TO THE ASIA FOUNDATION

“For a grant to the Asia Foundation, as authorized by the Asia Foundation Act (22 U.S.C. 4402), \$14,000,000, to remain available until expended, as authorized.”

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## E. INFORMATION AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

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**1. United States Information and Educational Exchange Act  
and Related Materials**

**a. United States Information and Educational Exchange Act  
of 1948, as amended**

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**a. United States Information and Educational Exchange Act  
of 1948, as amended**

Public Law 80-402 [H.R. 3342], 62 Stat. 6, approved January 27, 1948; as amended by Public Law 82-298 [S. 2077], 66 Stat. 43, approved April 5, 1952; Public Law 82-414 [Immigration and Nationality Act, H.R. 5678], 66 Stat. 276, approved June 27, 1952; Public Law 83-665 [Mutual Security Act of 1954, H.R. 9678], 68 Stat. 862, approved August 26, 1954; Public Law 84-555 [S. 2562], 70 Stat. 241, approved June 4, 1956; Public Law 84-726 [Mutual Security Act of 1956, H.R. 11356], 70 Stat. 555, approved July 18, 1956; Public Law 85-477 [H.R. 12181], 72 Stat. 261, approved June 30, 1958; Public Law 87-139 [H.R. 3279], 75 Stat. 339, approved August 14, 1961; Public Law 87-256 [Mutual Educational and Cultural Exchange Act of 1961, H.R. 8666], 75 Stat. 527, approved September 21, 1961; Public Law 92-226 [Foreign Assistance Act of 1971, S. 2819], 86 Stat. 20, approved February 7, 1972; Public Law 92-264 [S. 18], 86 Stat. 114, approved March 30, 1972; Public Law 92-352 [Foreign Relations Authorization Act of 1972, H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 92-394 [S. 3645], 86 Stat. 577, approved August 20, 1972; Public Law 93-59 [S. 1972], 87 Stat. 142, approved July 6, 1973; Public Law 93-168 [USIA Appropriations Authorization Act of 1973, S. 2681], 87 Stat. 688, approved November 29, 1973; Public Law 93-475 [USIA Authorization Act, Fiscal Year 1975; S. 3473], 88 Stat. 1439, approved October 26, 1974; Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 974, approved October 7, 1978; Public Law 96-60 [International Communication Agency Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979; Public Law 96-470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2240, approved October 19, 1980; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273, approved August 24, 1982; Public Law 98-164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998, subdivision A of division G; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, subdivision B of division G; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference; H.R. 3427], 113 Stat. 1536, approved November 29, 1999; Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations.

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

## TITLE I—SHORT TITLE, OBJECTIVES, AND DEFINITIONS

### SHORT TITLE

SECTION 1. This Act may be cited as the “United States Information and Educational Exchange Act of 1948”.<sup>1</sup>

### OBJECTIVES

SEC. 2.<sup>2</sup> The Congress hereby declares that the objectives of this Act are to enable the Government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries. Among the means to be used in achieving these objectives are—

(1) an information service to disseminate abroad information about the United States, its people, and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs;

(2) [Repealed by Public Law 87-256 (75 Stat. 527; 22 U.S.C. 1431(a)), approved September 21, 1961.]

### UNITED NATIONS

SEC. 3.<sup>3</sup> In carrying out the objectives of this Act, information concerning the participation of the United States in the United Nations, its organizations and functions, shall be emphasized.

### DEFINITIONS

SEC. 4.<sup>4</sup> When used in this Act, the term—

(1)<sup>5</sup> “Secretary” means the Secretary of State.

<sup>1</sup> Popularly referred to as the Smith-Mundt Act. See also the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-762), particularly title XVI relating to the transition toward consolidating foreign relations agencies and under the Department of State.

<sup>2</sup> 22 U.S.C. 1431. In an effort to strengthen the objectives and purposes of this Act, sec. 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857), called on the President to submit a report to Congress by October 31, 1977, containing his recommendations for reorganizing the international information, education, cultural, and broadcasting activities of the United States. Pursuant to such request, the President submitted Reorganization Plan No. 2 of 1977 on October 11, 1977, which would establish a new International Communication Agency by consolidating the functions of the State Department's Bureau of Educational and Cultural Affairs and USIA. Such reorganization plan became effective on April 1, 1978.

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

<sup>3</sup> 22 U.S.C. 1432.

<sup>4</sup> 22 U.S.C. 1433.

<sup>5</sup> Pursuant to sec. 7 of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency were transferred to the Director of the International Communication Agency. As now codified, these definitions refer to the “Director” and the “Agency” rather than the “Secretary” and the “Department”.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive



(2)<sup>5</sup> “Department” means the Department of State.

(3) “Government agency” means any executive department, board, bureau, commission, or other agency of the Federal Government, or independent establishment, or any corporation wholly owned (either directly or through one or more corporations) by the United States.

## TITLE II—INTERCHANGE OF PERSONS, KNOWLEDGE AND SKILLS

### PERSONS

SEC. 201.<sup>6</sup> \* \* \* [Repealed—1961]

### BOOKS AND MATERIALS

SEC. 202.<sup>7</sup> The Secretary<sup>8</sup> is authorized to provide for interchanges between the United States and other countries of books and periodicals, including government publications, for the translation of such writings, and for the preparation, distribution, and interchange of other educational materials.

### INSTITUTIONS

SEC. 203.<sup>9,10</sup> The Secretary<sup>8</sup> is authorized to provide for assistance to schools, libraries, and community centers abroad, founded or sponsored by citizens of the United States, and serving as demonstration centers for methods and practices employed in the United States. In assisting any such schools, however, the Secretary<sup>8</sup> shall exercise no control over their educational policies and shall in no case furnish assistance of any character which is not in keeping with the free democratic principles and the established foreign policy of the United States.

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order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

<sup>6</sup>Sec. 201, which authorized the interchange of persons on a reciprocal basis between the United States and other countries, was repealed by sec. 111 of Public Law 87-256 (75 Stat. 538).

<sup>7</sup>22 U.S.C. 1447.

<sup>8</sup>Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

<sup>9</sup>22 U.S.C. 1448. This section has been repealed insofar as it related to schools, by Public Law 87-256 (75 Stat. 527).

<sup>10</sup>This section was referred to in sec. 104(j) of Public Law 83-480 (68 Stat. 454), as amended by Public Law 84-962 (70 Stat. 988).

## TITLE III—ASSIGNMENT OF SPECIALISTS

## PERSONS TO BE ASSIGNED

SEC. 301.<sup>11</sup> The Director of the United States Information Agency<sup>12</sup> is authorized, when the government of another country is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any person<sup>13</sup> in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the Director<sup>12</sup> finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 302, or (3) such government shall have made an advance of funds, property, or services as provided in section 902. Nothing in this Act, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

## STATUS AND ALLOWANCES

SEC. 302.<sup>14</sup> Any person in the employ or service of the Government of the United States,<sup>15</sup> while assigned for service to or in cooperation with another government under the authority of this Act, shall be considered, for the purpose of preserving his rights, allowances, and privileges as such, an officer or employee of the Government of the United States and of the Government agency from which assigned and he shall continue to receive compensation from that agency. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980.<sup>16</sup> The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be

<sup>11</sup>22 U.S.C. 1451.

<sup>12</sup>The reference to the Director of the United States Information Agency was inserted in lieu of a reference to the Secretary of State by sec. 304(a)(2) of Public Law 97-241 (96 Stat. 292). Previously, Reorganization Plan No. 2 of 1977, which established the International Communication Agency, stated that all functions vested in the Secretary of State by this Act were transferred to the Director of the International Communication Agency.

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

<sup>13</sup>Sec. 304(a)(1) of Public Law 97-241 (96 Stat. 292) struck out "citizen of the United States" and inserted in lieu thereof "person".

<sup>14</sup>22 U.S.C. 1452.

<sup>15</sup>Sec. 302(a)(1) of Public Law 97-241 (96 Stat. 292) struck out "citizen of the United States" and inserted in lieu thereof "person in the employ or service of the Government of the United States".

<sup>16</sup>Sec. 304(a)(3) of Public Law 97-241 (96 Stat. 292) struck out a reference to sec. 901(3) of the Foreign Service Act of 1946 (60 Stat. 990) and inserted in lieu thereof a reference to sec. 905 of the Foreign Service Act of 1980.

considered as meeting all the requirements of section 5536 of title 5, United States Code.<sup>17</sup>

#### ACCEPTANCE OF OFFICE UNDER ANOTHER GOVERNMENT

SEC. 303.<sup>18</sup> Any person in the employ or service of the Government of the United States,<sup>15</sup> while assigned for service to or in cooperation with another government under authority of this Act may, at the discretion of his Government agency, with the concurrence of the Director of the United States Information Agency,<sup>12</sup> and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this Act: *Provided, however,* That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government.

### TITLE IV—PARTICIPATION BY GOVERNMENT AGENCIES

#### GENERAL AUTHORITY

SEC. 401.<sup>19</sup> The Secretary<sup>20</sup> is authorized, in carrying on any activity under the authority of this Act, to utilize, with the approval of the President, the services, facilities, and personnel of the other Government agencies. Whenever the Secretary<sup>20</sup> shall use the services, facilities, or personnel of any Government agency for activities under authority of this Act, the Secretary<sup>20</sup> shall pay for such performance out of funds available to the Secretary<sup>20</sup> under this Act, either in advance, by reimbursement, or direct transfer. The Secretary<sup>20</sup> shall include in each report submitted to the Congress under section 1008 a statement of the services, facilities, and personnel of other Government agencies utilized in carrying on activities under the authority of this Act, showing the names and salaries of the personnel utilized, or performing services utilized, during the period covered by such report, and the amounts paid to such other agencies under this section as payment for such performance.

<sup>17</sup>Sec. 304(a)(3) of Public Law 97-241 (96 Stat. 292) struck out a reference to sec. 1765 of the Revised Statutes and inserted in lieu thereof a reference to 5 U.S.C. 5536.

<sup>18</sup>22 U.S.C. 1453.

<sup>19</sup>22 U.S.C. 1456.

<sup>20</sup>Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

## TECHNICAL AND OTHER SERVICES

SEC. 402.<sup>21</sup> A Government agency, at the request of the Secretary,<sup>20</sup> may perform such technical or other services as such agency may be competent to render for the government of another country desirous of obtaining such services, upon terms and conditions which are satisfactory to the Secretary<sup>20</sup> and to the head of the Government agency, when it is determined by the Secretary<sup>20</sup> that such services will contribute to the purposes of this Act. However, nothing in this Act shall authorize the performance of services relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

## POLICY GOVERNING SERVICES

SEC. 403.<sup>22</sup> In authorizing the performance of technical and other services under this title, it is the sense of the Congress (1) that the Secretary<sup>20</sup> shall encourage through any appropriate Government agency the performance of such services to foreign governments by qualified private American individuals and agencies, and shall not enter into the performance of such services to any foreign government where such services may be performed adequately by qualified private American individuals and agencies and such qualified individuals and agencies are available for the performance of such services; (2) that if such services are rendered by a Government agency, they shall demonstrate the technical accomplishments of the United States, such services being of an advisory, investigative, or instructional nature, or a demonstration of a technical process; (3) that such services shall not include the construction of public works or the supervision of the construction of public works, and that, under authority of this Act, a Government agency shall render engineering services related to public works only when the Secretary<sup>20</sup> shall determine that the national interest demands the rendering of such services by a Government agency, but this policy shall not be interpreted to preclude the assignment of individual specialists as advisers to other governments as provided under title III of this Act, together with such incidental assistance as may be necessary for the accomplishment of their individual assignments.

<sup>21</sup> 22 U.S.C. 1457.

<sup>22</sup> 22 U.S.C. 1458.

## TITLE V—DISSEMINATING INFORMATION ABOUT THE UNITED STATES ABROAD

## GENERAL AUTHORIZATION

SEC. 501.<sup>23</sup> (a)<sup>24</sup> The Secretary<sup>20</sup> is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Subject to subsection (b), any<sup>24</sup> such information (other than “Problems of Communism” and the “English Teaching Forum”<sup>25</sup> which may be sold by the Government Printing Office) shall not be disseminated within the United States, its territories, or possessions, but, on request, shall be available in the English language at the Department of State,<sup>20</sup> at all reasonable times following its release as information abroad, for examination only by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and by research students and scholars, and, on request, shall be made available for examination only to Members of Congress.

(b)(1)<sup>24</sup> The Director of the United States Information Agency shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.

<sup>23</sup> 22 U.S.C. 1461.

<sup>24</sup> Popularly referred to as the Zorinsky amendment. Sec. 202 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 49), added designation “(a)”; struck out “Any” at the beginning of the second sentence, and inserted in lieu thereof “Subject to subsection (b), any”; and added a new subsec. (b).

Previously, the second sentence of sec. 501 was amended by sec. 204 of Public Law 92-352 (86 Stat. 493). It formerly read:

“Any such press release or radio script, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and, on request, shall be made available to Members of Congress.”

See also sec. 202 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 972), which provided additional direction for the USIA. Entitled “Mission of the International Communication Agency” (since renamed the United States Information Agency), this provision is considered by the USIA as its “second mandate.”

<sup>25</sup> Sec. 208 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 401), inserted the reference to the “English Teaching Forum”.

Sec. 1333(a) of Public Law 105-277 (112 Stat. 2681-785) provided the following:

**“SEC. 1333. APPLICATION OF CERTAIN LAWS.**

“(a) APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

“(b) APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

“(c) LIMITATION ON USE OF FUNDS.—Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.”

(2) The Director of the United States Information Agency shall be reimbursed for any attendant expenses. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.

(3) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release. The Archivist may charge fees to recover such costs, in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.

NOTE.—Notwithstanding the second sentence of section 501 [and after 1985, also notwithstanding sec. 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 [22 U.S.C. 1461-1(a)]], certain films and artistic works have received authorization for distribution within the United States. The films or artistic works and the legislation that authorized their distribution include the following:

- a. "Echoes"—Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976.
- b. "Santa Fe"—Public Law 94-350 [S.3168, 90 Stat. 823], approved July 12, 1976.
- c. "The Numbers Start With the River"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- d. "The Copland Portrait"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- e. "200"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- f. "Rendezvous"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- g. "Century III—The Gift of Life"—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- h. "Life, Liberty, and the Pursuit of Happiness" exhibit—Public Law 94-350 [S. 3168, 90 Stat. 823], approved July 12, 1976.
- i. "Hirshhorn Museum and Sculpture Garden"—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977.
- j. "Man in the Environment"—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 and 849, approved August 17, 1977.
- k. "Young Filmmakers Bicentennial Film Series" films—Sec. 204, Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved August 17, 1977.
- l. "The Right to Dignity"—Sec. 207, Public Law 95-426 [H.R. 12598], 92 Stat. 963 at 972, approved October 7, 1978.
- m. "Margaret Mead—Reflections"—Sec. 206, Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979.
- n. "Aspen"—Sec. 207, Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved August 15, 1979.
- o. "Let Poland Be Poland"—Public Law 97-146 [H.J. Res. 382], 96 Stat. 3, approved January 30, 1982.
- p. "Montana: The People Speak" slide show—Public Law 97-159 [S. 2166], 96 Stat. 20, approved March 24, 1982.
- q. "Reflections: Samuel Eliott Morison"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.
- r. "And Now Miguel"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.
- s. "In Their Own Words"—Sec. 306, Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved August 24, 1982.

- t. "Dumas Malone: A Journey with Mr. Jefferson"—Public Law 97-388 [S. 3073], 96 Stat. 1948, approved December 23, 1982.
- u. "Thanksgiving in Peshawar"—Sec. 216, Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983.
- v. "Hal David: Expressing a Feeling"—Sec. 212, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- w. "Afghanistan 1982; the Struggle for Freedom Continues"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- x. "We are Afghanistan"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- y. "Afghanistan: The Hidden War"—Sec. 213, Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985.
- z. "The March"—Public Law 99-369 [H.R. 4985], 100 Stat. 778, approved August 1, 1986.
- aa. Objects displayed at the U.S. Pavilion at the 86 Expo in Vancouver, British Columbia, Canada—Public Law 99-475 [H.R. 5522], 100 Stat. 1217, approved October 16, 1986.
- bb. "America the Way I See It"—Public Law 100-167 [H.R. 3428], 101 Stat. 910, approved November 17, 1987.<sup>26</sup>
- cc. "A Tribute to Mickey Leland"—Public Law 101-200 [H.R. 3294], 103 Stat. 1794, approved December 6, 1989.
- dd. "Long Journey Home"—Public Law 101-246 [H.R. 3792], 104 Stat. 49, approved February 16, 1990.
- ee. The Photographic Works of Richard Saunders—to be made available to the Schomburg Center for Black Studies, New York, New York—Sec. 213, Public Law 102-138, [H.R. 1415], 105 Stat. 696, approved October 28, 1991.
- ff. "The Voice" [film] and "All of Our Yesterdays" [radio documentary]—Sec. 1, Public Law 102-454, [H.R. 5751], 106 Stat. 2262, approved October 23, 1992.
- gg. "Thomas Jefferson Paper Show" [USIA presentation], and "Crimes Against Humanity" [film]—Sec. 234, Public Law 103-236 [H.R. 2333], 108 Stat. 424, approved April 30, 1994.
- hh. "Fragile Ring of Life" [film]—Public Law 104-161 [H.R. 2070], 110 Stat. 1413, approved July 18, 1996.
- ii. Voice of America and Radio Marti multilingual computer readable text and voice recordings, to be made available to the Linguistic Data Consortium, University of Pennsylvania, terminates ten years after enactment—Public Law 104-269 [H.R. 3916], 110 Stat. 3300, approved October 9, 1996, amended by Public Law 106-309 (114 Stat. 1099).
- jj. Broadcast materials produced by the Africa Division of the Voice of America, terminates five years after enactment—Public Law 106-309 [H.R. 1143], 114 Stat. 1078, approved October 17, 2000.

#### POLICIES GOVERNING INFORMATION ACTIVITIES

SEC. 502.<sup>27</sup> In authorizing international information activities under this Act, it is the sense of the Congress (1) that the Secretary<sup>20</sup> shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this Act shall be construed to give the Department<sup>20</sup> a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information.

SEC. 503.<sup>28</sup> \* \* \* [Repealed—1994]

<sup>26</sup>The language of Public Law 100-167 was repeated as sec. 214 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376).

<sup>27</sup>22 U.S.C. 1462.

<sup>28</sup>Formerly at 22 U.S.C. 1463. Sec. 503, originally added by sec. 206 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), was repealed by sec. 315(a) of the For-

## VOICE OF AMERICA/EUROPE

SEC. 504.<sup>29</sup> As part of its duties and programs under title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.), Voice of America/Europe shall—

- (1) target news and features in accordance with the findings and recommendations of the Young European Survey;
- (2) conduct periodic audience evaluations and measurements; and
- (3) promote and advertise Voice of America/Europe.

## USIA SATELLITE AND TELEVISION

SEC. 505.<sup>30</sup> (a) IN GENERAL.—The Broadcasting Board of Governors<sup>31</sup> is authorized to lease or otherwise acquire time on commercial or United States Government satellites for the purpose of transmitting materials and programs to posts and other users abroad.

(b) BROADCAST PRINCIPLES.—The Congress finds that the long-term interests of the United States are served by communicating directly with the peoples of the world by television. To be effective, the Broadcasting Board of Governors<sup>32</sup> must win the attention and respect of viewers. These principles will therefore govern the television broadcasts of the United States International Television Service:<sup>33</sup>

(1) The United States International Television Service<sup>34</sup> will serve as a consistently reliable and authoritative source of news. United States International Television Service<sup>34</sup> news will be accurate and objective.

(2) The United States International Television Service<sup>34</sup> will represent the United States, not any single segment of American society and will, therefore, present a balanced and comprehensive projection of significant American thought and institutions.

(3) The United States International Television Service<sup>34</sup> will present the policies of the United States clearly and effectively and will also present responsible discussions and opinion on these policies.

eign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 445). The section stated principles for VOA broadcasts.

<sup>29</sup> 22 U.S.C. 1464. Sec. 504 was added by sec. 402 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331).

<sup>30</sup> 22 U.S.C. 1464a. Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 50), added sec. 505.

<sup>31</sup> Sec. 1335(a)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors" at each place that it appeared in sec. 505.

<sup>32</sup> Sec. 1335(a)(1)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors" at each place that it appeared in sec. 505.

<sup>33</sup> Sec. 1335(a)(1)(C)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "Agency's television broadcasts (hereinafter in this section referred to as 'USIA-TV')", and inserted in lieu thereof "television broadcasts of the United States International Television Service".

<sup>34</sup> Sec. 1335(a)(1)(C)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) struck out "USIA-TV" and inserted in lieu thereof "The United States International Television Service" in paras. (1), (2), and (3).



(c) PROGRAMS.—The Broadcasting Board of Governors<sup>32</sup> is authorized to produce, acquire, or broadcast television programs, via satellite, only if such programs—

(1) are interactive, consisting of interviews among participants in different locales;

(2) cover news, public affairs, or other current events;

(3) cover official activities of government, Federal or State, including congressional proceedings and news briefings of any agency of the Executive branch; or

(4) are of an artistic or scientific character or are otherwise representative of American culture.

(d) COSTS.—When a comparable program produced by United States public or commercial broadcasters and producers is available at a cost which is equal to or less than the cost of production by the United States International Television Service,<sup>35</sup> the Broadcasting Board of Governors<sup>32</sup> shall use such materials in preference to the United States International Television Service<sup>35</sup> produced materials.

(e) ALLOCATION OF FUNDS.—(1) Of the funds authorized to be appropriated to the Broadcasting Board of Governors<sup>32</sup> not more than \$12,000,000 for the fiscal year 1990 and not more than \$12,480,000 for the fiscal year 1991 may be obligated or expended for the United States International Television Service.<sup>35</sup>

(2) The Broadcasting Board of Governors<sup>32</sup> shall prepare and submit to the Congress quarterly reports which contain a detailed explanation of expenditures for USIA-TV during the fiscal years 1990 and 1991. Such reports shall contain specific justification and supporting information pertaining to all programs, particularly those described in subsection (c)(4), that were produced in-house by USIA-TV. Each such report shall include a statement by the Broadcasting Board of Governors<sup>32</sup> that, according to the best information available to the Broadcasting Board of Governors,<sup>32</sup> no comparable United States commercially-produced or public television program is available at a cost which is equal to or less than the cost of production by USIA-TV.

(3)<sup>36</sup> Of the funds authorized to be appropriated to the Broadcasting Board of Governors,<sup>32</sup> \$1,500,000 for the fiscal year 1990 and \$1,500,000 for the fiscal year 1991 shall be available only for the purchase or use of programs produced with grants from the Corporation for Public Broadcasting or produced by United States public broadcasters.

#### VOICE OF AMERICA HIRING PRACTICES

SEC. 506.<sup>37</sup> (a) PROHIBITION.—After the date of enactment of this section, the Voice of America shall not select candidates for employment who must be or are preapproved for employment at the Voice

<sup>35</sup>Sec. 1335(a)(1)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “USIA-TV” and inserted in lieu thereof “the United States International Television Service” in subsecs. (d) and (e).

<sup>36</sup>Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 90), waived sec. 505(e)(3), as added by sec. 205 of that Act, effective on the date of enactment of that Act (February 16, 1990).

<sup>37</sup>22 U.S.C. 1464b. Sec. 232 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 57), added sec. 506.

of America by a foreign government or an entity controlled by a foreign government.

(b) EXCEPTION.—The prohibition referred to in this section shall not apply to—

- (1) participants in the Voice of America's exchange programs;
- or
- (2) clerical, technical, or maintenance staff at Voice of America offices in foreign countries.

(c) REPORT.—If the Broadcasting Board of Governors<sup>38</sup> determines that the prohibition under subsection (a) would require the termination of a specific Voice of America foreign language service, then, not less than 90 days before the Board<sup>39</sup> begins to recruit such candidates, the Board<sup>40</sup> shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>41</sup> of the House of Representatives a report concerning—

- (1) the number and location of speakers of the applicable foreign language who could be recruited by the Voice of America without violating this section; and
- (2) the efforts made by the Voice of America to recruit such individuals for employment.

#### TITLE VI—ADVISORY COMMISSIONS TO FORMULATE POLICIES

SEC. 601.<sup>42</sup> There are hereby created two advisory commissions, (1) United States Advisory Commission on Information (hereinafter in this title referred to as the Commission on Information) and (2) United States Advisory Commission on Educational Exchange (hereinafter in this title referred to as the Commission on Educational Exchange)<sup>43</sup> to be constituted as provided in section 602. The Commissions shall formulate and recommend to the Secretary<sup>20</sup> policies and programs for the carrying out of this Act: *Provided, however,* That the commissions created by this section shall have no authority over the Board of Foreign Scholarships or the program created by Public Law 584 of the Seventy-ninth Congress, enacted August 1, 1946, or the United States National Commission for UNESCO.

<sup>38</sup> Sec. 1335(a)(2)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

<sup>39</sup> Sec. 1335(a)(2)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Agency" and inserted in lieu thereof "Board".

<sup>40</sup> Sec. 1335(a)(2)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Director" and inserted in lieu thereof "Board".

<sup>41</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>42</sup> 22 U.S.C. 1466. Public Law 87-256 (75 Stat. 527) repealed sec. 601 insofar as it related to the United States Advisory Commission on Educational Exchange.

<sup>43</sup> Sec. 8 of Reorganization Plan No. 2 of 1977 established the United States Advisory Commission on International Communication, Cultural and Educational Affairs, consolidated functions vested in these two commissions and transferred them to this new commission.

Subsequently, sec. 604 of this Act redesignated the United States Advisory Commission on International Communication, Cultural and Educational Affairs as the United States Advisory Commission on Public Diplomacy.

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

## MEMBERSHIP OF THE COMMISSION: GENERAL PROVISIONS

SEC. 602.<sup>44</sup> (a) Each Commission shall consist of five members, not more than three of whom shall be from any one political party. Members shall be appointed by the President, by and with the advice and consent of the Senate. No person holding any compensated Federal or State office shall be eligible for appointment.

(b) The members of the Commission on Information shall represent the public interest, and shall be selected from a cross section of professional, business, and public service backgrounds.

(c) The members of the Commission on Educational Exchange shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(d) The term of each member appointed under subsection (a) of this section shall be three years, except that the terms of office of such members first taking office on each Commission shall expire, as designated by the President at the time of appointment, two at the end of one year, two at the end of two years, and one at the end of three years from the date of the enactment of this Act. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any member may continue to serve until his successor is appointed and has qualified.

(e) The President shall designate a chairman for each Commission from among members of the Commission.

(f) The members of the Commissions shall receive no compensation for their services as such members but shall be entitled to reimbursement for travel and subsistence in connection with attendance of meetings of the Commissions away from their places of residences, as provided in subsection (6) of section 801 of this Act.

(g) The Commissions are authorized to adopt such rules and regulations as they may deem necessary to carry out the authority conferred upon them by this title.

(h) The Department<sup>20</sup> is authorized to provide the necessary secretarial and clerical assistance for the Commissions.

## RECOMMENDATIONS AND REPORTS

SEC. 603.<sup>45</sup> The Commissions shall meet not less frequently than once each month during the first six months after their establishment, and thereafter at such intervals as the Commissions find advisable, and shall transmit to the Secretary<sup>20</sup> a quarterly report, and to the Congress a semiannual report of all programs and activities carried on under the authority of this Act, including appraisals, where feasible, as to the effectiveness of the several programs, and such recommendations as shall have been made by the Commissions to the Secretary<sup>20</sup> for effectuating the purposes and

<sup>44</sup> 22 U.S.C. 1467. Public Law 87-256 (75 Stat. 527) repealed sec. 602 insofar as it related to the United States Advisory Commission on Educational Exchange.

<sup>45</sup> 22 U.S.C. 1468. Public Law 87-256 (75 Stat. 527) repealed sec. 603 insofar as it related to the United States Advisory Commission on Educational Exchange.

objectives of this Act and the action taken to carry out such recommendations.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

SEC. 604.<sup>46</sup> (a) ESTABLISHMENT.—(1) There is established an advisory commission to be known as the United States Advisory Commission on Public Diplomacy.

(2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party.

(3) The term of each member shall be 3 years, except that of the original seven appointments, two shall be for a term of 1 year and two shall be for a term of 2 years.

<sup>46</sup> 22 U.S.C. 1469. Sec. 1334(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-786) repealed sec. 604. Sec. 404 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-446), however, restored the Commission through October 1, 2001. Sec. 404 provided as follows:

“SEC. 404. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

“(a) RESTORATION OF ADVISORY COMMISSION.—Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended to read as follows:

““SEC. 1334. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

““The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operate under such provisions of law until October 1, 2001.”

“(b) RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998.

“(c) REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW.—

“(1) REENACTMENT.—The provisions of law repealed by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998, as in effect before the date of the enactment of this Act, are hereby reenacted into law.

“(2) REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed.

“(d) CONTINUITY OF ADVISORY COMMISSION.—Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.

“(e) REDUCTION IN STAFF AND BUDGET.—Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948, effective on the date of the enactment of this Act, the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999.”

Subsequently, sec. 604 was reenacted pursuant to sec. 407(c) of the Department of State Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790), subsecs. (c) and (d) of which provided the following:

“(c) The provisions of law repealed by section 404(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 404(c) of division A, of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-446) are hereby reenacted into law.

“(d) Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.”

Sec. 604 was added originally by sec. 203(f) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 399), and subsequently amended and restated by sec. 213 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376), and by sec. 206 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 51).

(4) Any member appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and qualified.

(5) The President shall designate a member to chair the Commission.

(b) STAFF.—The Commission shall have a staff director who shall be appointed by the chairperson of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the chairperson of the Commission may—

(1) appoint such additional personnel for the staff of the Commission as the chairperson considers necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(c) DUTIES AND RESPONSIBILITIES.—(1) The Commission shall formulate and recommend to the Director of the United States Information Agency, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency.

(2) The commission shall submit to the Congress, the President, the Secretary of State, and the Director of the United States Information Agency annual reports on programs and activities carried out by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations.

(3) The Commission may also submit such other reports to the Congress as it considers appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency.

(4) The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and non-political character of the educational and cultural exchange activities vested in the Director of the United States Information Agency have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(d) LIMITATION ON AUTHORITY.—The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO.

## TITLE VII—APPROPRIATIONS

SEC. 701.<sup>47</sup> \* \* \* [Repealed—1998]

## TRANSFER OF FUNDS

SEC. 702.<sup>48</sup> The Secretary<sup>20</sup> shall authorize the transfer to other Government agencies for expenditure in the United States and in other countries, in order to carry out the purposes of this Act, any part of any appropriations available to the Department<sup>20</sup> for carrying out the purposes of this Act, for direct expenditure or as a working fund, and any such expenditures may be made under the specific authority contained in this Act or under the authority governing the activities of the Government agency to which a part of any such appropriation is transferred, provided the activities come within the scope of this Act.

## AUTHORIZATION FOR GRANTS TO RADIO FREE EUROPE AND RADIO LIBERTY

SEC. 703.<sup>49</sup> There are authorized to be appropriated to the Secretary of State \$38,520,000 for fiscal year 1973 to provide grants, under such terms and conditions as the Secretary considers appropriate, to Radio Free Europe and Radio Liberty. There are further authorized to be appropriated in fiscal year 1973 not to exceed \$1,150,000 for nondiscretionary costs. Except for funds appropriated pursuant to this section, no funds appropriated after the date of this Act may be made available to or for the use of Radio Free Europe or Radio Liberty in fiscal year 1973.

SEC. 704.<sup>50</sup> \* \* \* [Repealed—1998]

SEC. 705.<sup>51</sup> The Department of State<sup>51</sup> may award grants for overseas public diplomacy programs<sup>52</sup> only if the Committee on Foreign Affairs<sup>53</sup> of the House of Representatives and the Com-

<sup>47</sup> Formerly at 22 U.S.C. 1476. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 701, as amended, addressed prior authorization by Congress. Sec. 2419 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-255; 112 Stat. 2681-835) struck out sec. 701(f)(4) of this section, already repealed by the above cited Act.

<sup>48</sup> 22 U.S.C. 1477.

<sup>49</sup> 22 U.S.C. 1477a. Sec. 703 was added by Public Law 92-264 (86 Stat. 114); further amended when the second sentence was added by Public Law 93-59 on July 6, 1973.

<sup>50</sup> Formerly at 22 U.S.C. 1477b. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 704 was originally added by sec. 204(e) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400), and pertained to nondiscretionary personnel costs and currency fluctuations.

<sup>51</sup> 22 U.S.C. 1477c. Sec. 1335(a)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out subsecs. (a) and (c); and replaced "(b) In addition, the United States Information Agency" with "The Department of State". Originally, Sec. 214 of Public Law 98-164 (97 Stat. 1035) added former subsecs. (a) and (b), and sec. 202(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1372) added former subsec. (c).

<sup>52</sup> Sec. 1335(a)(3)(B)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "program grants" and inserted in lieu thereof "grants for overseas public diplomacy programs". Sec. 202(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1372), struck out "for the fiscal years 1986 and 1987" at this point. That phrase was inserted in lieu of the original which read "for the fiscal years 1984 and 1985" by sec. 214 of Public Law 99-93 (99 Stat. 405).

<sup>53</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

mittee on Foreign Relations of the Senate are notified fifteen days in advance of the proposed grant.

## TITLE VIII—ADMINISTRATIVE PROCEDURES

### THE SECRETARY<sup>54</sup>

SEC. 801.<sup>55</sup> In carrying out the purposes of this Act, the Secretary<sup>54</sup> is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) In<sup>56</sup> carrying out title II of this Act,<sup>57</sup> to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3)<sup>58</sup> whenever necessary in carrying out title V of this Act, to purchase, rent, construct, improve, maintain, and operate facilities for radio and television<sup>59</sup> transmission and reception, including the leasing of associated real property (either within or outside the United States) for periods not to exceed forty years,<sup>60</sup> or for longer periods if provided for by an appropriation Act, and the alteration, improvement, and repair of such property, without regard to section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), and any such real property or interests therein which are outside the United States may be acquired without regard to section 355 of the Revised Statutes of the United States (40 U.S.C. 255) if the sufficiency of the title to such real property or interests therein is approved by the Director of the United States Information Agency;<sup>20</sup>

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

<sup>54</sup>Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

<sup>55</sup>22 U.S.C. 1471.

<sup>56</sup>So in original; should probably read "in".

<sup>57</sup>Sec. 204(a) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400) struck out "within the limitation of such appropriations as the Congress may provide," at this point.

<sup>58</sup>Sec. 203(e) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 399), amended and restated para. (3); the substantive change included the addition of the words beginning with "and the alteration, improvement," through the end of the paragraph.

<sup>59</sup>Sec. 203 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 692), inserted "and television" after "radio".

<sup>60</sup>Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1331), struck out "twenty-five years" and inserted in lieu thereof "forty years". Previously, sec. 217 of Public Law 98-164 (97 Stat. 1036) struck out "ten years" and inserted in lieu thereof "twenty-five years".

(5)<sup>61</sup> to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act;<sup>62</sup>

(6)<sup>63</sup> to create with the approval of the Commission on Information and the Commission on Educational Exchange,<sup>64</sup> such advisory committees as the Secretary<sup>54</sup> may decide to be of assistance in formulating his policies for carrying out the purposes of this Act. No Committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73 b-2); and<sup>62</sup>

(7)<sup>62</sup> notwithstanding any other provision of law, to carry out projects involving security construction and related improvements for overseas public diplomacy<sup>65</sup> facilities not physically located together with other<sup>66</sup> Department of State facilities abroad.

#### GOVERNMENT AGENCIES

SEC. 802.<sup>67</sup> (a) In carrying on activities which further the purposes of this Act, subject to approval of such activities by the Secretary,<sup>54</sup> the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 3741 of the Revised Statutes (41 U.S.C. 22);

(3) under such regulations as the Secretary<sup>54</sup> may prescribe, to pay the transportation expenses, and not to exceed \$10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized

<sup>61</sup>Sec. 203(b)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398), amended and restated para. (5). Formerly, para. (5) also provided for the employment of aliens within the United States for positions relating to translation or narration of colloquial speech in foreign languages when suitably qualified U.S. citizens were not available.

<sup>62</sup>Sec. 222 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 421), amended sec. 801 by striking “and” at the end of para. (5); striking a period at the end of para. (6), and inserting instead “; and”; and adding a new para. (7).

<sup>63</sup>Para. (6) was amended by sec. 11 of Public Law 87-139 (75 Stat. 341).

<sup>64</sup>Pursuant to sec. 8 of Reorganization Plan No. 2 of 1977, the functions vested in these two commissions were transferred to a newly created United States Advisory Commission on International Communication, Cultural and Educational Affairs (in 1979, such new Commission was redesignated as the United States Advisory Commission on Public Diplomacy).

Pursuant to the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-761), as amended, secs. 1 through 6 of the Reorganization Plan No. 2 are repealed, and sec. 8 of the Plan is repealed effective September 30, 2001.

<sup>65</sup>Sec. 1335(a)(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out “Agency” and inserted in lieu thereof “overseas public diplomacy”.

<sup>66</sup>Sec. 1335(a)(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) inserted “other” after “together with”.

<sup>67</sup>22 U.S.C. 1472. Sec. 302(b) of Public Law 97-241 (96 Stat. 292) added the subsection designation “(a)” and a new subsec. (b).



Government Travel Regulations and the Subsistence Act of 1926, as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(b)<sup>67</sup> (1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

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

(B) the Director of the United States Information Agency determines that—

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

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

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

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

(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.

(4)<sup>68</sup> (A) Notwithstanding the other provisions of this subsection, the Broadcasting Board of Governors<sup>69</sup> is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States.<sup>70</sup>

(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

<sup>68</sup>Sec. 225 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), added para. (4), through the text "television programs".

<sup>69</sup>Sec. 503(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1393) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

<sup>70</sup>Sec. 503(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1392) inserted "and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States".

## MAXIMUM USE OF EXISTING GOVERNMENT PROPERTY AND FACILITIES

SEC. 803.<sup>71</sup> In carrying on activities under this Act which require the utilization of Government property and facilities, maximum use shall be made of existing Government property and facilities.

## BASIC AUTHORITY

SEC. 804.<sup>72</sup> In carrying out the provisions of this Act, the Secretary,<sup>54</sup> or any Government agency authorized to administer such provisions, may—

(1)<sup>73</sup> employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when suitably qualified United States citizens are not available when job vacancies occur,<sup>74</sup> and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as non-immigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for such time and under such conditions and procedures as may be established by the Director of the United States Information Agency<sup>75</sup> and the Attorney General;

(2) pay travel expenses of aliens employed abroad for service in the United States and their dependents to and from the United States;

(3) incur expenses for entertainment within the United States within such amounts as may be provided in appropriations Acts;

(4) obtain insurance on official motor vehicles operated by the Secretary<sup>76</sup> or such agency in foreign countries, and pay the expenses incident thereto;

<sup>71</sup> 22 U.S.C. 1473.

<sup>72</sup> 22 U.S.C. 1474. Public Law 92-352 (86 Stat. 389) added sec. 804.

Sec. 2418 of the Foreign Relations Authorization Act, 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-835; 22 U.S.C. 1474 note), provided the following:

"The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements."

Sec. 846 of Public Law 105-244 (112 Stat. 1822) enacted an identical provision.

<sup>73</sup> Sec. 203(b)(2) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398), amended and restated para. (1). Formerly, para. (1) also included a requirement that such aliens must be investigated pursuant to procedures established by the Secretary or the agency and the Attorney General before they could be employed.

<sup>74</sup> Sec. 207 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 53), added "when job vacancies occur".

<sup>75</sup> Sec. 303(b) of Public Law 97-241 (96 Stat. 291; 22 U.S.C. 1461 note) struck out "International Communication Agency" and inserted in lieu thereof "United States Information Agency", and further provided: "Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a)."

<sup>76</sup> Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303(b) of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be

(5) notwithstanding the provisions of section 2680(k) of title 28, United States Code, pay tort claims in the manner authorized in the first paragraph of section 2672 of such title, when such claims arise in foreign countries in connection with operations conducted abroad under this Act;

(6) employ aliens by contract for services abroad;

(7) provide ice and drinking water abroad;

(8) pay excise taxes on negotiable instruments abroad;

(9)<sup>77</sup> pay to or for individuals, not United States Government employees, participating in activities conducted under this Act, the costs of emergency medical expenses, preparation and transport to their former homes of the remains of such participants or their dependents who die while away from their homes during such participation, and health and accident insurance premiums for participants or health and accident benefits for participants by means of a program of self-insurance;

(10) rent or lease, for periods not exceeding ten years,<sup>78</sup> office buildings, grounds, and living quarters abroad for employees carrying out this Act, and make payments therefor in advance;

(11) maintain, improve, and repair properties used for information activities in foreign countries;

(12) furnish fuel and utilities for Government-owned or leased property abroad;

(13) pay travel expenses of employees attending official international conferences, without regard to sections 5701-5708 of title 5, United States Code, and regulations issued thereunder, but at rates not in excess of comparable allowances approved for such conferences by the Secretary;

(14)<sup>79</sup> purchase uniforms;

(15)<sup>80</sup> hire passenger motor vehicles;

(16)<sup>80</sup> purchase passenger motor vehicles for use abroad, and right-hand drive and security<sup>81</sup> vehicles may be so purchased without regard to any maximum price limitation established by law;

(17)<sup>80</sup> procure services of experts and consultants in accordance with section 3109 of title 5 of the United States Code;

(18)<sup>80</sup> make advances of funds;

(19)<sup>80</sup> notwithstanding section 5946 of title 5 of the United States Code, pay dues for library membership in organizations

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deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

<sup>77</sup>Sec. 205 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 692), amended and restated para. (9).

<sup>78</sup>Sec. 204(b)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400), struck out "five years" and inserted in lieu thereof "ten years".

<sup>79</sup>Sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), added para. (14). Sec. 204(b)(3) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400), struck out "when funds are appropriated therefor" at the end of the paragraph.

<sup>80</sup>Sec. 204(b)(4) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400) added paras. (15) through (19).

<sup>81</sup>Sec. 302(c) of Public Law 97-241 (96 Stat. 293) inserted "and security".

which issue publications to members only, or to members at a price lower than to others;<sup>82</sup>

(20)<sup>83</sup> subject to the availability of appropriated funds, purchase motion picture, radio and television producers' liability insurance to cover errors and omissions or similar insurance coverage for the protection of interests in intellectual property;<sup>82</sup>

(21)<sup>82</sup> incur expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.);

(22)<sup>82</sup> furnish living quarters as authorized by section 5912 of title 5, United States Code; and

(23)<sup>82</sup> provide allowances as authorized by sections 5921 through 5928 of title 5, United States Code.”.

#### TRAVEL EXPENSES

SEC. 805.<sup>84</sup> Appropriated funds made available for any fiscal year to the Secretary or any Government agency, to carry out the provisions of this Act, for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel, shall be available for all such expenses in connection with travel or transportation which begins in that fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed until the following fiscal year.

#### REPLACEMENT OF PASSENGER MOTOR VEHICLES

SEC. 806.<sup>85</sup> The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall be<sup>86</sup> available without fiscal year limitation for replacement of an equal number of such vehicles in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949.

SEC. 807.<sup>87</sup> \* \* \* [Repealed—1998]

SEC. 808.<sup>88</sup> \* \* \* [Repealed—1998]

<sup>82</sup>Sec. 204 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 692), struck out “and” at the end of para. (19); ended para. (20) with a semicolon; and added new paras. (21), (22), and (23).

<sup>83</sup>Sec. 304(d) of Public Law 97-241 (96 Stat. 293) added para. (20).

<sup>84</sup>22 U.S.C. 1475. Sec. 202 of Public Law 92-352 (86 Stat. 494) added sec. 805.

<sup>85</sup>22 U.S.C. 1475a. Sec. 204 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350), added sec. 806.

<sup>86</sup>Sec. 204(c) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 400) struck out “are authorized to be made” and inserted in lieu thereof “shall be”.

<sup>87</sup>Formerly at 22 U.S.C. 1475b. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 807 was originally added by sec. 204(c) of Public Law 95-426 (92 Stat. 974) and pertained to the seal of the United States Information Agency.

<sup>88</sup>Formerly at 22 U.S.C. 1475c. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 808 was originally added by sec. 304(e) of Public Law 97-241 (96 Stat. 293), and pertained to acting associate directors.

## COMPENSATION FOR DISABILITY OR DEATH

SEC. 809.<sup>89</sup> A cultural exchange, international fair or exposition, or other exhibit or demonstration of United States economic accomplishments and cultural attainments, provided for under this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall not be considered a “public work” as that term is defined in the first section of the Act of August 16, 1941 (42 U.S.C. 1651; commonly known as the “Defense Base Act”).

## USE OF ENGLISH-TEACHING PROGRAM FEES

SEC. 810.<sup>90</sup> (a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees and receipts described in subsection (b) are authorized to be credited each fiscal year for authorized purposes to the appropriate appropriations of the United States Information Agency to such extent as may be provided in advance in appropriations acts.

(b) FEES AND RECEIPTS DESCRIBED.—The fees and receipts described in this subsection are fees and payments received by or for the use of the United States Information Agency from or in connection with—

- (1) English-teaching and library services,
- (2) educational advising and counseling,
- (3) Exchange Visitor Program Services,
- (4) advertising and business ventures of the Voice of America and the International Broadcasting Bureau,
- (5) cooperating international organizations, and
- (6) Agency-produced publications,
- (7) an amount not to exceed \$100,000 of the payments from motion picture and television programs produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Education and Cultural Exchange Act of 1961.

SEC. 811.<sup>91</sup> \* \* \* [Repealed—1998]

<sup>89</sup> 22 U.S.C. 1475d. Sec. 304(e) of Public Law 97-241 (96 Stat. 293) added sec. 809.

<sup>90</sup> 22 U.S.C. 1475e. Sec. 2412 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832), amended and restated sec. 810. Sec. 810 was originally added by sec. 304(e) of Public Law 97-241 (96 Stat. 293), and was subsequently amended and restated by sec. 203 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1373), and by sec. 208 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 53). It previously read as follows:

“SEC. 810. (a) Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees received by or for the use of the United States Information Agency from or in connection with English-teaching and library services, and Agency-produced publications, and not to exceed \$100,000 of payments from motion picture and television programs, produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 is authorized to be credited each fiscal year to the appropriate appropriation of the United States Information Agency to such extent as may be provided in advance in an appropriation Act.”

[No subsec. (b) was enacted, despite the subsec. (a) designation.]

<sup>91</sup> Formerly at 22 U.S.C. 1475f. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Sec. 811 was originally added by sec. 209 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 53), and pertained to debt collection.

OVERSEAS PUBLIC DIPLOMACY POSTS AND PERSONNEL OVERSEAS<sup>92</sup>

SEC. 812.<sup>93</sup> (a) LIMITATION.—Except as provided under this section no funds authorized to be appropriated to the Department of State<sup>94</sup> may be used to pay any expense associated with the closing of any overseas public diplomacy post<sup>95</sup> abroad.

(b) NOTIFICATION.—Not less than 45 days before the closing of any overseas public diplomacy post<sup>95</sup> abroad the Secretary of State<sup>96</sup> shall notify the Committee on Foreign Affairs<sup>97</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) EXCEPTIONS.—This section shall not apply to any overseas public diplomacy post<sup>95</sup> closed—

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

(2) where there is a real and present threat to United States diplomats in the city where the post is located and where a travel advisory warning against travel by United States citizens to the city has been issued by the Department of State.

## TITLE IX—FUNDS PROVIDED BY OTHER SOURCES

## REIMBURSEMENT

SEC. 901.<sup>98</sup> The Secretary<sup>76</sup> shall, when he finds it in the public interest, request and accept reimbursement from any cooperating governmental or private source in a foreign country, or from State or local governmental institutions or private sources in the United States, for all or part of the expenses of any portion of the program undertaken hereunder. The amounts so received shall be covered into the Treasury as miscellaneous receipts.

## ADVANCE OF FUNDS

SEC. 902.<sup>99</sup> If any other government shall express the desire to provide funds, property, or services to be used by this Government, in whole or in part, for the expenses of any specific part of the program undertaken pursuant to this Act, the Secretary<sup>76</sup> is authorized, when he finds it in the public interest, to accept such funds, property, or services. Funds so received may be established as a

<sup>92</sup>Sec. 1335(a)(5)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "USIA" and inserted in lieu thereof "OVERSEAS PUBLIC DIPLOMACY" in the section catchline.

<sup>93</sup>22 U.S.C. 1475g. Sec. 206(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 693), added sec. 812.

<sup>94</sup>Sec. 1335(a)(5)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "United States Information Agency" and inserted in lieu thereof "Department of State".

<sup>95</sup>Sec. 1335(a)(5)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "United States Information Agency post" and inserted in lieu thereof "overseas public diplomacy post" throughout sec. 812.

<sup>96</sup>Sec. 1335(a)(5)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-787) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Secretary of State".

<sup>97</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>98</sup>22 U.S.C. 1478.

<sup>99</sup>22 U.S.C. 1479.

special deposit account in the Treasury of the United States, to be available for the specified purpose, and to be used for reimbursement of appropriations or direct expenditure, subject to the provisions of this Act. Any unexpended balance of the special deposit account and other property received, under this section and no longer required for the purposes for which provided shall be returned to the government providing the funds or property.

## TITLE X—MISCELLANEOUS

### LOYALTY CHECK OF PERSONNEL

SEC. 1001.<sup>100</sup> \* \* \* [Repealed—1979]

### DELEGATION OF AUTHORITY

SEC. 1002.<sup>101</sup> The Secretary<sup>76</sup> may delegate to such officers of the Government as the Secretary<sup>76</sup> determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act.

### RESTRICTED INFORMATION

SEC. 1003.<sup>102</sup> Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure (1) is prohibited by any other law of the United States, or (2) is inconsistent with the security of the United States.

### REPEAL OF ACT OF MAY 25, 1938, AS AMENDED

SEC. 1004. (a) The Act of May 25, 1938, entitled “An Act authorizing the temporary detail of United States employees, possessing special qualifications, to governments of American Republics and the Philippines, and for other purposes,” as amended (52 Stat. 442; 53 Stat. 652), is hereby repealed.

(b) Existing Executive orders and regulations pertaining to the administration of such Act of May 25, 1938, as amended, shall remain in effect until superseded by regulations prescribed under the provisions of this Act.

(c) Any reference in the Foreign Service Act of 1946 (60 Stat. 999), or in any other law, to provisions of such Act of May 25, 1938, as amended, shall be construed to be applicable to the appropriate provisions of titles III and IX of this Act.

### UTILIZATION OF PRIVATE AGENCIES

SEC. 1005.<sup>103</sup> In carrying out the provisions of this Act it shall be the duty of the Secretary<sup>76</sup> to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and

<sup>100</sup>Sec. 203(a)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398), repealed sec. 1001, which concerned loyalty checks for personnel.

<sup>101</sup>22 U.S.C. 1435.

<sup>102</sup>22 U.S.C. 1436.

<sup>103</sup>22 U.S.C. 1437.

other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary<sup>76</sup> shall encourage participation in carrying out the purposes of this Act by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country.

TERMINATION PURSUANT TO CONCURRENT RESOLUTION OF CONGRESS

SEC. 1006. The authority granted under this Act shall terminate whenever such termination is directed by concurrent resolution of the two Houses of the Congress.

VETERANS' PREFERENCE ACT

SEC. 1007.<sup>104</sup> No provision of this Act shall be construed to modify or to repeal the provisions of the Veterans' Preference Act of 1944.

REPORTS TO CONGRESS

SEC. 1008.<sup>105</sup> \* \* \* [Repealed—1980]

REGULATORY PROVISIONS TO APPLY TO ALL INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL EXCHANGES OF STATE DEPARTMENT

SEC. 1009.<sup>106</sup> \* \* \* [Repealed—1998]

SEPARABILITY OF PROVISIONS

SEC. 1010. If any provision of this Act or the application of any such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

INFORMATIONAL MEDIA GUARANTIES

SEC. 1011.<sup>107</sup> (a)<sup>108</sup> The Director of the United States Information Agency may make guaranties, in accordance with the provisions of subsection (b) of section 413 of the Mutual Security Act of 1954,<sup>109</sup> of investments in enterprises producing or distributing informational media consistent with the national interests of the United States: *Provided*, That the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in

<sup>104</sup> 22 U.S.C. 1438.

<sup>105</sup> Sec. 117 of Public Law 96-470 (94 Stat. 2240) repealed sec. 1008, which had required an annual report from the Secretary to Congress on expenditures and activities carried out under this Act.

<sup>106</sup> Formerly at 22 U.S.C. 1440. Sec. 1336(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 701, 704, 807, 808, 811, and 1009 of this Act. Previously, sec. 1009 was repealed insofar as it related to educational exchange activities, by sec. 111(a)(2) of Public Law 87-256 (75 Stat. 538).

<sup>107</sup> 22 U.S.C. 1442.

<sup>108</sup> Sec. 544 of the Mutual Security Act of 1954 (68 Stat. 862) added subsec. (a). Sec. 701(c) of the Mutual Security Act of 1959 (73 Stat. 257) added the proviso.

<sup>109</sup> Sec. 642(a)(2) of the Foreign Assistance Act of 1961 (75 Stat. 460) repealed sec. 413 of the Mutual Security Act of 1954, which related to the encouragement of free enterprise and private participation. See sec. 601 of the Foreign Assistance Act of 1961, as amended.



sections 413(b)(4)(A) and 413(b)(4)(G) of the Mutual Security Act of 1954,<sup>109</sup> as amended.

(b)<sup>110</sup> The Director is authorized to assume the obligation of not to exceed \$28,000,000 of the notes authorized to be issued pursuant to subsection 111(c)(2) of the Economic Cooperation Act of 1948, as amended (22 U.S.C. 1509(c)(2)), together with the interest accrued and unpaid thereon, and to obtain advances from time to time from the Secretary of the Treasury up to such amount, less amounts previously advanced on such notes, as provided for in said notes. Such advances shall be deposited in a special account in the Treasury available for payments under informational media guaranties.

(c)<sup>110</sup> The Director is authorized to make informational media guaranties without regard to the limitations of time contained in subsection 413(b)(4) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)), but the total of such guaranties outstanding at any one time shall not exceed the sum of the face amount of the notes assumed by the Director less the amounts previously advanced on such notes by the Secretary of the Treasury plus the amount of the funds in the special account referred to in subsection (b).

(d)<sup>110</sup> Foreign currencies available after June 30, 1955, from conversions made pursuant to the obligation of informational media guaranties may be sold, in accordance with Treasury Department regulations, for dollars which shall be deposited in the special account and shall be available for payments under new guaranties. Such currencies shall be available, as may be provided for by the Congress in appropriation Acts, for use of educational, scientific, and cultural purposes which are in the national interest of the United States, and for such other purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive.

(e)<sup>110</sup> Notwithstanding the provisions of subparagraph 413(b)(4)(E) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)(4)(E)), (1) fees collected for the issuance of informational media guaranties shall be deposited in the special account and shall be available for payments under informational media guaranties; and (2) the Director may require the payment of a minimum charge of up to fifty dollars for issuance of guaranty contracts, or amendments thereto.

(f)<sup>110</sup> The Director is further authorized, under such terms as he may prescribe, to make advance payments under informational media guaranties: *Provided*, That currencies receivable from holders of such guaranties on account of such advance payments shall be paid to the United States within nine months from the date of the advance payment and that appropriate security to assure such payments is required before any advance payment is made.

(g)<sup>110</sup> As soon as feasible after the enactment of this subsection, all assets, liabilities, income, expenses, and charges of whatever kind pertaining to informational media guaranties, including any charges against the authority to issue notes provided in section 111(c)(2) of the Economic Cooperation Act of 1948, as amended, cu-

<sup>109</sup>Sec. 11(g) of the Mutual Security Act of 1956 (70 Stat. 563) added subsecs. (b) through (g).

mulative from the enactment of that Act, shall be accounted for separately from other guaranties issued pursuant to subsection 413(b) of the Mutual Security Act of 1954, as amended (22 U.S.C. 1933(b)): *Provided*, That there shall be transferred from the special account established pursuant to subsection (b), into the account available for payments under guaranties other than informational media guaranties, an amount equal to the total of the fees received for the issuance of guaranties other than informational media guaranties, and used to make payments under informational media guaranties.

(h)<sup>111</sup> (1) There is authorized to be appropriated annually an amount to restore in whole or in part any realized impairment to the capital used in carrying on the authority to make informational media guaranties, as provided in subsection (c), through the end of the last completed fiscal year.

(2) Such impairment shall consist of the amount by which the losses incurred and interest accrued on notes exceed the revenue earned and any previous appropriations made for the restoration of impairment. Losses shall include the dollar losses on foreign currencies sold, and the dollar cost of foreign currencies which (a) the Secretary of the Treasury, after consultation with the Director, has determined to be unavailable for, in excess of, requirements of the United States, or (b) have been transferred to other accounts without reimbursement to the special account.

(3) Dollars appropriated pursuant to this section shall be applied to the payment of interest and in satisfaction of notes issued or assumed hereunder, and to the extent of such application to the principal of the notes, the Director is authorized to issue notes to the Secretary of the Treasury which will bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the guaranties. The currencies determined to be unavailable for, or in excess of requirements of the United States as provided above shall be transferred to the Secretary of the Treasury to be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts.

(4)<sup>112</sup> Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.

**SEC. 1012.<sup>113</sup> NATIONAL SECURITY MEASURES.**

(a) RESTRICTION.—In coordination with other appropriate executive branch officials, the Secretary of State shall take all appropriate steps to—

- (1) prevent any agent of a foreign power from participating in educational and cultural exchange programs under this Act;

<sup>111</sup> Sec. 502(i) of the Mutual Security Act of 1958 (72 Stat. 274) added subsec. (h).

<sup>112</sup> Sec. 304(f) of Public Law 97-241 (96 Stat. 293) added para. (4).

<sup>113</sup> 22 U.S.C. 1442a. Sec. 403 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-446), added sec. 1012.

(2) ensure that no person who is involved in the research, development, design, testing, evaluation, or production of missiles or weapons of mass destruction is a participant in any program of educational or cultural exchange under this Act if such person is employed by, or attached to, an entity within a country that has been identified by any element of the United States intelligence community (as defined by section 3(4) of the National Security Act of 1947) within the previous 5 years as having been involved in the proliferation of missiles or weapons of mass destruction; and

(3) ensure that no person who is involved in the research, development, design, testing, evaluation, or production of chemical or biological weapons for offensive purposes is a participant in any program of educational or cultural exchange under this Act.

(b) DEFINITIONS.—

(1) The term “appropriate executive branch officials” means officials from the elements of the United States Government listed pursuant to section 101 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105-272).

(2) The term “agent of a foreign power” has the same meaning as set forth in section 101(b)(1)(B) and (b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801), and does not include any person who acts in the capacity defined under section 101(b)(1)(A) of such Act.

**b. Educational, Cultural, and Public Diplomacy Authorities,  
Fiscal Year 2003**

**Partial text of Public Law 107-228 [H.R. 1646], 116 Stat. 1350, approved  
September 30, 2002**

AN ACT To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

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

**SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 2003”.

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF STATE AUTHORIZATION  
ACT, FISCAL YEAR 2003**

**TITLE I—AUTHORIZATIONS OF APPROPRIATIONS**

\* \* \* \* \*

**Subtitle B—Educational, Cultural, and Public Diplomacy  
Authorities**

**SEC. 221. FULBRIGHT-HAYS ACT AUTHORITIES.**

Section 112(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(d)) is amended—\* \* \*

**SEC. 222. EXTENSION OF REQUIREMENT FOR SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is amended \* \* \*

**SEC. 223. PLAN FOR ACHIEVEMENT OF PUBLIC DIPLOMACY OBJECTIVES.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

- (1) Full integration of public diplomacy policy into overall policy formulation and implementation.
- (2) Closer communication and policy coordination between public diplomacy officers and other officers in the regional bureaus of the Department and at overseas posts.

<sup>1</sup> 22 U.S.C. 2651 note.

(3) The creation of channels of direct communication between the public diplomacy officers in regional bureaus of the Department and the Under Secretary of State for Public Diplomacy.

(4) Minimizing any adverse consequences of public diplomacy officers in country posts reporting to the regional bureaus of the Department.

**SEC. 224.<sup>2</sup> ADVISORY COMMITTEE ON CULTURAL DIPLOMACY.**

(a) **ESTABLISHMENT.**—There is established an Advisory Committee on Cultural Diplomacy (in this section referred to as the “Advisory Committee”), which shall be composed of nine members, as follows:

(1) The Under Secretary of State for Public Diplomacy, who shall serve as Chair.

(2) The Assistant Secretary of State for Educational and Cultural Affairs.

(3) Seven members appointed pursuant to subsection (c).

(b) **DUTIES.**—The Advisory Committee shall advise the Secretary on programs and policies to advance the use of cultural diplomacy in United States foreign policy. The Advisory Committee shall, in particular, provide advice to the Secretary on—

(1) increasing the presentation abroad of the finest of the creative, visual, and performing arts of the United States; and

(2) strategies for increasing public-private partnerships to sponsor cultural exchange programs that promote the national interests of the United States.

(c) **APPOINTMENTS.**—The members of the Advisory Committee shall be appointed by the Secretary, not more than four of whom shall be from the same political party, from among distinguished Americans with a demonstrated record of achievement in the creative, visual, and performing arts, or international affairs. No officer or employee of the United States shall be appointed to the Advisory Committee.

(d) **VACANCIES.**—A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment.

(e) **MEETINGS.**—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least twice each year or as frequently as may be necessary to carry out its duties.

(f) **ADMINISTRATIVE SUPPORT.**—The Secretary is authorized to provide the Advisory Committee with necessary administrative support from among the staff of the Bureau of Educational and Cultural Affairs of the Department.

(g) **COMPENSATION.**—Members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(h) **EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act shall not apply to the Advisory

<sup>2</sup> 22 U.S.C. 2451 note.

Committee to the extent that the provisions of this section are inconsistent with that Act.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department such sums as may be necessary to carry out this section.

(j) **TERMINATION.**—The Advisory Committee shall terminate September 30, 2005.

**SEC. 225. ALLOCATION OF FUNDS FOR “AMERICAN CORNERS” IN THE RUSSIAN FEDERATION.**

(a) **FINDING.**—Congress finds that joint ventures with host libraries in the Russian Federation known as “American Corners” are an effective means—

(1) to provide information about United States history, government, society, and values;

(2) to provide access to computers and the Internet; and

(3) to leverage United States assistance and exchange programs in the Russian Federation.

(b) **ALLOCATION OF FUNDS.**—Of the amount authorized to be appropriated by section 112(1)(B) of this Act for the fiscal year 2003, \$500,000 is authorized to be available for “American Corner” centers operating in the Russian Federation.

**SEC. 226. REPORT RELATING TO COMMISSION ON SECURITY AND COOPERATION IN EUROPE.**

Section 5 of the Act entitled “An Act to establish a Commission on Security and Cooperation in Europe” (22 U.S.C. 3005) is amended to read as follows: \* \* \*

**SEC. 227.<sup>3</sup> AMENDMENTS TO THE VIETNAM EDUCATION FOUNDATION ACT OF 2000.** \* \* \*

**SEC. 228.<sup>4</sup> ETHICAL ISSUES IN INTERNATIONAL HEALTH RESEARCH.**

(a) **IN GENERAL.**—The Secretary shall make available funds for international exchanges to provide opportunities to researchers in developing countries to participate in activities related to ethical issues in human subject research, as described in subsection (c).

(b) **COORDINATION WITH OTHER PROGRAMS.**—The Secretary shall coordinate programs conducted pursuant to this section with similar programs that may be conducted by the United States Agency for International Development and other Federal agencies as part of United States international health programs, particularly with respect to research and treatment of infectious diseases.

(c) **ETHICAL ISSUES IN HUMAN SUBJECT RESEARCH.**—For purposes of subsection (a), the phrase “activities related to ethical issues in human subject research” includes courses of study, conferences, and fora on development of and compliance with international ethical standards for clinical trials involving human subjects, particularly with respect to responsibilities of researchers to individuals and local communities participating in such trials, and on management and monitoring of such trials based on such international ethical standards.

<sup>3</sup> 22 U.S.C. 2452 note.

<sup>4</sup> 22 U.S.C. 2464.

**SEC. 229. CONFORMING AMENDMENTS.**

Section 112(g) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(g)) is amended—\* \* \*

**c. United States Informational, Educational, and Cultural Programs Authorization, Fiscal Years 2000 and 2001**

**Title IV of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 [H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113], 113 Stat. 1536, approved November 29, 2000**

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

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

\* \* \* \* \*

**TITLE IV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS**

**Subtitle A—Authorities and Activities**

**SEC. 401. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) DESIGNATION OF NGAWANG CHOEPHEL EXCHANGE PROGRAMS.—Section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319) is amended by inserting after the first sentence the following: “Exchange programs under this subsection shall be known as the ‘Ngawang ChoepHEL Exchange Programs’.”

(b) SCHOLARSHIPS FOR TIBETANS AND BURMESE.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is amended by striking “for the fiscal year 1999” and inserting “for the fiscal year 2000”.

(c) SCHOLARSHIPS FOR PRESERVATION OF TIBET’S CULTURE, LANGUAGE, AND RELIGION.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is further amended by striking “Tibet,” and inserting “Tibet (whenever practical giving consideration to individuals who are active in the preservation of Tibet’s culture, language, and religion),”.

**SEC. 402. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

Section 102 of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2452 note) is amended to read as follows: \* \* \*



**SEC. 403. NATIONAL SECURITY MEASURES.**

The United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended by adding after section 1011 the following new section: \* \* \*<sup>1</sup>

**SEC. 404. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

(a) RESTORATION OF ADVISORY COMMISSION.—Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended to read as follows:

**“SEC. 1334. SUNSET OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

“The United States Advisory Commission on Public Diplomacy, established under section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operated under such provisions of law until October 1, 2001.”.

(b)<sup>2</sup> RETROACTIVITY OF EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998.

(c) REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW.—

(1) REENACTMENT.—The provisions of law repealed by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998, as in effect before the date of the enactment of this Act, are hereby reenacted into law.

(2) REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed.

(d)<sup>2</sup> CONTINUITY OF ADVISORY COMMISSION.—Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission.

(e)<sup>2</sup> REDUCTION IN STAFF AND BUDGET.—Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948, effective on the date of the enactment of this Act, the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999.

**SEC. 405. ROYAL ULSTER CONSTABULARY TRAINING.**

(a) TRAINING FOR THE ROYAL ULSTER CONSTABULARY.—No funds authorized to be appropriated by this or any other Act may be used to support any training or exchange program conducted by the Federal Bureau of Investigation or any other Federal law enforcement agency for the Royal Ulster Constabulary (in this section referred to as the “RUC”) or RUC members until the President submits to

<sup>1</sup>Sec. 403 added a new sec. 1012 to the USIEE Act of 1948 (22 U.S.C. 1442a).

<sup>2</sup>22 U.S.C. 1469 note.

the appropriate congressional committees the report required by subsection (b) and the certification described in subsection (c)(1).

(b) REPORT ON PAST TRAINING PROGRAMS.—The President shall report on training or exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the RUC or RUC members during fiscal years 1994 through 1999. Such report shall include—

(1) the number of training or exchange programs conducted during the period of the report;

(2) the number and rank of the RUC members who participated in such training or exchange programs in each fiscal year;

(3) the duration and location of such training or exchange programs; and

(4) a detailed description of the curriculum of the training or exchange programs.

(c) CERTIFICATION REGARDING FUTURE TRAINING ACTIVITIES.—

(1) IN GENERAL.—The certification described in this subsection is a certification by the President that—

(A) training or exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the RUC or RUC members are necessary to—

(i) improve the professionalism of policing in Northern Ireland; and

(ii) advance the peace process in Northern Ireland;

(B) such programs will include in the curriculum a significant human rights component;

(C) vetting procedures have been established in the Departments of State and Justice, and any other appropriate Federal agency, to ensure that training or exchange programs do not include RUC members who there are substantial grounds for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland; and

(D) the governments of the United Kingdom and the Republic of Ireland are committed to assisting in the full implementation of the recommendations contained in the Patten Commission report issued September 9, 1999.

(2) FISCAL YEAR 2001 APPLICATION.—The President shall make an additional certification under paragraph (1) before any Federal law enforcement agency conducts training for the RUC or RUC members in fiscal year 2001.

(3) APPLICATION TO SUCCESSOR ORGANIZATIONS.—The provisions of this subsection shall apply to any successor organization of the RUC.

**Subtitle B—Russian and Ukrainian Business Management Education****SEC. 421.<sup>3</sup> PURPOSE.**

The purpose of this subtitle is to establish a training program in Russia and Ukraine for nationals of those countries to obtain skills in business administration, accounting, and marketing, with special emphasis on instruction in business ethics and in the basic terminology, techniques, and practices of those disciplines, to achieve international standards of quality, transparency, and competitiveness.

**SEC. 422.<sup>3</sup> DEFINITIONS.**

In this subtitle:

(1) **DISTANCE LEARNING.**—The term “distance learning” means training through computers, interactive videos, teleconferencing, and videoconferencing between and among students and teachers.

(2) **ELIGIBLE ENTERPRISE.**—The term “eligible enterprise” means—

(A) in the case of Russia—

(i) a business concern operating in Russia that employs Russian nationals in Russia; or

(ii) a private enterprise that is being formed or operated by former officers of the Russian armed forces in Russia; and

(B) in the case of Ukraine—

(i) a business concern operating in Ukraine that employs Ukrainian nationals in Ukraine; or

(ii) a private enterprise that is being formed or operated by former officers of the Ukrainian armed forces in Ukraine.

(3) **ELIGIBLE NATIONAL.**—The term “eligible national” means the employee of an eligible enterprise who is employed in the program country.

(4) **PROGRAM.**—The term “program” means the program of technical assistance established under section 423.

(5) **PROGRAM COUNTRY.**—The term “program country” means—

(A) Russia in the case of any eligible enterprise operating in Russia that receives technical assistance under the program; or

(B) Ukraine in the case of any eligible enterprise operating in Ukraine that receives technical assistance under the program.

**SEC. 423.<sup>3</sup> AUTHORIZATION FOR TRAINING PROGRAM AND INTERSHIPS.**

(a) **TRAINING PROGRAM.**—

(1) **IN GENERAL.**—The President is authorized to establish a program of technical assistance to provide the training described in section 421 to eligible enterprises.

<sup>3</sup> 22 U.S.C. 5812 note.

(2) IMPLEMENTATION.—Training shall be carried out by United States nationals having expertise in business administration, accounting, and marketing or by eligible nationals who have been trained under the program. Such training may be carried out—

(A) in the offices of eligible enterprises, at business schools or institutes, or at other locations in the program country, including facilities of the armed forces of the program country, educational institutions, or in the offices of trade or industry associations, with special consideration given to locations where similar training opportunities are limited or nonexistent; or

(B) by “distance learning” programs originating in the United States or in European branches of United States institutions.

(b) INTERNSHIPS WITH UNITED STATES DOMESTIC BUSINESS CONCERNS.—Authorized program costs may include the travel expenses and appropriate in-country business English language training, if needed, of eligible nationals who have completed training under the program to undertake short-term internships with business concerns in the United States.

**SEC. 424.<sup>3</sup> APPLICATIONS FOR TECHNICAL ASSISTANCE.**

(a) PROCEDURES.—

(1) IN GENERAL.—Each eligible enterprise that desires to receive training for its employees and managers under this subtitle shall submit an application to the clearinghouse under subsection (c), at such time, in such manner, and accompanied by such additional information as may reasonably be required.

(2) JOINT APPLICATIONS.—A consortium of eligible enterprises may file a joint application under the provisions of paragraph (1).

(b) CONTENTS.—An application under subsection (a) may be approved only if the application—

(1) is for an individual or individuals employed in an eligible enterprise or enterprises applying under the program;

(2) describes the level of training for which assistance under this subtitle is sought;

(3) provides evidence that the eligible enterprise meets the general policies adopted for the administration of this subtitle;

(4) provides assurances that the eligible enterprise will pay a share of the costs of the training, which share may include in-kind contributions; and

(5) provides such additional assurances as are determined to be essential to ensure compliance with the requirements of this subtitle.

(c) CLEARINGHOUSE.—A clearinghouse shall be established or designated in each program country to manage and execute the program in that country. The clearinghouse shall screen applications, provide information regarding training and teachers, monitor performance of the program, and coordinate appropriate post-program follow-on activities.

**SEC. 425.<sup>3</sup> RESTRICTIONS NOT APPLICABLE.**

Prohibitions on the use of foreign assistance funds for assistance for the Russian Federation or for Ukraine shall not apply with respect to the funds made available to carry out this subtitle.

**SEC. 426.<sup>3</sup> AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There is authorized to be appropriated \$10,000,000 for the fiscal year 2000 and \$10,000,000 for the fiscal year 2001 to carry out this subtitle.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated under subsection (a) are authorized to remain available until expended.

**d. United States Informational, Educational, and Cultural Programs Authorization, Fiscal Years 1998 and 1999**

**Title XXIV of Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998**

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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

\* \* \* \* \*

**DIVISION G—FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998**

\* \* \* \* \*

**SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION**

\* \* \* \* \*

**TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS**

**CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL INFORMATION PROGRAMS.—For “International Information Programs”, \$427,097,000 for the fiscal year 1998 and \$455,246,000 for the fiscal year 1999.

(2) TECHNOLOGY FUND.—For the “Technology Fund” for the United States Information Agency, \$5,050,000 for the fiscal year 1998 and \$5,050,000 for the fiscal year 1999.

(3) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—There are authorized to be appropriated for the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$99,236,000 for the fiscal year 1998 and \$100,000,000 for the fiscal year 1999.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—Of the amounts authorized to be appropriated under clause (i), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be available for the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—There are authorized to be appropriated for other educational and cultural exchange programs authorized by law, \$100,764,000 for the fiscal year 1998 and \$102,500,000 for the fiscal year 1999.

(ii) SOUTH PACIFIC EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “South Pacific Exchanges”.

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “East Timorese Scholarships”.

(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “Educational and Cultural Exchanges with Tibet” under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236).

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For “International Broadcasting Activities”, \$340,315,000 for the fiscal year 1998, and \$340,365,000 for the fiscal year 1999.

(B) ALLOCATION.—Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) RADIO CONSTRUCTION.—For “Radio Construction”, \$40,000,000 for the fiscal year 1998, and \$13,245,000 for the fiscal year 1999.

(6) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,100,000 for the fiscal year 1998 and \$22,000,000 for the fiscal year 1999, and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

(7) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$22,095,000 for the fiscal year 1998 and \$22,095,000 for the fiscal year 1999.

(8) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, not more than \$12,000,000 for the fiscal year 1998 and not more than \$12,500,000 for the fiscal year 1999.

(9) NATIONAL ENDOWMENT FOR DEMOCRACY.—For the “National Endowment for Democracy”, \$30,000,000 for the fiscal year 1998 and \$31,000,000 for the fiscal year 1999.

(10) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.—For “Center for Cultural and Technical Interchange between North and South” not more than \$1,500,000 for the fiscal year 1998 and not more than \$1,750,000 for the fiscal year 1999.

## CHAPTER 2—AUTHORITIES AND ACTIVITIES

### SEC. 2411.<sup>1</sup> RETENTION OF INTEREST.

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.

### SEC. 2412. USE OF SELECTED PROGRAM FEES.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows: \* \* \*

### SEC. 2413. MUSKIE FELLOWSHIP PROGRAM.

(a) GUIDELINES.—Section 227(c)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended by inserting “journalism and communications, education administration, public policy, library and information science,” after “business administration,” each of the two places it appears.

(b) REDESIGNATION OF SOVIET UNION.—Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

(1) in subsections (a), (b), and (c)(5), by striking “Soviet Union” each place it appears and inserting “independent states of the former Soviet Union”;

(2) in subsection (c)(11), by striking “Soviet republics” and inserting “independent states of the former Soviet Union”; and

<sup>1</sup> 22 U.S.C. 4416.



(3) in the section heading, by inserting “**INDEPENDENT STATES OF THE FORMER**” after “**FROM THE**”.

**SEC. 2414. WORKING GROUP ON UNITED STATES GOVERNMENT-SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.**

Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following new subsection: \* \* \*

**SEC. 2415. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) **IN GENERAL.**—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319; 22 U.S.C. 2151 note) is amended—

(1) by striking “for fiscal year 1997” and inserting “for the fiscal year 1999”; and

(2) by inserting after “who are outside Tibet” the following: “(if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language)”.

(b)<sup>2</sup> **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 1998.

**SEC. 2416. SURROGATE BROADCASTING STUDY.**

Not later than 6 months after the date of enactment of this Act, the Broadcasting Board of Governors, acting through the International Broadcasting Bureau, should conduct and complete a study of the appropriateness, feasibility, and projected costs of providing surrogate broadcasting service to Africa and transmit the results of the study to the appropriate congressional committees.

**SEC. 2417. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.**

(a) **RADIO FREE IRAN.**—Not more than \$2,000,000 of the funds made available under section 2401(a)(4) of this division for each of the fiscal years 1998 and 1999 for grants to RFE/RL, Incorporated, shall be available only for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iranian people in the Farsi language, such broadcasts to be designated as “Radio Free Iran”.

(b) **REPORT TO CONGRESS.**—Not later than 60 days after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing the costs, implementation, and plans for creation of the surrogate broadcasting service described in subsection (a).

(c) **AVAILABILITY OF FUNDS.**—None of the funds made available under subsection (a) may be made available until submission of the report required under subsection (b).

**SEC. 2418.<sup>3</sup> AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.**

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to replacement requirements.

<sup>2</sup> 22 U.S.C. 2452 note.

<sup>3</sup> 22 U.S.C. 1474 note.

**SEC. 2419. PERMANENT ADMINISTRATIVE AUTHORITIES REGARDING APPROPRIATIONS.**

Section 701(f) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476(f)) is amended by striking paragraph (4).

**SEC. 2420.<sup>4</sup> VOICE OF AMERICA BROADCASTS.**

(a) **IN GENERAL.**—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

(1) information on the products, tourism, and cultural and educational facilities of each State;

(2) information on the potential for trade with each State; and

(3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Congress detailing the actions that have been taken to carry out subsection (a).

(c) **STATE DEFINED.**—In this section, the term “State” means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

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<sup>4</sup> 22 U.S.C. 6202 note.

**e. Human Rights, Refugee, and Other Foreign Relations  
Provisions Act of 1996**

Partial text of Public Law 104-319 [H.R. 4036], 110 Stat. 3864, approved October 19, 1996; as amended by Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999

AN ACT Making certain provisions with respect to internationally recognized human rights, refugees, and foreign relations.

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

**SECTION 1.<sup>1</sup> SHORT TITLE.**

This Act may be cited as the “Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996”.

**SEC. 2. TABLE OF CONTENTS.**

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

**TITLE I—FOREIGN RELATIONS PROVISIONS**

**SEC. 101. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.**

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended \* \* \*<sup>2</sup>

**SEC. 102.<sup>3</sup> CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

(a) IN GENERAL.—In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy, the Secretary of State, with the assistance of the Under Secretary of State for Public Diplomacy, shall provide, where appropriate, opportunities for significant participation in such programs to nationals of such countries who are—

- (1) human rights or democracy leaders of such countries; or
- (2) committed to advancing human rights and democratic values in such countries.

<sup>1</sup>22 U.S.C. 2151 note.

<sup>2</sup>See *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>3</sup>22 U.S.C. 2452 note. Sec. 402 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-445), amended and restated sec. 102. It previously read as follows:

**“SEC. 102. CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

“In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy (including but not limited to China, Vietnam, Cambodia, Tibet, and Burma), the Director of the United States Information Agency shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.”

(b) **GRANTEE ORGANIZATIONS.**—To the extent practicable, grantee organizations selected to operate programs described in subsection (a) shall be selected through an open competitive process. Among the factors that should be considered in the selection of such a grantee are the willingness and ability of the organization to—

(1) recruit a broad range of participants, including those described in paragraphs (1) and (2) of subsection (a); and

(2) ensure that the governments of the countries described in subsection (a) do not have inappropriate influence in the selection process.

**SEC. 103. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) **ESTABLISHMENT OF EDUCATIONAL AND CULTURAL EXCHANGE FOR TIBETANS.**—The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad. Exchange programs under this subsection shall be known as the “Ngawang Choephel Exchange Programs”.<sup>4</sup>

(b) **SCHOLARSHIPS FOR TIBETANS AND BURMESE.**—

(1) Subject to the availability of appropriations, for the fiscal year 2000<sup>5</sup> at least 30 scholarships shall be made available to Tibetan students and professionals who are outside Tibet (whenever practical giving consideration to individuals who are active in the preservation of Tibet’s culture, language, and religion), (if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language)<sup>6</sup> and at least 15 scholarships shall be made available to Burmese students and professionals who are outside Burma.

(2) **WAIVER.**—Paragraph (1) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

(3) **SCHOLARSHIP DEFINED.**—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment

<sup>4</sup> 22 U.S.C. 2452 note. Sec. 401(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-445), inserted this sentence.

<sup>5</sup> Sec. 401(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-445), struck out “for the fiscal year 1999” and inserted in lieu thereof “for the fiscal year 2000”. Previously, sec. 2415(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-834), struck out “for fiscal year 1997” and inserted in lieu thereof “for the fiscal year 1999”.

<sup>6</sup> Sec. 2415(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-834), inserted after “who are outside Tibet” the following parenthetical phrase: (if practicable, including individuals active in the preservation of Tibet’s unique culture, religion, and language). Subsequently, sec. 401(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-445), struck out “Tibet,” and inserted in lieu thereof “Tibet (whenever practical giving consideration to individuals who are active in the preservation of Tibet’s culture, language, and religion),” resulting in the redundant and awkward language.

required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

**SEC. 104. INTERNATIONAL BOUNDARY AND WATER COMMISSION.**

The Act of May 13, 1924 (49 Stat. 660, 22 U.S.C. 277-277f), is amended in section 3 (22 U.S.C. 277b) by adding at the end the following new subsection:

“(d) Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.”

**TITLE II—FOREIGN ASSISTANCE PROVISIONS<sup>7</sup>**

\* \* \* \* \*

**TITLE III—CLAIBORNE PELL INSTITUTE FOR INTERNATIONAL RELATIONS AND PUBLIC POLICY<sup>8</sup>**

\* \* \* \* \*

<sup>7</sup>For title II, see *Legislation on Foreign Relations Through 2005*, vol. I-B for freestanding section relating to foreign assistance to Mauritania, and vol. I-A, Foreign Assistance Act of 1961, secs. 116 and 502B as amended.

<sup>8</sup>See 110 Stat. 3867.

**f. United States Information Agency Authorization, Fiscal Years 1994 and 1995**

Partial text of Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 420, approved April 30, 1994; as amended by Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1536, approved November 29, 1999; and Public Law 107-148 [Radio Free Afghanistan Act; H.R. 2998], 116 Stat. 64, approved March 11, 2002

NOTE.—Sections of this title amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**PART A—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out international information activities, and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the Inspector General Act of 1978, the Center for Cultural and Technical Interchange Between North and South Act, the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1)<sup>1</sup> SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$487,988,000 for the fiscal year 1994 and \$494,862,000 for the fiscal year 1995.

<sup>1</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103-121; 108 Stat. 1190), provided \$730,000,000 for salaries and expenses.

Title II, chapter 2 of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103-211; 108 Stat. 16) required \$2,000,000 of the funds made available under this heading in Public Law 103-121 to be used to carry out projects involving security construction and related

(2)<sup>2</sup> EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the “Fulbright Academic Exchange Programs”, \$130,538,000 for the fiscal year 1994 and \$126,312,000 for the fiscal year 1995.

(B) OTHER PROGRAMS.—For “Hubert H. Humphrey Fellowship Program”, “Edmund S. Muskie Fellowship Program”, “International Visitors Program”, “Israeli-Arab Scholarship Program”, “Mike Mansfield Fellowship Program”, “Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation”, “Citizen Exchange Programs”, “Congress-Bundestag Exchange Program”, “Newly Independent States and Eastern Europe Training”, “Institute for Representative Government”, “American Studies Collections”, “South Pacific Exchanges”, “East Timorese Scholarships”, “Cambodian Scholarships”, and “Arts America”, \$96,962,000 for the fiscal year 1994 and \$97,046,000 for the fiscal year 1995.

(3)<sup>3</sup> BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$21,000,000 for the fiscal year 1994 and \$27,609,000 for the fiscal year 1995.

(4)<sup>4</sup> INTERNATIONAL BROADCASTING ACTIVITIES.—For “International Broadcasting Activities” under title III, \$541,676,000 for the fiscal year 1994, and \$609,740,000 for the fiscal year 1995.

(5)<sup>5</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$4,247,000 for the fiscal year 1994 and \$4,396,000 for the fiscal year 1995.

improvements for Agency facilities not physically located together with Department of State facilities abroad. Title III, chapter 2 of the same Act (108 Stat. 27), rescinded \$2,000,000 from salaries and expenses.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1769), provided \$476,362,000.

<sup>2</sup>The Department of State and Related Agencies Appropriations Act, 1994 (Title V of Public Law 103–121; 108 Stat. 1191), provided \$242,000,000 for educational and cultural exchange programs.

Title III, chapter 2, of Public Law 103–211 (108 Stat. 28), rescinding certain budget authority, however, rescinded \$850,000.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1770), provided \$238,279,000, of which \$500,000 was to be made available for the Mike Mansfield Fellowship Program.

<sup>3</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1192), provided \$14 million for radio broadcasting to Cuba and \$7 million for television broadcasting to Cuba for fiscal year 1994. That Act also established an Advisory Panel on Radio Marti and TV Marti. For provisos relating to appropriations, and function of the Advisory Panel, see Public Law 103–121.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1772), provided \$24,809,000 for radio and television transmission to Cuba.

<sup>4</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1189), provided \$210,000,000 for grants and expenses.

Title III, chapter 2, of Public Law 103–211 (108 Stat. 27, 28), rescinding certain budget authority, however, rescinded \$1,700,000 for the Israel relay station, and another \$2,000,000 for radio construction.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103–317; 108 Stat. 1770) provided \$468,796,000.

<sup>5</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1190), provided \$4,247,000 for the Office of Inspector General.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1769), provided \$4,300,000.

(6)<sup>6</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For “Center for Cultural and Technical Interchange between East and West”, \$26,000,000 for the fiscal year 1994 and \$24,500,000 for the fiscal year 1995.

(7)<sup>7</sup> TITLE V OF PUBLIC LAW 98–164.—To carry out title V of Public Law 98–164, \$35,000,000 for the fiscal year 1994 and \$35,000,000 for the fiscal year 1995.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for “Salaries and Expenses” under section 201(a)(1) for fiscal year 1995, \$500,000 is authorized to be appropriated for expenses and activities related to United States participation in the 1996 Budapest World’s Fair (Budapest Expo ’96).

(2) Of the amounts authorized to be appropriated for “Fulbright Academic Exchange Programs” under subsection (a)(2)(A)—

(A) \$3,000,000 is authorized to be available for fiscal year 1995 for the Vietnam Scholarship Program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138); and

(B) \$1,500,000 is authorized to be available for fiscal year 1994 and \$2,000,000 is authorized to be available for fiscal year 1995, for the “Environment and Sustainable Development Exchange Program” established by section 241.

(3) Of the amounts authorized to be appropriated for “Other Programs” under subsection (a)(2)(B) \$1,000,000 is authorized to be available for each of the fiscal years 1994 and 1995 for the “American Studies Collections” program established under section 235.

PART B—USIA AND RELATED AGENCIES AUTHORITIES AND ACTIVITIES

SEC. 221. USIA OFFICE IN LHASA, TIBET.

(a) ESTABLISHMENT OF OFFICE.—The Director of the United States Information Agency shall seek to establish an office in Lhasa, Tibet, for the purpose of—

- (1) disseminating information about the United States;
- (2) promoting discussions on conflict resolution and human rights;
- (3) facilitating United States private sector involvement in educational and cultural activities in Tibet; and
- (4) advising the United States Government with respect to Tibetan public opinion.

<sup>6</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1191), provided \$26,000,000 for the East-West Center.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1772), provided \$24,500,000.

<sup>7</sup>The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 108 Stat. 1194), provided \$35,000,000 for the National Endowment for Democracy.

For fiscal year 1995, the Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1772), provided \$34,000,000 for the National Endowment for Democracy.



(b) REPORT BY THE DIRECTOR OF USIA.—Not later than April 1 of each year, the Director of the United States Information Agency shall submit a detailed report on developments relating to the implementation of this section to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>8</sup> of the House of Representatives.

**SEC. 222.<sup>9</sup> CHANGES IN ADMINISTRATIVE AUTHORITIES.** \* \* \*

**SEC. 223.<sup>10</sup> EMPLOYMENT AUTHORITY.**

For fiscal years 1994 and 1995, the Director of the United States Information Agency may, in carrying out the provisions of the United States Information and Educational Exchange Act of 1948, employ individuals or organizations by contract for services to be performed in the United States or abroad, who shall not, by virtue of such employment, be considered to be employees of the United States Government for the purposes of any law administered by the Office of Personnel Management, except that the Director may determine the applicability to such individuals of section 804(5) of that Act.

**SEC. 224.<sup>11</sup> BUYING POWER MAINTENANCE ACCOUNT.** \* \* \*

**SEC. 225.<sup>12</sup> CONTRACT AUTHORITY.** \* \* \*

**SEC. 226.<sup>13</sup>** \* \* \* [Repealed—2002]

**SEC. 227.<sup>14</sup> FULBRIGHT-HAYS ACT AUTHORITIES.** \* \* \*

**SEC. 228.<sup>15</sup> SEPARATE LEDGER ACCOUNTS FOR NED GRANTEEES.** \* \* \*

**SEC. 229. COORDINATION OF UNITED STATES EXCHANGE PROGRAMS.**

(a)<sup>16</sup> \* \* \*

(b) REPORT BY THE DIRECTOR OF USIA.—Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit to the Committee on Foreign Affairs<sup>8</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate a report—

- (1) detailing the range of exchange programs administered by the Agency;
- (2) identifying possible areas of duplication of inefficiency; and
- (3) recommending program consolidation and administrative restructuring as warranted.

<sup>8</sup>Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>9</sup>Sec. 222 amended sec. 801 of the United States Informational and Educational Exchange Act of 1948.

<sup>10</sup>22 U.S.C. 1474 note.

<sup>11</sup>Sec. 224 amended sec. 704(c) of the United States Information and Educational Exchange Act of 1948 to establish the Buying Power Maintenance account.

<sup>12</sup>Sec. 225 amended sec. 802(b) of the United States Information and Educational Exchange Act of 1948 relating to the distribution of radio and television programs.

<sup>13</sup>Sec. 4 of the Radio Free Afghanistan Act (Public Law 107–148; 116 Stat. 65) repealed sec. 226, which had prohibited the obligation or expenditure of any funds for the design, development, or construction of a U.S. short-wave radio transmitter in Kuwait.

<sup>14</sup>Sec. 227 amended the Fulbright-Hays Act (Public Law 87–256; 22 U.S.C. 2455) at sec. 105(a).

<sup>15</sup>Sec. 228 amended sec. 504(h)(1) of the National Endowment for Democracy Act (title V of Public Law 96–164; 22 U.S.C. 4413(h)(1)).

<sup>16</sup>Sec. 229(a) amended sec. 112 of the Mutual Educational and Cultural Exchange Act of 1961.

**SEC. 230.**<sup>17</sup> \* \* \* [Repealed—1999]

**SEC. 231.**<sup>18</sup> **PRIVATE SECTOR OPPORTUNITIES.** \* \* \*

**SEC. 232.**<sup>19</sup> **AUTHORITY TO RESPOND TO PUBLIC INQUIRIES.** \* \* \*

**SEC. 233.**<sup>20</sup> **TECHNICAL AMENDMENT RELATING TO NEAR AND MIDDLE EAST RESEARCH AND TRAINING.** \* \* \*

**SEC. 234. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS OF THE UNITED STATES INFORMATION AGENCY.**

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461),<sup>21</sup> the Director of the United States Information Agency may make available for distribution within the United States the following:

- (1) The United States Information Agency's Thomas Jefferson Paper Show, which commemorates the 250th anniversary of the birth of Thomas Jefferson.
- (2) The documentary entitled "Crimes Against Humanity", a film about the ensuing conflict in the former Yugoslavia.

**SEC. 235.**<sup>22</sup> **AMERICAN STUDIES COLLECTIONS.**

(a) **AUTHORITY.**—In order to promote a thorough understanding of the United States among emerging elites abroad, the Director of the United States Information Agency is authorized to establish and support collections at appropriate university libraries abroad to further the study of the United States, and to enter into agreements with such universities for such purposes.

(b) **DESIGN AND DEVELOPMENT.**—Such collections—

- (1) shall be developed in consultation with United States associations and organizations of scholars in the principal academic disciplines in which American studies are conducted; and
- (2) shall be designed primarily to meet the needs of undergraduate and graduate students of American studies.

(c) **SITE SELECTION.**—In selecting universities abroad as sites for such collections, the Director shall—

- (1) ensure that such universities are able, within a reasonable period of the establishment of such collections, to assume responsibility for their maintenance in current form;

<sup>17</sup> Formerly at 22 U.S.C. 2452 note. Sec. 204 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–420), stated limitations on the Department of State in obligating funds for international expositions; see 22 U.S.C. 2452b. Sec. 204(e) of that law also repealed sec. 230, which had provided as follows:

**"SEC. 230. LIMITATION CONCERNING PARTICIPATION IN INTERNATIONAL EXPOSITIONS.**

"Notwithstanding any other provision of law, the United States Information Agency shall not obligate or expend any funds for a United States Government funded pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose."

<sup>18</sup> Sec. 231 amended the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87–256) at sec. 104(e)(4).

<sup>19</sup> Sec. 232 amended sec. 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 22 U.S.C. 1461–1a).

<sup>20</sup> Sec. 233 amended sec. 228(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 22 U.S.C. 2452 note).

<sup>21</sup> See box note at page 1436–1437.

<sup>22</sup> 22 U.S.C. 2452 note.

(2) ensure that undergraduate and graduate students shall enjoy reasonable access to such collections; and

(3) include in any agreement entered into between the United States Information Agency and a university abroad, terms embodying a contractual commitment of such maintenance and access under this subsection.

(d) FUNDING.—

(1) The Director of the United States Information Agency is authorized to establish an endowment fund (hereafter in this section referred to as the “fund”) to carry out the purposes of this section and to enter into such agreements as may be necessary to carry out the purposes of this section.

(2)(A) The Director shall make deposits to the fund of amounts appropriated or otherwise made available to carry out this section.

(B) The Director is authorized to accept, use, and dispose of gifts of donations of services or property to carry out this section. Sums donated to carry out the purposes of this section shall be deposited into the fund.

(3) The corpus of the fund shall be invested in federally-insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, obligations of the United States, or other low-risk instruments and securities.

(4) The Director may withdraw or expend amounts from the fund for any expenses necessary to carry out the purposes of this section.

(e) AVAILABILITY OF AUTHORIZATIONS OF APPROPRIATIONS.—Authorizations of appropriations for the purposes of this section shall be available without fiscal year limitation and shall remain available until used.

**SEC. 236.<sup>22</sup> EDUCATIONAL AND CULTURAL EXCHANGES WITH TIBET.**

The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad.<sup>23</sup>

**SEC. 237.<sup>22</sup> SCHOLARSHIPS FOR EAST TIMORESE STUDENTS.**

Notwithstanding any other provision of law, the Bureau of Educational and Cultural Affairs of the United States Information Agency shall make available for each of the fiscal years 1994 and 1995, scholarships for East Timorese students qualified to study in the United States for the purpose of studying at the undergraduate level in a United States college or university. Each scholarship made available under this subsection shall be for not less than one semester of study.

<sup>22</sup>Sec. 2401(3)(iv) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–831), provided:

“(iv) TIBETAN EXCHANGES.—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for ‘Educational and Cultural Exchanges with Tibet’ under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236).”

**SEC. 238.<sup>22</sup> CAMBODIAN SCHOLARSHIP AND EXCHANGE PROGRAMS.**

(a) **PURPOSE.**—It is the purpose of this section to provide financial assistance—

- (1) to establish a scholarship program for Cambodian college and post-graduate students to study in the United States; and
- (2) to expand Cambodian participation in exchange programs of the United States Information Agency.

(b) **PROGRAM.**—(1) The Director of the United States Information Agency shall establish a scholarship program to enable Cambodian college students and post-graduate students to study in the United States.

(2) The Director of the United States Information Agency shall also include qualified Cambodian citizens in exchange programs funded or otherwise sponsored by the Agency, in particular the Fulbright Academic Program, the International Visitor Program, and the Citizen Exchange Program.

(c) **DEFINITION.**—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

**SEC. 239.<sup>22</sup> INCREASING AFRICAN PARTICIPATION IN USIA EXCHANGE PROGRAMS.**

The Director of the United States Information Agency shall expand exchange program allocations to Africa, in particular Fulbright Academic Exchanges, International Visitor Programs, and Citizen Exchanges, and shall further encourage a broadening of affiliations and links between United States and African institutions.

**SEC. 240.<sup>22</sup> ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.**

(a) **PURPOSE.**—The purpose of this section is to establish a program to promote academic exchanges in disciplines relevant to environment and sustainable development.

(b) **PROGRAM AUTHORITY.**—Notwithstanding any other provision of law, the Director of the United States Information Agency, through the Bureau of Educational and Cultural Affairs, shall provide scholarships beginning in the fiscal year 1994, and for each fiscal year thereafter, for study at United States institutions of higher education in furtherance of the purpose of this section for foreign students who have completed their undergraduate education and for postsecondary educators.

(c) **GUIDELINES.**—The scholarship program under this section shall be carried out in accordance with the following guidelines:

- (1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

- (2) The United States Information Agency shall administer this program under the auspices of the Fulbright Academic Exchange Program.

(3) The United States Information Agency shall ensure the regional diversity of this program through the selection of candidates from Asia, Africa, Latin America, as well as Europe and the Middle East.

(d) DEFINITION.—For purposes of this section, the term “institution of higher education” has the same meaning given to such term by section 101<sup>24</sup> of the Higher Education Act of 1965.

**SEC. 241.<sup>22</sup> SOUTH PACIFIC EXCHANGE PROGRAMS.**

(a) AUTHORIZED PROGRAMS.—The Director of the United States Information Agency is authorized to award academic scholarships to qualified students from the sovereign nations of the South Pacific region to pursue undergraduate and postgraduate study at institutions of higher education in the United States; to make grants to accomplished United States scholars and experts to pursue research, to teach, or to offer training in such nations; and to make grants for youth exchanges.

(b) LIMITATION.—Grants awarded to United States scholars and experts may not exceed 10 percent of the total funds awarded for any fiscal year for programs under this section.

**SEC. 242.<sup>22</sup> INTERNATIONAL EXCHANGE PROGRAMS INVOLVING DISABILITY RELATED MATTERS.**

(a) AUTHORITY.—In carrying out the authorities of section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)), the President shall ensure that such authorities are used to promote educational, cultural, medical, and scientific meetings, training, research, visits, interchanges, and other activities, with respect to disability matters, including participation by individuals with disabilities (within the meaning of section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)) in such activities, through such nonprofit organizations as have a demonstrated capability to coordinate exchange programs involving disability-related matters.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to Congress describing implementation of the requirements of this section.

(c) ANNUAL SUMMARY OF ACTIVITIES.—As part of the Congressional presentation materials submitted in connection with the annual budget request for the United States Information Agency, the Director of the Agency shall include a summary of the international exchange activities which meet the requirements of this section.

**PART C—MIKE MANSFIELD FELLOWSHIPS**

**SEC. 251.<sup>25</sup> SHORT TITLE.**

This part may be cited as the “Mike Mansfield Fellowship Act”.

<sup>24</sup> Sec. 102(a)(7)(A) of Public Law 105–244 (112 Stat. 1619) struck out “1201(a)” and inserted in lieu thereof “101”.

<sup>25</sup> 22 U.S.C. 6101 note.

**SEC. 252.<sup>26</sup> ESTABLISHMENT OF FELLOWSHIP PROGRAM.**

(a) ESTABLISHMENT.—(1) There is hereby established the “Mike Mansfield Fellowship Program” pursuant to which the Director of the United States Information Agency will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each (or, pursuant to section 253(5)(C), for such shorter period of time as the Center may determine based on a Fellow’s level of proficiency in the Japanese language or knowledge of the political economy of Japan) as follows:

(A) During the first year each fellowship recipient will study the Japanese language as well as Japan’s political economy.

(B) During the second year each fellowship recipient will serve as a fellow in a parliamentary office, ministry, or other agency of the Government of Japan or, subject to the approval of the Center, a nongovernmental Japanese institution associated with the interests of the fellowship recipient, and the agency of the United States Government from which the fellow originated, consistent with the purposes of this part.

(2) Fellowships under this part may be known as “Mansfield Fellowships”, and individuals awarded such fellowships may be known as “Mansfield Fellows”.

(b) ELIGIBILITY OF CENTER FOR GRANTS.—Grants may be made to the Center under this section only if the Center agrees to comply with the requirements of section 253.

(c) INTERNATIONAL AGREEMENT.—The Director of the United States Information Agency should enter into negotiations for an agreement with the Government of Japan for the purpose of placing fellows in the Government of Japan.

(d) PRIVATE SOURCES.—The Center is authorized to accept, use, and dispose of gifts or donations of services or property in carrying out the fellowship program, subject to the review and approval of the Director of the United States Information Agency.

(e) USE OF FEDERAL FACILITIES.—The National Foreign Affairs Training Center is authorized and encouraged to assist, on a reimbursable basis, in carrying out Japanese language training by the Center through the provision of teachers, classroom space, teaching materials, and facilities, to the extent that such provision is not detrimental to the Institute’s carrying out its other responsibilities under law.

**SEC. 253.<sup>27</sup> PROGRAM REQUIREMENTS.**

The program established under this part shall comply with the following requirements:

(1) United States citizens who are eligible for fellowships under this part shall be employees of the Federal Government having at least two years experience in any branch of the Government, a strong career interest in United States-Japan relations, and a demonstrated commitment to further service in the Federal Government, and such other qualifications as are determined by the Center.

<sup>26</sup> 22 U.S.C. 6101.

<sup>27</sup> 22 U.S.C. 6102.

(2) Not more than 10 fellowships may be awarded each year of which not more than 3 shall be awarded to individuals who are not detailed employees of the Government.

(3)(A) Fellows shall agree to maintain satisfactory progress in language training and appropriate behavior in Japan, as determined by the Center, as a condition of continued receipt of Federal funds.

(B) Fellows who are not detailees shall agree to return to the Federal Government for further employment for a period of at least 2 years following the end of their fellowships, unless, in the determination of the Center, the fellow is unable (for reasons beyond the fellow's control and after receiving assistance from the Center as provided in paragraph (8)) to find reemployment for such period.

(4) During the period of the fellowship, the Center shall provide—

(A) to each fellow who is not a detailee a stipend at a rate of pay equal to the rate of pay that individual was receiving when he or she entered the program, plus a cost-of-living adjustment calculated at the same rate of pay, and for the same period of time, for which such adjustments were made to the salaries of individuals occupying competitive positions in the civil service during the same period as the fellowship; and

(B) to each fellow (including detailees) certain allowances and benefits as that individual would have been entitled to, but for his or her separation from Government service, as a United States Government civilian employee overseas under the Standardized Regulations (Government Civilians, Foreign Areas) of the Department of State, as follows: a living quarters allowance to cover the higher cost of housing in Japan, a post allowance to cover the significantly higher costs of living in Japan, an education allowance to assist parents in providing their children with educational services ordinarily provided without charge by United States public schools, moving expenses of up to \$1,000 for personal belongings of fellows and their families in their move to Japan and one-round-trip economy-class airline ticket to Japan for each fellow and the fellow's immediate family.

(5)(A) For the first year of each fellowship, the Center shall provide fellows with intensive Japanese language training in the Washington, D.C., area, as well as courses in the political economy of Japan.

(B) Such training shall be of the same quality as training provided to Foreign Service officers before they are assigned to Japan.

(C) The Center may waive any or all of the training required by subparagraph (A) to the extent that a fellow has Japanese language skills or knowledge of Japan's political economy, and the 2-year fellowship period shall be shortened to the extent such training is less than one year.

(6) Any fellow who is not a detailee who does not comply with the requirements of this section shall reimburse the

United States Information Agency for the Federal funds expended for the Fellow's participation in the fellowship, together with interest on such funds (calculated at the prevailing rate), as follows:

(A) Full reimbursement for noncompliance with paragraph (3)(A) or (9).

(B) Pro rata reimbursement for noncompliance with paragraph (3)(B) for any period the fellow is reemployed by the Federal Government that is less than the period specified in paragraph (3)(B), at a rate equal to the amount the fellow received during the final year of the fellowship for the same period of time, including any allowances and benefits provided under paragraph (4).

(7) The Center shall select fellows based solely on merit. The Center shall make positive efforts to recruit candidates reflecting the cultural, racial, and ethnic diversity of the United States.

(8) The Center shall assist, to the extent possible, any fellow who is not a detailee in finding employment in the Federal Government if such fellow was not able, at the end of the fellowship, to be reemployed in the agency from which he or she separated to become a fellow.

(9) No fellow may engage in any intelligence or intelligence-related activity on behalf of the United States Government.

(10) The financial records of the Center shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the financial records of the Center are normally kept. All books, financial records, files, and other papers, things, and property belonging to or in use by the Center and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(11) The Center shall provide a report of the audit to the Director of the United States Information Agency no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Center's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Center's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of \$5,000 and any payments of compensation, salaries, or fees at a rate in excess of \$5,000 per year. The report shall be produced in sufficient copies for the public.



**SEC. 254.<sup>28</sup> SEPARATION OF GOVERNMENT PERSONNEL DURING THE FELLOWSHIPS.**

(a) **SEPARATION.**—Under such terms and conditions as the agency head may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts a fellowship under the program established by this part and is not detailed under section 255.

(b) **REEMPLOYMENT.**—Any fellow who is not a detailee, at the end of the fellowship, is entitled to be reemployed in the same manner as if covered by section 3582 of title 5, United States Code.

(c) **RIGHTS AND BENEFITS.**—Notwithstanding section 8347(o), 8713, or 8914 of title 5, United States Code, and in accordance with regulations of the Office of Personnel Management, an employee, while serving as a fellow who is not a detailee, is entitled to the same rights and benefits as if covered by section 3582 of title 5, United States Code. The Center shall reimburse the employing agency for any costs incurred under section 3582 of title 5, United States Code.

(d) **COMPLIANCE WITH BUDGET ACT.**—Funds are available under this section to the extent and in the amounts provided in appropriation Acts.

**SEC. 255.<sup>29</sup> MANSFIELD FELLOWS ON DETAIL FROM GOVERNMENT SERVICE.**

(a) **IN GENERAL.**—(1) An agency head may detail, for a period of not more than 2 years, an employee of the agency who has been awarded a Mansfield Fellowship, to the Center.

(2) Each fellow who is detailed under this section shall enter into a written agreement with the Federal Government before receiving a fellowship that the fellow will—

(A) continue in the service of the fellow's agency at the end of the fellowship for a period of at least 2 years unless the fellow is involuntarily separated from the service of such agency; and

(B) pay to the United States Information Agency any additional expenses incurred by the Federal Government in connection with the fellowship if the fellow is voluntarily separated from service with the fellow's agency before the end of the period for which the fellow has agreed to continue in the service of such agency.

(3) The payment agreed to under paragraph (2)(B) may not be required of a fellow who leaves the service of such agency to enter into the service of another agency in any branch of the United States Government unless the head of the agency that authorized the fellowship notifies the employee before the effective date of entry into the service of the other agency that payment will be required under this section.

(b) **STATUS AS GOVERNMENT EMPLOYEE.**—A fellow detailed under subsection (a) is deemed, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and

<sup>28</sup> 22 U.S.C. 6103.

<sup>29</sup> 22 U.S.C. 6104.

payment of such allowances and other benefits from appropriations available therefore is deemed to comply with section 5536 of title 5, United States Code.

(c) REIMBURSEMENT.—Fellows may be detailed under subsection (a) without reimbursement to the United States by the Center.

(d) ALLOWANCES AND BENEFITS.—A fellow detailed under subsection (a) may be paid by the Center for allowances and benefits listed in section 253(4)(B).

**SEC. 256.<sup>30</sup> LIABILITY FOR REPAYMENTS.**

If any fellow fails to fulfill the fellow's agreement to pay the United States Information Agency for the expenses incurred by the United States Information Agency in connection with the fellowship, a sum equal to the amount of the expenses of the fellowship shall be recoverable by the United States Information Agency from the fellow (or a legal representative) by—

- (1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the fellow from the Federal Government; and
- (2) such other method as is provided by law for the recovery of amounts owing to the Federal Government.

**SEC. 257.<sup>31</sup> DEFINITIONS.**

For purposes of this part—

- (1) the term “agency of the United States Government” includes any agency of the legislative branch and any court of the judicial branch as well as any agency of the executive branch;
- (2) the term “agency head” means—
  - (A) in the case of the executive branch of Government or an agency of the legislative branch other than the House of Representatives or the Senate, the head of the respective agency;
  - (B) in the case of the judicial branch of Government, the chief judge of the respective court;
  - (C) in the case of the Senate, the President pro tempore, in consultation with the Majority Leader and Minority Leader of the Senate; and
  - (D) in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority Leader and Minority Leader of the House;
- (3) the term “Center” means the Mansfield Center for Pacific Affairs; and
- (4) the term “ detailee ” means an employee of an agency of the United States Government on assignment or loan to the Mansfield Center for Pacific Affairs without a change of position from the agency by which he or she is employed.

<sup>30</sup> 22 U.S.C. 6105.

<sup>31</sup> 22 U.S.C. 6106.

**g. United States Information Agency Authorization, Fiscal Years 1992 and 1993**

Partial text of Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647 at 691, approved October 28, 1991; as amended by Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104-134 [Department of State and Related Agencies Appropriations Act, 1996; title IV of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321 at 1321-26, approved April 26, 1996; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; and Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681-802, approved October 21, 1998

NOTE.—Sections of this title amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**PART A—UNITED STATES INFORMATION AGENCY**

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the United States Information Agency (other than for the Voice of America) to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, and to carry out other authorities in law consistent with such purposes:

(1)<sup>1</sup> SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$423,827,500 for the fiscal year 1992 and \$451,294,000 for the fiscal year 1993.

(2)<sup>2</sup> OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General” \$4,206,000 for the fiscal year 1992 and \$4,420,000 for the fiscal year 1993.

(3)<sup>3</sup> NATIONAL ENDOWMENT FOR DEMOCRACY.—For “National Endowment for Democracy”, \$25,000,000 for the fiscal year 1992 and \$31,250,000 for the fiscal year 1993.

(4)<sup>4</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For “Center for Cultural and Technical Interchange between East and West”, \$24,500,000 for the fiscal year 1992 and \$26,000,000 for the fiscal year 1993.

(b) AUTHORIZATION WITHIN “SALARIES AND EXPENSES” ACCOUNT.—Of the amount authorized to be appropriated by subsection (a)(1), \$284,000 is authorized for the fiscal year 1992 for the establishment and operation of a United States Information Agency office in Vientiane, Laos, pursuant to section 216 of this Act, and \$307,000 is authorized for fiscal year 1993 for the continued operation of such office.

\* \* \* \* \*

**SEC. 206.<sup>5</sup> USIA POSTS AND PERSONNEL OVERSEAS. \* \* \***

(b)<sup>6</sup> \* \* \* [Repealed—1998]

(c) REPEAL.—Section 204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 1461 note) is repealed.<sup>7</sup>

<sup>1</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 821), provided \$691,725,000, for salaries and expenses, with several provisos.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided \$736,693,000, for salaries and expenses, with several provisos.

<sup>2</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 822), provided \$4,206,000, for Office of the Inspector General.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1870), provided \$4,390,000.

<sup>3</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 823), provided \$27,500,000 for USIA grants to the National Endowment for Democracy.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1872), provided \$30,000,000 for USIA grants to the National Endowment for Democracy.

<sup>4</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 823), provided \$24,500,000, for USIA grants to the East-West Center.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1872), provided \$26,000,000, for USIA grants to the East-West Center.

<sup>5</sup>Sec. 206(a) added a new sec. 812 to the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475g).

<sup>6</sup>Formerly at 22 U.S.C. 1475g note. Sec. 1336(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–790) struck out sec. 206(b), which had read as follows:

“(b) REDUCTIONS IN AMERICAN EMPLOYEES.—Reductions may not be made in the number of positions filled by American employees of the United States Information Agency stationed abroad until the number of such employees is the same percentage of the total number of American employees of the Agency as the number of American employees of the Agency stationed abroad in 1981 was to the total number of American employees at the Agency at the same time in 1981.”

<sup>7</sup>Sec. 204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204), relating to USIA posts and personnel overseas, was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriations Act, 1988 (sec. 101(a) of Public Law 100–202; 101 Stat. 1329).

**SEC. 207.<sup>8</sup> IMPLEMENTATION OF BEIRUT AGREEMENT. \* \* \***

**SEC. 208.<sup>9</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH. \* \* \***

\* \* \* \* \*

**SEC. 210.<sup>10</sup> CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.**

(a) **PURPOSE.**—It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable high school and college students from emerging democracies, who are visiting the United States, to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) **GRANTS.**—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c)<sup>11</sup> **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this section, of which not more than \$500,000 is authorized to be available for obligation or expenditure during that fiscal year. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

**SEC. 211. PROGRAM REVIEW OF NED.**

(a) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated under section 201(3), after the submission of the report under subsection (b), there are authorized to be appropriated for the National Endowment for Democracy \$5,000,000 for fiscal year 1992.

(b) **REPORTING REQUIREMENT.**—The National Endowment for Democracy shall submit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a comprehensive report concerning the actions of the National Endowment for Democracy and certain grantees (the Free Trade Union Institute, the Center for International Private Enterprise, the National Republican Institute for International Affairs, and the National Democratic Institute for International Affairs) to comply with the recommendations of the General Accounting Office report of March 1991, entitled “Promoting Democracy: National Endowment for Democracy’s Management of Grants Needs Improvement”.

(c) **GENERAL ACCOUNTING OFFICE REPORT.**—Not more than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives an evaluation of the actions taken by the

<sup>8</sup> Sec. 207 amended Public Law 89-634 (80 Stat. 879).

<sup>9</sup> 22 U.S.C. 2075. For text of sec. 208, the “North/South Center Act of 1991”, see page 1647.

<sup>10</sup> 22 U.S.C. 2452 note.

<sup>11</sup> The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 822), provided under educational and cultural exchange programs, that “\$1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation”.

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1870), provided under educational and cultural exchange programs, that “\$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and \$600,000 shall be available for the Institute for Representative Government.”

National Endowment for Democracy and certain grantees to comply with the General Accounting Office report of March 1991.

(d) ANNUAL AUDIT.—Section 504(g) of the National Endowment for Democracy Act (22 U.S.C. 4413) is amended by striking out “may also” and inserting in lieu thereof “shall”.

(e) SENSE OF CONGRESS ON PRIVATE DONATIONS.—It is the sense of the Congress that the National Endowment for Democracy should make every effort to solicit private contributions to realize the purposes of the Endowment as set forth in section 502(b) of the National Endowment for Democracy Act.

**SEC. 212.<sup>12</sup> USIA GRANTS.**

(a) COMPETITIVE GRANT PROCEDURES.—Except as provided in subsection (b), the Department of State<sup>13</sup> shall work to achieve full and open competition in the award of grants for carrying out its overseas public diplomacy functions.<sup>14</sup>

(b) EXCEPTIONS.—The Department of State<sup>13</sup> may award an overseas public diplomacy grant<sup>15</sup> under procedures other than competitive procedures when—

(1) such<sup>16</sup> a grant is made under the Mutual Educational and Cultural Exchange Act of 1961 (commonly known as the Fulbright-Hays Act) or any statute which expressly authorizes or requires that a grant be made with a specified entity;

(2) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization have the effect of requiring the use of procedures other than competitive procedures;

(3) a recipient organization has developed particular expertise in the planning and administration of longstanding exchange programs important to United States foreign policy; or

(4) introducing competition would increase costs.

(c) COMPLIANCE WITH GRANT GUIDELINES.—

(1) After October 1, 1991, overseas public diplomacy<sup>17</sup> grants awarded by the Department of State<sup>13</sup> shall substantially comply with Department of State<sup>13</sup> grant guidelines and applicable circulars of the Office of Management and Budget.

(2) If the Agency determines that a grantee has not satisfied the requirement of paragraph (1), the Department of State<sup>13</sup> shall notify the grantee of the suspension of payments under a grant unless compliance is achieved within 90 days of such notice.

<sup>12</sup> 22 U.S.C. 1475h.

<sup>13</sup> Sec. 1335(b)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) struck out “United States Information Agency” each place it appeared in sec. 212 and inserted in lieu thereof “Department of State”.

<sup>14</sup> Sec. 1335(b)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “for carrying out its overseas public diplomacy functions” after “grants”.

<sup>15</sup> Sec. 1335(b)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) struck out “a grant” and inserted in lieu thereof “an overseas public diplomacy grant”.

<sup>16</sup> Sec. 1335(b)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “such” before “a grant”.

<sup>17</sup> Sec. 1335(b)(4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “overseas public diplomacy” before “grants”.

(3) The Agency shall suspend payments under any such<sup>18</sup> grant which remains in noncompliance 90 days after notification under paragraph (2).

(d)<sup>19</sup> \* \* \* [Repealed—1999]

**SEC. 213. DISTRIBUTION WITHIN THE UNITED STATES OF UNITED STATES INFORMATION AGENCY PHOTOGRAPHIC WORKS OF RICHARD SAUNDERS.**

(a) DISTRIBUTION TO THE SCHOMBURG CENTER FOR BLACK STUDIES.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Schomburg Center for Black Studies, New York, New York, master copies of the United States Information Agency photographic works of Richard Saunders, a former employee of the United States Information Agency; and

(2) the Schomburg Center for Black Studies, New York, New York, shall reimburse the Director of the United States Information Agency for any expenses of the Agency in making such master copies.

(b) REIMBURSEMENT.—Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

**SEC. 214.<sup>20</sup> ISRAELI ARAB SCHOLARSHIP PROGRAM.**

(a) ESTABLISHMENT.—Subject to the availability of funds under subsection (d), there is established in the United States Information Agency a fund to be known as the Israeli Arab Scholarship Fund (hereinafter in this Act referred to as the “fund”). The income from the fund shall be used for a program of scholarships for Israeli Arabs to attend institutions of higher education in the United States to be known as the Israeli Arab Scholarship Program (hereinafter in the section referred to as the “program”). The fund and the program shall be administered by the United States Information Agency in accordance with this section and the Mutual Educational and Cultural Exchange Act of 1961. The fund may accept contributions and gifts from public and private sources.

(b) ADMINISTRATION OF THE FUND.—It shall be the duty of the Director of the United States Information Agency to invest in full amounts made available to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The interest on, and the proceeds from the sale or

<sup>18</sup>Sec. 1335(b)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) inserted “such” before “grant”.

<sup>19</sup>Sec. 1335(b)(6) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–787) struck out subsec. (d), which had read as follows:

“(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Director of the United States Information Agency shall submit a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on United States Information Agency action to comply with subsection (a).”

redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(c) APPROPRIATIONS FROM THE FUND.—For each fiscal year, there is authorized to be appropriated from the fund for the Israeli Arab Scholarship Program the interest and earnings of the fund.

(d) FUNDING.—Amounts made available under section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (as amended by section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991), are authorized to be appropriated to the fund.<sup>20</sup>

\* \* \* \* \*

#### SEC. 216.<sup>21</sup> ESTABLISHMENT OF USIA OFFICE IN VIENTIANE, LAOS.

The Director of the United States Information Agency shall establish an office in Vientiane, Laos, to assist in the propagation of American economic and political values.

### PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

#### SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts:<sup>22</sup>

<sup>20</sup> Sec. 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167; 103 Stat. 1237), as amended, provided the following:

“MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

“Sec. 556. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than \$7,000,000 from funds appropriated under the heading ‘Economic Support Fund’.

“(b) Of the funds made available under the heading ‘Economic Support Fund’, \$5,000,000 shall be available only for a grant to assist in capitalizing an endowment whose income will be used for scholarships to enable Israeli Arabs to attend institutions of higher education in the United States: *Provided*, That such endowment and scholarship program shall be administered by an organization located in the United States, *Provided further*, That a grant may be made to capitalize such endowment only if private sector contributions of at least \$5,000,000 have been made by July 31, 1991, to assist in capitalizing the endowment; *Provided further*, That if the requirement for private sector contributions is not met, funds earmarked for the purpose of the endowment shall be reprogrammed within the Economic Support Fund account.”

Department of State and related agencies appropriations acts since 1993 have provided the following:

“ISRAELI ARAB SCHOLARSHIP PROGRAM

“For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, all interest and earnings accruing to the Israeli Arab Scholarship Fund \* \* \* to remain available until expended.” (Public Law 102-395, 106 Stat. 1871; Public Law 103-121, 107 Stat. 1191; Public Law 103-317, 108 Stat. 1770; Public Law 104-134, 110 Stat. 1321-42; Public Law 104-208, 110 Stat. 3009-53; Public Law 105-119, 111 Stat. 2501; Public Law 105-277, 112 Stat. 2681-99; Public Law 106-113, 113 Stat. 1501A-43; Public Law 106-553, 114 Stat. 2762A-95; Public Law 107-77, 115 Stat. 788; Public Law 108-7, 117 Stat. 90; Public Law 108-199, 118 Stat. 84; Public Law 108-447, 118 Stat. 2901; and Public Law 109-108, 119 Stat. 2324).

<sup>21</sup> See also sec. 201(b) of this Act.

<sup>22</sup> The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 822), provided the following:

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$194,232,000, to remain available until expended as authorized by 22



(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$37,749,000 for the fiscal year 1992 and \$39,308,000 for the fiscal year 1993.

(2) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the “Fulbright Academic Exchange Programs”, \$110,454,000 for the fiscal year 1992 and \$117,297,000 for the fiscal year 1993.

(3) HUBERT H. HUMPHREY FELLOWSHIP PROGRAM.—For the “Hubert H. Humphrey Fellowship Program”, \$5,682,000 for the fiscal year 1992 and \$6,000,000 for the fiscal year 1993.

(4) INTERNATIONAL VISITORS PROGRAM.—For the “International Visitors Program”, \$45,366,000 for the fiscal year 1992 and \$47,650,000 for the fiscal year 1993.

(5) OTHER PROGRAMS.—For “East Europe Training Projects”, “Citizen Exchange Programs”, and the “Congress-Bundestag Exchange Program”, \$14,028,000 for the fiscal year 1992 and \$14,700,000 for the fiscal year 1993.

(6) WORLD UNIVERSITY GAMES.—For cultural and exchange related activities associated with the 1993 World University Games in Buffalo, New York, \$2,000,000 for fiscal year 1992 and \$2,000,000 for fiscal year 1993, provided that amounts authorized under this subsection are subject to all requirements governing United States Information Agency assistance to private organizations.

(7) NEAR AND MIDDLE EAST PROGRAMS.—For “Near and Middle East Programs”, \$3,000,000 for fiscal year 1993.

(8) VIETNAM SCHOLARSHIP PROGRAM.—For the “Vietnam Scholarship Program” established by section 229, \$300,000 for each of the fiscal years 1992 and 1993.

(9) SOVIET-AMERICAN INTERPARLIAMENTARY EXCHANGES.—For the expenses of Soviet-American Interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress, after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency, there are authorized to be appropriated \$2,000,000 for the fiscal year 1992, of which not more than \$1,000,000 shall be available for obligation or expenditure during that fiscal year. Amounts appropriated under this subsection are authorized to be available until expended.

#### SEC. 222. FULBRIGHT EXCHANGE PROGRAMS ENHANCEMENT.

In addition to amounts authorized to be appropriated by section 221(2) for the Fulbright Academic Exchange Programs, \$2,700,000 is authorized to be appropriated for each of the fiscal years 1992 and 1993 to increase amounts otherwise available for Fulbright

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U.S.C. 2455, of which \$1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation.”

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1870), provided the following:

##### “EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$223,447,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which \$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and \$600,000 shall be available for the Institute for Representative Government.”

Academic Exchange Programs for exchanges involving Latin America, Asia, and Africa.

**SEC. 223. USIA CULTURAL CENTER IN KOSOVO.**

(a) **ESTABLISHMENT.**—The Director of the United States Information Agency shall establish a cultural center in the capital of Kosovo in Yugoslavia when the Secretary of State determines that the physical security of the center and the personal safety of its employees may be reasonably assured.

(b) **REPORT.**—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until a center is established under subsection (a), the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs<sup>23</sup> of the House of Representatives on progress toward establishment of a center pursuant to subsection (a), including an assessment by the Secretary of State of the risks to physical and personal security of the establishment of such a center.

\* \* \* \* \*

**SEC. 225.**<sup>24</sup> \* \* \* [Repealed—1992]

**SEC. 226.**<sup>25</sup> **ENHANCED EDUCATIONAL EXCHANGE PROGRAM.**

(a) **PROGRAMS FOR FOREIGN STUDENTS AND SCHOLARS.**—

(1) Not later than September 30, 1993, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only—

(A) to students and scholars from the new democracies of Eastern Europe,

(B) to students and scholars from the Soviet Union;

(C) to students and scholars from countries determined by the Associate Director of the Bureau of Educational and Cultural Affairs to be not adequately represented in the foreign student population in the United States.

(b) **PROGRAMS FOR UNITED STATES STUDENTS AND SCHOLARS.**—

(1) Not later than September 30, 1993, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in other countries shall be increased by 100 over

<sup>23</sup> Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>24</sup> Sec. 807(c) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3355) repealed sec. 225, effective 6 months after the enactment of that Act (October 24, 1992). Sec. 225 provided for the Eastern Europe Student Exchange Endowment Fund. See FREEDOM Support Act, title VIII.

<sup>25</sup> 22 U.S.C. 2452 note.

the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

(c) DEFINITION.—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books and supplies, equipment required for courses at an educational institution, and living expenses at a United States or foreign educational institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated \$2,000,000 for fiscal year 1992 and \$2,000,000 for fiscal year 1993 to carry out the purposes of this section. Amounts appropriated under this subsection are authorized to be available until expended.

**SEC. 227.<sup>25</sup> LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.<sup>26</sup>**

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the independent states of the former Soviet Union,<sup>27</sup> Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the independent states of the former Soviet Union,<sup>27</sup> Lithuania, Latvia, and Estonia who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency should develop and strictly implement specific financial need criteria. Scholar-

<sup>26</sup>Sec. 2413(b)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-832), inserted “INDEPENDENT STATES OF THE FORMER” after “FROM THE” in the section catchline.

<sup>27</sup>Sec. 2413(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105-277; 112 Stat. 2681-832), struck out “Soviet Union” and inserted in lieu thereof “independent states of the former Soviet Union” in subssecs. (a), (b), and (c)(5).

ships under this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, journalism and communications, education administration, public policy, library and information science,<sup>28</sup> economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the independent states of the former Soviet Union,<sup>27</sup> Lithuania, Latvia, and Estonia, particularly business administration, journalism and communications, education administration, public policy, library and information science,<sup>28</sup> economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the independent states of the former Soviet Union,<sup>29</sup> Lithuania, Latvia, and Estonia.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

(d)<sup>30</sup> FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the

<sup>28</sup>Sec. 2413(a) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–832), inserted “journalism and communications, education administration, public policy, library and information science,” after “business administration,” each of the two places it appears.

<sup>29</sup>Sec. 2413(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–832), struck out “Soviet republics” and inserted in lieu thereof “independent states of the former Soviet Union”.

<sup>30</sup>Sec. 104(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–414), authorized \$5,000,000 for each of fiscal years 2000 and 2001 for exchanges with Russia, and another \$1,500,000 for each of those fiscal years for doctoral graduate studies in economics for nationals of the independent states of the former Soviet Union, pursuant to this section.

United States Information Agency \$7,000,000 for fiscal year 1992, and \$7,000,000 for fiscal year 1993, to carry out this section.

(e) COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.—Any authority provided by this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(f)<sup>31</sup> DESIGNATION OF PROGRAM AND SCHOLARSHIPS.—

(1) The scholarship program established by this section shall be known as the “Edmund S. Muskie Fellowship Program”.

(2) Scholarships provided under this section shall be known as “Muskie Fellowships”.

**SEC. 228.<sup>25</sup> NEAR AND MIDDLE EAST RESEARCH AND TRAINING.**

(a) NEAR AND MIDDLE EAST STUDIES.—The Director of the United States Information Agency may expend from the amount authorized for the Bureau of Educational and Cultural Affairs, such sums as are appropriate to assist graduate and postdoctoral studies by United States scholars on the Near and Middle East.

(b)<sup>32</sup> [Repealed—1998]

(c) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency, in consultation with qualified government agencies and appropriate private organizations and individuals, shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs<sup>23</sup> of the House of Representatives recommendations concerning the conduct of educational and cultural exchange programs administered and funded by the Agency.

(d) DEFINITION.—For purposes of this section, the term “Near and Middle East” refers to the region consisting of those countries and peoples covered by the Bureau of Near Eastern and South Asian Affairs of the Department of State on the day before the date of the enactment of this Act and includes the Republic of Turkey.<sup>33</sup>

**SEC. 229.<sup>25, 34</sup> SCHOLARSHIPS FOR VIETNAMESE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Bureau of Educational and Cultural Affairs of the United States Information Agency shall make available for each of the fiscal years 1992 and 1993, 15 scholarships for Vietnamese residents in Vietnam qualified to study in the United States for the purpose of studying in the United States. Each scholarship made available

<sup>31</sup>Sec. 801 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3352) added subsec. (f).

<sup>32</sup>Sec. 2219(a)(7) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–817), struck out subsec. (b), which had read as follows:

“(b) REPORT.—The Director of the United States Information Agency shall prepare and submit to the President and the Congress at the end of each fiscal year in which assistance is provided under subsection (a) a report concerning such assistance.”

<sup>33</sup>Sec. 233 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 424), inserted “and includes the Republic of Turkey”.

<sup>34</sup>Sec. 201(b)(2)(A) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 421), continued this program, authorizing \$3,000,000 to be available for fiscal year 1995. Sec. 2401(3)(A)(ii) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Public Law 105–277; 112 Stat. 2681–830), authorized \$5,000,000 for each of fiscal years 1998 and 1999. Sec. 104(c) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–414), authorized \$4,000,000 for each of fiscal years 2000 and 2001.

under this subsection shall be for not less than one semester of study in a United States college or university.

(b) PREFERENCE IN AWARDING SCHOLARSHIPS.—In awarding scholarships under this section, preference shall be given to candidates intending to pursue studies in economics and commercial law.

\* \* \* \* \*

**h. United States Information Agency Authorization, Fiscal Years 1990 and 1991**

Partial text of Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; as amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and Public Law 102-499 [H.R. 6047], 106 Stat. 3264, approved October 24, 1992

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS**

**PART A—UNITED STATES INFORMATION AGENCY**

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATIONS OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the United States Information Agency (other than for the Voice of America) to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

(1)<sup>1</sup> SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$410,000,000 for the fiscal year 1990 and \$432,640,000 for the fiscal year 1991.

<sup>1</sup> The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1029), provided \$638,569,000, for salaries and expenses, with several provisos.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2146), provided \$652,757,000, for salaries and expenses, with several provisos.

(2)<sup>2</sup> TELEVISION AND FILM SERVICE.—For “Television and Film Service”, \$31,000,000 for the fiscal year 1990 and \$32,240,000 for the fiscal year 1991.

(3)<sup>3</sup> NATIONAL ENDOWMENT FOR DEMOCRACY.—For “National Endowment for Democracy” \$25,000,000 for the fiscal year 1990 and \$25,000,000 for the fiscal year 1991.

(4)<sup>4</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For “Center for Cultural and Technical Interchange between East and West”, \$20,700,000 for the fiscal year 1990 and \$26,000,000 for the fiscal year 1991.

(b) SEVILLE WORLD’S FAIR.—(1) Subject to paragraph (2), there are authorized to be appropriated to the United States Information Agency for fiscal year 1990 \$7,300,000 for United States participation in the World’s Fair in Seville, Spain.

(2) Funds made available under this title for any educational or cultural exchange program, Voice of America programming to China, or any overseas post of the United States Information Agency may not be transferred or otherwise made available for the purposes of paragraph (1).

**SEC. 202.<sup>5</sup> DISSEMINATION OF INFORMATION WITHIN THE UNITED STATES. \* \* \***

**SEC. 203. DISTRIBUTION WITHIN THE UNITED STATES OF UNITED STATES INFORMATION AGENCY FILM ENTITLED “LONG JOURNEY HOME”.**

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948<sup>6</sup> (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled “Long Journey Home”; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

<sup>2</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1029), provided not less than \$32,800,000 specifically for television and film service, notwithstanding sec. 209(e) of Public Law 100-204, for fiscal year 1990.

<sup>3</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1030), provided \$17,000,000 for the National Endowment for Democracy for fiscal year 1990.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2147), provided \$25,000,000, for the National Endowment for Democracy for fiscal year 1991.

<sup>4</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1030), provided \$20,700,000 for the East-West Center for fiscal year 1990.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2147), provided \$23,000,000, for fiscal year 1991.

<sup>5</sup>Sec. 202 amended sec. 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461).

<sup>6</sup>See pages 1436-1437, and box note.



(C) make copies of that film available for purchase and public viewing within the United States. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

**SEC. 204. THE J. WILLIAM FULBRIGHT FOREIGN SCHOLARSHIP BOARD.**

(a) AMENDMENTS TO THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961. \* \* \*

(b)<sup>7</sup> CONTINUED SERVICE OF MEMBERS OF BOARD OF FOREIGN SCHOLARSHIPS.—Each member appointed to the Board of Foreign Scholarships before the date of the enactment of this Act shall continue to serve for the remainder of the term to which each such member was appointed.

(c)<sup>7</sup> REFERENCES IN LAW.—Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board.

**SEC. 205.<sup>8</sup> USIA SATELLITE AND TELEVISION. \* \* \***

**SEC. 206. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.**

(a)<sup>9</sup> \* \* \*

(b)<sup>10</sup> CONTINUED SERVICE OF MEMBERS OF COMMISSION.—Each member of the United States Advisory Commission on Public Diplomacy as in existence on the day before the effective date of section 604 of the United States Information and Educational Exchange Act of 1948 (as amended by section 213 of Public Law 100–204) shall continue to serve for the remainder of the term to which such member was appointed.

\* \* \* \* \*

**SEC. 210.<sup>11</sup> USIA NETWORK FOR DISSEMINATION OF INFORMATION CONCERNING UNITED STATES PROGRAMS TO COMBAT NARCOTICS AND OTHER CONTROLLED SUBSTANCES.**

The United States Information Agency shall establish and maintain an international narcotics information network. The network shall disseminate prompt, accurate, and comprehensive information to foreign governments concerning programs and activities of the United States Government—

- (1) to eliminate the illicit production, trafficking, and abuse of narcotic and psychotropic drugs and other controlled substances within the United States; and
- (2) to promote drug prevention and rehabilitation in the United States.

<sup>7</sup> 22 U.S.C. 2456 note.

<sup>8</sup> Sec. 205 added a new sec. 505, USIA Satellite and Television, to the United States Information and Educational Exchange Act of 1948, and made conforming amendment to the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204).

<sup>9</sup> Sec. 206(a) amended sec. 604 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1469).

<sup>10</sup> 22 U.S.C. 1469 note.

<sup>11</sup> 22 U.S.C. 1461 note.

**SEC. 211. AFGHANISTAN COUNTRY PLAN.**

(a) MAINTENANCE OF PLAN.—The Director of the United States Information Agency shall maintain a comprehensive country plan for the Agency's activities with respect to Afghanistan, consistent with the plan submitted to the Congress for the fiscal year 1989.

(b) REPORT.—Not later than March 1, 1990, the Director of the United States Information Agency shall submit to the Congress a report describing the Afghanistan country plan and including a specific outline on how that country plan will be adapted for implementation inside a free Afghanistan.

**SEC. 212. GENERAL ACCOUNTING OFFICE STUDY OF THE NATIONAL ENDOWMENT FOR DEMOCRACY.**

(a) STUDY OF NED.—The Comptroller General of the United States shall conduct a study of the operations of the National Endowment for Democracy. Such study shall evaluate—

(1) the programs and operations of the National Endowment for Democracy;

(2) the effectiveness of the National Endowment for Democracy in fulfilling its goals; and

(3) the management structure of the National Endowment for Democracy, including—

(A) an assessment of the present composition of the board of directors; and

(B) the capability and effectiveness of the board in providing objective oversight of the programs and operations of the National Endowment for Democracy.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report of the findings of such study to the Committee on Foreign Affairs<sup>12</sup> of the House of Representatives and the Committee on Foreign Relations of the Senate.

**SEC. 213. REPORT TO CONGRESS ON THE ACQUISITION AND USE OF PUBLIC PROGRAMMING MATERIALS.**

Not later than 90 days after the date of enactment of this Act, the Director of the United States Information Agency shall provide to the chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a detailed report describing all programming material acquired by the United States Information Agency in the fiscal years 1988 and 1989 from public television and radio entities, including a description of how such program material was utilized by the United States Information Agency, in whole or in part, in original or edited form. Such report shall include a description of projected United States Information Agency use of programming material acquired for public television and radio entities through the fiscal year 1992.

<sup>12</sup>Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

PART B—BUREAU OF EDUCATIONAL AND CULTURAL  
AFFAIRS

**SEC. 221. AUTHORIZATION OF APPROPRIATIONS.**

(a)<sup>13</sup> AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts:

(1) For “Salaries and Expenses”, \$43,323,000 for the fiscal year 1990 and \$45,056,000 for the fiscal year 1991.

(2) For the Fulbright Academic Exchange Programs, \$97,460,000 for the fiscal year 1990 and \$101,358,000 for the fiscal year 1991.

(3) For the Hubert H. Humphrey Fellowship Program, \$5,500,000 for the fiscal year 1990 and \$5,720,000 for the fiscal year 1991.

(4) For the International Visitors Program, \$41,817,000 for the fiscal year 1990 and \$43,490,000 for the fiscal year 1991.

(5) For the Arts America Program, \$6,400,000 for the fiscal year 1990 and \$6,656,000 for the fiscal year 1991.

(b)<sup>14</sup> ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)(1), \$150,000 for the fiscal year 1990 and \$200,000 for the fiscal year 1991 shall be available only for the training at the University of Maine and in Washington, District of Columbia, of media personnel from developing French-speaking countries. The Voice of America International Broadcast Training Center shall administer such training program. The Bureau of Educational and Cultural Exchanges shall provide to the center such assistance as may be necessary in the facilitation of such program.

**SEC. 222. CITIZEN EXCHANGES.**

(a)<sup>15</sup> \* \* \*

(b)<sup>16</sup> TRANSFER OF FUNCTIONS.—There are hereby transferred to the Office of Citizen Exchanges on the date of enactment of this

<sup>13</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1029), as amended, provided the following for “Educational and Cultural Exchange Programs”:

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636) \$156,506,000, including up to \$1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.”

Public Law 101–162 originally provided \$160,300,000 for these programs, but was amended to read “\$156,506,000” by sec. 320(c)(2) of Public Law 101–302 (104 Stat. 248).

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2146), provided the following for “Educational and Cultural Exchange Programs”:

“For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$163,151,000, of which up to \$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation, and of which \$500,000 shall be available only for a grant to the North Pacific Studies Center in Portland, Oregon.”

<sup>14</sup>Sec. 1102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 waived this subsection for fiscal years 1990 and 1991, effective February 16, 1990.

<sup>15</sup>Sec. 222(a) amended sec. 112 of the Mutual Educational and Cultural Exchange Act of 1961.

<sup>16</sup>22 U.S.C. 2460 note.

Act all functions carried out by the Office of Private Sector Programs on the day before such date.

\* \* \* \* \*

**SEC. 225. SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) **ALLOCATION OF SCHOLARSHIPS.**—Of funds made available to the Bureau of Education and Cultural Affairs to carry out the Mutual Educational and Cultural Exchange Act of 1961, for each of the fiscal years 1992 and 1993<sup>17</sup> not less than 30 scholarships are authorized to<sup>18</sup> be made available to Tibetan students and professionals who are outside Tibet, and not less than 15 scholarships are authorized to<sup>18</sup> be made available to Burmese students and professionals who are outside Burma.

(b) **WAIVER.**—Subsection (a) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

**SEC. 226. SENSE OF CONGRESS CONCERNING THE HUMPHREY FELLOWSHIP PROGRAM.**

It is the sense of the Congress that the United States Information Agency should review the Humphrey Fellowship Program and consider the feasibility of broadening the placement of fellows under such program to provide exposure to the processes of the United States Government, the Congress, and State and local governmental processes.

**PART C—VOICE OF AMERICA**

**SEC. 231. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the United States Information Agency for the Voice of America for carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act the following amounts:

(1) **SALARIES AND EXPENSES.**—For “Salaries and Expenses”, \$170,024,000 for the fiscal year 1990 and \$176,825,000 for the fiscal year 1991.

(2)<sup>19</sup> **ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES.**—For “Acquisition and Construction of Radio Facilities”,

<sup>17</sup>Sec. 224(1) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 698), struck out “Of the funds authorized to be appropriated by section 221 for each of the fiscal years 1990 and 1991,” and inserted in lieu thereof “Of funds made available to the Bureau of Education and Cultural Affairs to carry out the Mutual Educational and Cultural Exchange Act of 1961, for each of the fiscal years 1992 and 1993”.

<sup>18</sup>Sec. 224(2) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 699), struck out “shall” and inserted in lieu thereof “are authorized to”.

<sup>19</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1029), provided the following for “Radio Construction”:

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment:

\$69,000,000 for the fiscal year 1990 and \$122,000,000 for the fiscal year 1991.

(3)<sup>20</sup> RADIO BROADCASTING TO CUBA.—For “Radio Broadcasting to Cuba”, \$12,700,000 for the fiscal year 1990 and \$13,208,000 for the fiscal year 1991.

(4) VOA EUROPE.—For “VOA Europe”, \$3,000,000 for the fiscal year 1990 and \$3,120,000 for the fiscal year 1991.

\* \* \* \* \*

**SEC. 233.<sup>21</sup> VOA PUBLIC SERVICE ANNOUNCEMENTS TO PROMOTE CHILD SURVIVAL.**

The United States Information Agency shall establish and maintain through the Voice of America a system of public service announcements focusing on child survival techniques.

**SEC. 234. VOICE OF AMERICA BROADCASTS TO TIBET.**

(a) ESTABLISHMENT OF SERVICE.—Not later than 90 days after the date of enactment of this Act, the Director of the United States Information Agency shall establish through the Voice of America, a service to provide Voice of America Tibetan language programming to the people of Tibet.

(b) AMOUNT OF PROGRAMMING.—For each of the fiscal years 1990 and 1991, programming broadcasts to the people of Tibet pursuant to this section shall occur for not less than two hours each day.

(c) REPORT.—As soon as possible in the fiscal year 1990, the Director of the United States Information Agency shall submit to the Congress a comprehensive written report detailing the implementation of the programming provided for in this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available under subsection (e), there are authorized to be

*Provided further*, That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.”

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2147), provided the following for “Radio Construction”:

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$107,237,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).”

<sup>20</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162; 103 Stat. 1029), provided the following for “Radio Broadcasting to Cuba”:

“For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$12,700,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).”

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2147), provided the following for “Broadcasting to Cuba”:

“For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, \$31,069,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.”

<sup>21</sup>22 U.S.C. 1463 note.

appropriated to the Voice of America for purposes of carrying out this section \$1,000,000 for each of the fiscal years 1990 and 1991.

(e) **TRANSFER AUTHORITY.**—The Director of the United States Information Agency may transfer to Voice of America Tibet Service such amounts appropriated for the “Television and Film Service” for each of the fiscal years 1990 and 1991 as exceed the amounts authorized to be appropriated for each such fiscal year for such Service.

**SEC. 235.<sup>22</sup> CONTINUING CONTRACT AUTHORITY FOR SELECTED VOICE OF AMERICA RADIO FACILITIES.**

The Director of the United States Information Agency may enter into a contract for the construction of the Voice of America’s Thailand, Sri Lanka, Sao Tome, Tinian,<sup>23</sup> and Kuwait<sup>24</sup> radio facilities for periods not in excess of 5 years or delegate such authority to the Corps of Engineers of the United States Department of the Army if there are sufficient funds to cover at least the Government’s liability for payments for the fiscal year in which the contract is awarded plus the full amount of estimated cancellation costs.

**SEC. 236. VOICE OF AMERICA BROADCASTS TO THE PEOPLE’S REPUBLIC OF CHINA.**

For each of the fiscal years 1990 and 1991, the Voice of America shall provide not less than 12 hours of programming each day for the People’s Republic of China.

**SEC. 237. VOICE OF AMERICA EQUIPMENT ABROAD.**

It is the sense of the Congress that the United States Information Agency and the Voice of America should take every step necessary to ensure that existing Voice of America equipment abroad is properly maintained and enhanced to prevent deterioration.

**PART D—TELEVISION BROADCASTING TO CUBA<sup>25</sup>**

\* \* \* \* \*

<sup>22</sup>Sec. 1(a) of Public Law 102–499 (106 Stat. 3264) restated the section heading. It formerly read “**VOICE OF AMERICA’S THAILAND RADIO FACILITIES**”.

<sup>23</sup>Sec. 410 of Public Law 104–134 (110 Stat. 1321–45) inserted “Tinian,” after “Sao Tome,”.

<sup>24</sup>Sec. 1(b) of Public Law 102–499 (106 Stat. 3264) inserted “, Sri Lanka, Sao Tome, and Kuwait” after “Thailand”.

<sup>25</sup>For this and other legislation relating to broadcasting to Cuba, see page 1733.

**i. United States Information Agency Authorization, Fiscal Years 1988 and 1989**

Partial text of Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; as amended by Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

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

\* \* \* \* \*

**TITLE II—THE UNITED STATES INFORMATION AGENCY**

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.**

There are authorized to be appropriated to the United States Information Agency the following amounts to carry out international information activities under the United States Information and Educational Exchange Act of 1948, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

- (1) For “Salaries and Expenses”, \$369,455,000 for the fiscal year 1988 and \$376,845,000 for the fiscal year 1989;
- (2)<sup>1</sup> For “Television and Film Service”, \$30,391,000 for the fiscal year 1988 and \$30,999,000 for the fiscal year 1989; and

<sup>1</sup> The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100-202; 101 Stat. 1329), provided the following appropriations for “Television and Film Service”: \$36,900,000. In appropriating fiscal year 1988 funds for “Salaries and Expenses”, however, it waived sec. 201(2).

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2186), provided appropriations of \$38,500,000 for “Television and Film Service”, and waived sec. 201(2).

(3)<sup>2</sup> For “East-West Center”, \$20,000,000 for the fiscal year 1988 and \$20,400,000 for the fiscal year 1989.

\* \* \* \* \*

**SEC. 204.**<sup>3</sup> \* \* \* [Repealed—1991]

\* \* \* \* \*

**SEC. 206. UNITED STATES INFORMATION AGENCY PROGRAMMING ON AFGHANISTAN.**

(a) **THE AFGHANISTAN COUNTRY PLAN.**—The Director of the United States Information Agency shall implement a formal, comprehensive country plan on Afghanistan based on the guidelines set forth in the United States Information Agency country plan instructions for fiscal year 1988.

(b) **REPORT TO CONGRESS.**—Not later than 60 days after the date of the enactment of this Act, the Director of the United States Information Agency shall provide Congress in writing with the proposed comprehensive Afghanistan country plan.

**SEC. 207.**<sup>4</sup> \* \* \* [Repealed—1998]

**SEC. 208. LIMITATION ON WORLDNET FUNDING.**

Funds may not be reprogrammed in fiscal years 1988 and 1989 from any program, project, or activity for Worldnet. Funds may not be transferred in fiscal years 1988 and 1989 from any other account for Worldnet.

**SEC. 209. AUDIENCE SURVEY OF WORLDNET PROGRAM.**

(a) **EARMARK.**—Of the funds authorized to be appropriated for USIA’s Worldnet Program by section 201(2), not less than \$500,000 for the fiscal year 1988 shall be available only for the purpose of conducting a market survey in Europe of USIA’s Worldnet programming.

(b) **QUALIFICATIONS OF SURVEYOR.**—Such survey shall be conducted by a television market survey company which has a long established reputation for objective estimates of television audience size and which has not less than 15 years of substantial experience in estimating audience size.

<sup>2</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following appropriations for the “East-West Center”: \$20,000,000.

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2186), provided appropriations of \$20,000,000 for the “East-West Center”.

<sup>3</sup>22 U.S.C. 1461 note. Sec. 206(c) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 693), repealed sec. 204. See also sec. 812 of the United States Information and Educational Exchange Act of 1948, as added by sec. 206(a) of Public Law 102–138.

Earlier, sec. 204 was waived during fiscal years 1988 and 1989 by sec. 305 of the Department of State Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act for Fiscal Year 1988, Public Law 100–202; 101 Stat. 1329). In providing appropriations for fiscal year 1988 for United States Information Agency “Salaries and Expenses”, however, sec. 101(a) of the Continuing Appropriations Act, 1988, also waived sec. 204.

<sup>4</sup>Formerly at 22 U.S.C. 1463 note. Sec. 1336(7) of Public Law 105–277 (112 Stat. 2681–790) repealed sec. 207, which provided as follows:

**“SEC. 207. TELEVISION SERVICE OF THE UNITED STATES INFORMATION AGENCY.**

“The television and film service of the United States Information Agency, including Worldnet broadcasts, shall operate under the same criteria and conditions as are specified for the Voice of America by section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463).”.



(c) <sup>5</sup> \* \* \* [Repealed—1998]

(d) <sup>5</sup> \* \* \* [Repealed—1998]

(e) <sup>6</sup> \* \* \* [Repealed—1990]

**SEC. 210. NATIONAL ENDOWMENT FOR DEMOCRACY.**

In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency \$17,500,000 for the fiscal year 1988<sup>7</sup> and \$18,100,000 for the fiscal year 1989<sup>8</sup> to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than \$250,000 for the fiscal year 1988 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States Government may participate, directly or indirectly, in controlling and directing the use of these funds to the free press and democratic civic opposition inside Nicaragua.

\* \* \* \* \*

**SEC. 214.<sup>9</sup> DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED “AMERICA THE WAY I SEE IT”.**

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—<sup>10</sup>

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled “America The Way I See It”; and

<sup>5</sup>Sec. 2219(a)(6) of Public Law 105–277 (112 Stat. 2681–817) repealed subsecs. (c) and (d). Subsec. (c) required a report from USIA on the viewers of certain Worldnet programming. Subsec. (d) required USIA to notify Congress on the awarding of the survey contract authorized in subsecs. (a) and (b).

<sup>6</sup>Sec. 205(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 104 Stat. 51), repealed subsec. (e). It formerly read as follows:

“(e) LIMITATION.—No funds authorized to be appropriated to the United States Information Agency shall be expended after October 1, 1988, on the production or acquisition of passive (non-interactive) programs for USIA’s Worldnet television service unless—

“(1) the survey required by this section has been completed in the manner described by this section;

“(2) the report required by this section, along with a copy of the survey results, has been submitted to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives; and

“(3) the survey shows with a high degree of reliability that the average daily European audience for the passive (noninteractive) programs of USIA’s Worldnet television service is not less than 2,000,000 viewers.”

<sup>7</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following appropriations for the “National Endowment for Democracy”: \$16,875,000.

<sup>8</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2222), provided the following appropriations for the “National Endowment for Democracy”: \$15,800,000.

<sup>9</sup>Sec. 214 was also enacted as Public Law 100–167 (101 Stat. 910). For a listing of other USIA films or artistic works for which distribution within the United States has been authorized in recent years, see pages 1436–1437.

<sup>10</sup>Secs. 208 and 501 noted in this sentence restricted the domestic activities of the United States Information Agency.

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

**SEC. 215. AVAILABILITY OF CERTAIN USIA PHOTOGRAPHS FOR DISTRIBUTION WITHIN THE UNITED STATES BY THE DEPARTMENT OF DEFENSE.**

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461),<sup>10</sup> the Director of the United States Information Agency shall make available, upon request, to the Secretary of Defense and the Secretaries of the military departments concerned photographs of military operations and military related activities that occurred in the Republic of Vietnam for the purpose of developing and publishing military histories by those departments. The Secretary of Defense, or the Secretary of the military department concerned, as appropriate, shall reimburse the Director for any expenses involved in making such photographs available. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

**SEC. 216. USIA UNDERGRADUATE SCHOLARSHIP PROGRAM.**

(a) INCREASED FUNDING FOR CARIBBEAN REGION.—It is the sense of the House of Representatives that the United States Information Agency should provide increased funding for students in the Caribbean region under the scholarship program for developing countries established by title VI of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) DEFINITION.—

(1) As used in this section, the term “Caribbean region” means—

(A) Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Cuba, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Christopher and Nevis, St. Vincent and the Grenadines, St. Lucia, Trinidad and Tobago;

(B) Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Netherlands Antilles, Turks and Caicos Islands; and

(C) French Guiana, Guadeloupe, and Martinique.

(2) Nothing in this subsection may be construed to encourage or authorize scholarships for students from any country which is a Communist country.

**TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS****SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency for the Bureau of Educational and Cultural Affairs \$188,625,000 for the fiscal year 1988<sup>11</sup> and \$192,438,000 for the fiscal year 1989<sup>12</sup> to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961. Of the funds authorized to be appropriated by this section, not less than—

(1) \$93,000,000 for the fiscal year 1988 and \$93,000,000 for the fiscal year 1989 shall be available only for grants for the Fulbright Academic Exchange Programs;

(2) \$39,000,000 for the fiscal year 1988 and \$39,000,000 for the fiscal year 1989 shall be available only for grants for the International Visitors Program;

(3) \$5,250,000 for the fiscal year 1988 and \$5,250,000 for the fiscal year 1989 shall be available only for grants for the Hubert H. Humphrey Fellowship Program;

(4) \$2,500,000 for the fiscal year 1988 and \$2,500,000 for the fiscal year 1989 shall be available only for the Congress-Bundestag Exchange;

(5) \$500,000 for the fiscal year 1988 and \$500,000 for the fiscal year 1989 shall be available only to the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington;

(6)<sup>13</sup> \$5,000,000 for the fiscal year 1988 and \$5,000,000 for the fiscal year 1989 shall be available only for the Arts America Program; and

(7) \$300,000 for the fiscal year 1988 shall be available only for books and materials to complete the collections at the Edward Zorinsky Memorial Library in Jakarta, Indonesia.

<sup>11</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following for “Educational and Cultural Exchange Programs”:

“Notwithstanding section 301(a)(1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), \$142,310,000: *Provided*, That not less than \$540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: *Provided further*, That not less than \$2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, \$7,730,000 of which \$500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington.”

<sup>12</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2221), provided the following for “Educational and Cultural Exchange Programs”: \$150,040,000, to be disbursed by the programs listed in subparas. (1) through (4), and of the appropriation “\$9,290,000 is for Private Sector Programs including up to \$1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.”

<sup>13</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2221), in appropriating funds for salaries and expenses, waived sec. 301(a)(6).

(b) ALLOCATION OF FUNDS FOR EXCHANGES BETWEEN THE UNITED STATES AND THE SOVIET UNION.—(1) Of the funds authorized to be appropriated by subsection (a), not less than \$2,000,000 shall be available only for grants for exchange of persons programs between the United States and the Soviet Union.

(2) Funds allocated by paragraph (1) or (2) of subsection (a) may be counted toward the allocation required by this subsection to the extent that such funds are used, in accordance with their respective programs, for grants for exchange of persons programs between the United States and the Soviet Union.

**SEC. 302. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.**

(a)<sup>14</sup> \* \* \*

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 301, there is authorized to be appropriated \$2,000,000 for fiscal year 1988 and \$2,000,000 for fiscal year 1989 to carry out the program established by the amendment made by subsection (a).

**SEC. 303.**<sup>15</sup> \* \* \*

**SEC. 304. PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY.**

(a) FEDERAL SUPPORT FOR PROFESSORSHIP.—The President, in support of the statutory program of American studies abroad, is directed to foster studies in constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(4)) a professorship on the subject of constitutional democracy, if such professorship is established by such university.

(b) FINANCIAL SUPPORT FOR THE PROFESSORSHIP.—If the professorship referred to in subsection (a) is established by the Santo Tomas University in the Republic of the Philippines, veterans of the Pacific theater in World War II and veterans of the Korean conflict and Vietnam era are encouraged to contribute funds under section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)) to support such professorship.

\* \* \* \* \*

**SEC. 306. THE EDWARD ZORINSKY MEMORIAL LIBRARY.**

(a) MEMORIAL FOR EDWARD ZORINSKY.—The United States Information Service library in Jakarta, Indonesia is named “The Edward Zorinsky Memorial Library”.

(b) MEMORIAL PLAQUE.—The Director of the United States Information Agency shall cause a plaque to be made and prominently displayed at the library described in subsection (a). The plaque shall bear the following inscription:

“THE EDWARD ZORINSKY MEMORIAL LIBRARY

“This library is dedicated to the memory of Edward Zorinsky, United States Senator from Nebraska. As a Senator, Edward Zor-

<sup>14</sup>Subsec. (a) amended sec. 112(a) of the Mutual Educational Exchange Act of 1961 to establish the Samantha Smith Memorial Exchange Program.

<sup>15</sup>Sec. 303 amended sec. 112(a) of the Mutual Educational Exchange Act of 1961 to establish the Arts America Program.

insky worked tirelessly to promote the free exchange of ideas and people between the United States and other countries. This library, which is a forum for the exchange of ideas and knowledge between the people of the United States and the people of Indonesia, was reopened after a hiatus of more than twenty years as a result of legislation authored by Senator Zorinsky.”.

**SEC. 307. CULTURAL PROPERTY ADVISORY COMMITTEE.**

(a) <sup>16</sup> \* \* \*

(b) \* \* \*

(c) APPLICATION.—The amendment made by subsection (a) shall apply to members of the Cultural Property Advisory Committee first appointed after the date of enactment of this Act.

**TITLE IV—VOICE OF AMERICA**

**SEC. 401.<sup>17</sup> AUTHORIZATIONS OF APPROPRIATIONS.**

In addition to the amounts authorized to be appropriated under title II, there are authorized to be appropriated the following amounts to the United States Information Agency for the Voice of America for the purpose of carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act:

- (1) for “Salaries and Expenses”, \$177,200,000 for the fiscal year 1988 and \$180,744,000 for the fiscal year 1989;
- (2)<sup>18</sup> for “Voice of America/Europe”, \$3,000,000 for the fiscal year 1988 and \$3,060,000 for the fiscal year 1989; and

<sup>16</sup>Subsec. (a) amended sec. 306(b)(3)(A) of the Convention on Cultural Property Implementation Act to establish terms of service for members of the Cultural Property Advisory Committee.

<sup>17</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2221), provided the following for “Radio Construction”:

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That not to exceed \$7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for an startup operations including a test of television broadcasting to Cuba: *Provided further*, That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service’s drug interdiction efforts and the United States Information Agency’s test of television broadcasting to Cuba: *Provided further*, That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further*, That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the Radio Broadcasting to Cuba Act: *Provided further*, That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licensees.”.

<sup>18</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following: “Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided*, That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.”.

(3)<sup>18</sup> for “Radio Broadcasting to Cuba”, \$12,652,000 for the fiscal year 1988<sup>19</sup> and \$12,905,000 for the fiscal year 1989.<sup>20</sup>

\* \* \* \* \*

**SEC. 403.<sup>21</sup> CONTRACTOR REQUIREMENTS.**

(a) **FINDINGS.**—The Congress finds that the overriding national security aspects of the \$1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

(b) **RESPONSIVE BID.**—A bid shall not be treated as a responsive bid for purposes of the facilities modernization program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

(c) **PREFERENCE FOR UNITED STATES CONTRACTORS.**—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

(d)<sup>22</sup> **EXCEPTION.**—

(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

(A) precluded by the terms of an international agreement with the host foreign country;

(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

- (i) its national public radio and television sector, or
- (ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

<sup>19</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (sec. 101(a) of the Continuing Appropriations Act of 1988; Public Law 100–202; 101 Stat. 1329), provided the following appropriation for “Radio Broadcasting to Cuba”: \$12,759,000.

<sup>20</sup>The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2222), provided the following appropriation for “Radio Broadcasting to Cuba”: \$11,175,000.

<sup>21</sup>22 U.S.C. 1471 note.

<sup>22</sup>As enrolled; sec. 403 has two subsec. (d).

(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs<sup>23</sup> and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

(d)<sup>22</sup> DEFINITIONS.—For purposes of this section—

(1) the term “United States person” means a person that—

(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

(F) has the existing technical and financial resources in the United States to perform the contract; and

(2) the term “qualified United States joint venture person” means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to any project with respect to which the Request For Proposals

<sup>23</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(commonly referred to as "RFP") or the Invitation For Bids (commonly referred to as "IFB") was issued after December 28, 1986.

\* \* \* \* \*



**j. United States Information Agency Authorization, Fiscal Years 1986 and 1987**

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; as amended by Public Law 103-149 [South African Democratic Transition Support Act of 1993, H.R. 3225], 107 Stat. 1503, approved November 23, 1993; and Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

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

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATION AGENCY**

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

In addition to amounts otherwise available for such purposes, there are authorized to be appropriated for the United States Information Agency \$887,900,000 for the fiscal year 1986<sup>1</sup> and \$887,900,000 for the fiscal year 1987<sup>2</sup> to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, and other purposes authorized by law. Amounts appropriated

<sup>1</sup>The Department of State and Related Agencies Appropriation Act, 1986 (Title V of Public Law 99-180; 99 Stat. 1167), included for fiscal year 1986 the following appropriations: salaries and expenses—\$571,000,000; educational and cultural exchange programs—\$128,106,000 (and \$9,894,000 for private sector exchange programs); acquisition and construction of radio facilities—\$114,000,000; radio broadcasting to Cuba—\$10,700,000; Center for Cultural and Technical Interchange Between East and West—\$20,750,000; and National Endowment for Democracy—\$18,000,000.

<sup>2</sup>Title V of sec. 101(l) of the Continuing Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341), included for fiscal year 1987 the following appropriations: salaries and expenses—\$570,000,000; educational and cultural exchange programs—\$135,270,000 (and \$9,730,000 for private sector exchange programs); acquisition and construction of radio facilities—\$46,000,000; radio broadcasting to Cuba—\$11,250,000; Center for Cultural Interchange between East and West—\$20,000,000; and National Endowment for Democracy—\$15,000,000.

under this section are authorized to remain available until expended.

**SEC. 202. MODERNIZATION OF VOICE OF AMERICA.**

Of the authorizations of appropriations contained in section 201, authorizations of \$136,594,000 for the fiscal year 1986 and \$136,594,000 for the fiscal year 1987, which shall be available for essential modernization of the facilities and operations of the Voice of America, shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

**SEC. 203. RADIO BROADCASTING TO CUBA.**

Of the amounts authorized to be appropriated by section 201, not less than \$11,500,000 for the fiscal year 1986 and not less than \$11,700,000 for the fiscal year 1987 shall be available for the implementation of the Radio Broadcasting to Cuba Act.

**SEC. 204. FUNDS FOR EDUCATIONAL AND CULTURAL EXCHANGES.**

Of the amounts authorized to be appropriated by section 201—

(1) not less than \$128,899,500 for the fiscal year 1986 and not less than \$141,996,000 for the fiscal year 1987 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program;

(2) not less than \$4,891,500 for the fiscal year 1986 and not less than \$5,479,000 for the fiscal year 1987 shall be available only for grants for the Humphrey Fellowship Program; and

(3) \$45,400,000 for the fiscal year 1986 and \$45,100,000 for the fiscal year 1987 shall be allocated to fund grants and exchanges to Latin America and the Caribbean, and the amounts utilized for programs in Central America shall be obligated in a manner consistent with the recommendations of the National Bipartisan Commission on Central America.

**SEC. 205. FUNDS FOR WORLDWIDE BOOK PROGRAM INITIATIVE.**

Of the amounts authorized to be appropriated by section 201, not less than \$7,500,000 for each of the fiscal years 1986 and 1987 shall be available only for the worldwide book program initiative.

**SEC. 206. FUNDS FOR EXCHANGE ACTIVITIES ASSOCIATED WITH THE 1987 PAN AMERICAN GAMES.**

Of the amounts authorized to be appropriated for the fiscal years 1986 and 1987 by section 201, not less than \$1,500,000 for each such fiscal year shall be available only to the Indiana Sports Corporation for exchanges of persons and other exchange-related activities associated with the 1987 Pan American Games to be held in Indianapolis, Indiana.

**SEC. 207. FUNDS FOR INTERNATIONAL GAMES FOR THE HANDICAPPED.**

Of the amounts authorized to be appropriated for fiscal year 1986 by section 201, \$3,000,000 shall be available only to reimburse expenses for exchange of athletes, coaches, and officials participating in international games for the handicapped which are conducted in the United States.

**SEC. 208.<sup>3</sup> BAN ON DOMESTIC ACTIVITIES BY THE USIA.**

Except as provided in section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461) and this section, no funds authorized to be appropriated to the United States Information Agency shall be used to influence public opinion in the United States, and no program material prepared by the United States Information Agency shall be distributed within the United States. This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.). The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.<sup>4</sup>

**SEC. 209. PRIVATE SECTOR FUNDING FOR USIA'S PRIVATE SECTOR PROGRAM.**

(a) **LIMITATION ON GRANTS.**—No grant shall be made to any organization through the Private Sector Program of the United States Information Agency unless—

(1) costs equal to at least 15 percent of grants from the United States Information Agency in fiscal year 1986, and

(2) costs equal to at least 25 percent of grants from the United States Information Agency in fiscal year 1987, for that organization's exchange and exchange-related programs are provided for from non-United States Government sources.

(b) **EXEMPTION FOR CERTAIN ORGANIZATIONS.**—Subsection (a) shall not apply to grantee organizations which have been in existence for less than one year.

(c) **PROHIBITION ON FUNDING 1985 INTERNATIONAL YOUTH YEAR ACTIVITIES.**—No funds from fiscal year 1986 appropriations for the United States Information Agency or for any other United States Government agency shall be available for grants related to 1985 International Youth Year activities.

<sup>3</sup> 22 U.S.C. 1461–1a. See sec. 501 of the United States Information and Educational Exchange Act of 1948, and related box note, for exceptions to this prohibition, beginning at page 1436. Sec. 1333(a) of Public Law 105–277 (112 Stat. 2681–785) provided the following:

**“SEC. 1333. APPLICATION OF CERTAIN LAWS.**

“(a) **APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.**—Section 501 of Public Law 80–402 (22 U.S.C. 1461), section 202 of Public Law 95–426 (22 U.S.C. 1461–1), and section 208 of Public Law 99–93 (22 U.S.C. 1461–1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

“(b) **APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.**—Section 501 of Public Law 80–402 (22 U.S.C. 1461), section 202 of Public Law 95–426 (22 U.S.C. 1461–1), and section 208 of Public Law 99–93 (22 U.S.C. 1461–1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

“(c) **LIMITATION ON USE OF FUNDS.**—Except as provided in section 501 of Public Law 80–402 and section 208 of Public Law 99–93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.”

<sup>4</sup> Sec. 232 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 424), added the last sentence in this section.

SEC. 210.<sup>5</sup> \* \* \*

SEC. 211.<sup>6</sup> \* \* \* [Repealed—1993]

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<sup>5</sup>Sec. 210 amended the National Endowment for Democracy Act (22 U.S.C. 4411 *et seq.*).  
<sup>6</sup>Sec. 4(b)(2) of the South African Democratic Transition Support Act of 1993 (Public Law 103–149; 107 Stat. 1505) repealed sec. 211, relating to promoting democracy and an end to the apartheid policies in South Africa.

**k. United States Information Agency Authorization Act,  
Fiscal Years 1984 and 1985**

**Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, approved November 22, 1983; as amended by Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994**

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

NOTE.—Sections of this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

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

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATION AGENCY**

**SHORT TITLE**

SEC. 201. This title may be cited as the “United States Information Agency Authorization Act, Fiscal Years 1984 and 1985”.

**AUTHORIZATION OF APPROPRIATIONS**

SEC. 202. In addition to the amounts otherwise authorized for such purposes, there are authorized to be appropriated for the United States Information Agency \$642,348,000 for the fiscal year 1984<sup>1</sup> and \$806,239,000 for the fiscal year 1985<sup>2</sup> to carry out inter-

<sup>1</sup>The Department of State and Related Agencies Appropriations Act, 1984 (title III of Public Law 98-166; 97 Stat. 1097) included \$624,565,000 for fiscal year 1984, itemized as follows: salaries and expenses—\$471,853,000; educational and cultural exchange programs—\$92,900,000; salaries and expenses (special foreign currency program)—\$9,800,000; Center for Cultural and Technical Interchange between East and West—\$18,362,000; and acquisition and construction of radio facilities—\$31,000,000.

<sup>2</sup>The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98-411; 98 Stat. 1564) included \$768,856,000 for fiscal year 1985, itemized as follows: salaries and expenses—\$545,856,000; salaries and expenses (special foreign currency program)—\$8,000,000; educational and cultural exchange programs—\$130,000,000; acquisition and construction of radio facilities—\$85,000,000. The Supplemental Appropriations Act, 1985 (title I of Public Law 99-88; 99 Stat. 293), for fiscal year 1985, provided as follows:

Continued

national information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

IMPROVEMENT OF VOA FACILITIES AND OPERATIONS

SEC. 203. Of the authorizations of appropriations contained in section 202—

(1) authorizations of \$47,959,000 for the fiscal year 1984, which shall be available for the acquisition and construction of radio facilities,<sup>1</sup> and

(2) authorizations of \$164,800,000 for the fiscal year 1985, which shall be available for essential modernization of the facilities and operations of the Voice of America,<sup>2</sup>

shall remain available until the appropriations are made and when those amounts are appropriated they are authorized to remain available until expended.

INTERNAL AUDITORS

SEC. 204. Of the amounts authorized to be appropriated by section 202, not less than \$600,000 for each of the fiscal years 1984 and 1985 shall be available only for the employment of twelve professional internal auditors for the United States Information Agency in excess of any internal auditors employed by the Agency during fiscal year 1983.

FUNDS FOR THE NATIONAL ENDOWMENT FOR DEMOCRACY

SEC. 205.<sup>3</sup> Of the amounts appropriated for the United States Information Agency for each of the fiscal years 1984 and 1985, not

“EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

“Of the funds made available under this head in Public Law 98–411, \$3,800,000 for the pilot Central American Undergraduate Scholarship program shall remain available until September 30, 1986; and for an additional amount under this head, \$9,000,000, to remain available until September 30, 1986.

“For an additional amount under this head to promote the development of an independent media service by the Afghan people and to provide for the training of Afghans in media and media-related fields, \$500,000, to remain available until September 30, 1986: *Provided*, That the Director, with the Secretary of State, shall report to the appropriate committees of Congress on the obligation of these funds 60 days from the date of enactment of this Act.

“For the Private Sector Exchange Programs, an additional \$500,000 is provided, to remain available until expended, for the model Chinese-American Development Student Exchange Program at Tufts University as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.).

“ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

“For an additional amount for ‘Acquisition and Construction of Radio Facilities’, \$6,648,000, to remain available until expended.

“UNITED STATES INFORMATION AGENCY

“SALARIES AND EXPENSES

“(RESCISSION)

“Of available funds under this head, \$2,879,000 are rescinded.”

<sup>3</sup>The Department of State and Related Agency Appropriations Act, 1984 (title III of Public Law 98–166; 97 Stat. 1098), included \$18,000,000 for the National Endowment for Democracy during fiscal year 1984. The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98–411; 98 Stat. 1569), included \$18,500,000 for the National Endowment for Democracy during fiscal year 1985.

less than \$31,300,000 shall be available only for a grant, in accordance with title V of this Act, to the National Endowment for Democracy for use in carrying out its purposes.

#### EDUCATIONAL AND CULTURAL EXCHANGES

SEC. 206. (a) Of the funds authorized to be appropriated for the United States Information Agency for the fiscal year 1984, not less than \$100,500,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program, not less than \$3,729,000 shall be available only for grants for the Humphrey Fellowship Program, and not more than \$7,100,000 shall be available for the Private Sector Program.<sup>4</sup> Funds authorized to be appropriated by this title for the Private Sector Program shall be available only for grants to not-for-profit cultural, educational, or exchange-of-persons organizations. Of the funds authorized to be appropriated for the United States Information Agency for fiscal year 1984, \$3,000,000 shall be available only for enhancements of United States libraries overseas and programs providing support services to foreign students studying, or intending to study, in the United States.

(b) Of the funds authorized to be appropriated for the United States Information Agency for the fiscal year 1985, not less than \$123,100,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program, and not less than \$4,435,000 shall be available only for grants for the Humphrey Fellowship Program.<sup>5</sup>

#### PRIVATE SECTOR PROGRAM

SEC. 207.<sup>6</sup> (a) No funds authorized to be appropriated for the Private Sector Program shall be used to pay for foreign travel by any United States citizen who, in the five years preceding the date of the proposed foreign travel, made two or more trips financed in whole or in substantial part by grants from the Private Sector Program. This limitation shall not apply to escort interpreters accompanying delegations, to artists accompanying exhibitions, to persons engaging in theatrical or musical performances, or to the full-time staff of the grantee organization. In addition, the Director of the Bureau of Educational and Cultural Affairs may waive this limitation in exceptional cases if he determines that foreign travel is essential to the successful completion of the grant program and so certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to the commencement of the proposed foreign travel.

<sup>4</sup>The Department of State and Related Agencies Appropriations Act, 1984 (title III of Public Law 98–166; 97 Stat. 1097), included \$92,900,000 for educational and cultural exchange programs and \$7,100,000 for the Private Sector Exchange Program during fiscal year 1984.

<sup>5</sup>The Department of State and Related Agencies Appropriations Act, 1985 (title III of Public Law 98–411; 98 Stat. 1569), included \$121,352,000 for educational and cultural exchange programs and \$8,648,000 for the Private Sector Exchange Program during fiscal year 1985.

<sup>6</sup>22 U.S.C. 2460 note. Sec. 139(11) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398), repealed subsec. (b) of this section, which had required that the Director of the Bureau of Educational and Cultural Affairs report annually to Congress on certain aspects of foreign travel funded by the Private Sector Program.

## INTERNATIONAL YOUTH YEAR

SEC. 208. (a) From the funds allocated to the Private Sector Program, the United States Information Agency may make grants to youth and youth service organizations in support of activities to promote participation by American young people in the activities of International Youth Year. Activities to be supported shall involve exchange-of-persons. Grants under this subsection shall be subject to all applicable guidelines and notification requirements, except that organizations receiving such grants shall not be subject to the funding limitation on newer organizations which is contained in the “ECA Grant Guidelines” which were submitted to the Congress on May 4, 1983 (see pages 42–44 of the report of the Committee on Foreign Relations on S. 1342 (Senate report numbered 98–143) and pages 66–68 of the report of the Committee on Foreign Affairs<sup>7</sup> to accompany H.R. 2915 (House of Representatives report numbered 98–130)).

(b) The Secretary of State shall ensure that any organization designated by the United States Government, or any agency thereof, as the official United States commission or committee for United States participation in International Youth Year meets the following criteria: (1) the membership of such organization is open to all major youth and youth service organizations; (2) the charter of such organization provides that the organization will have full financial responsibility for its own assets, receipts, and expenditures; and (3) the composition of the Governing Board shall be elected from the constituent youth and youth service organizations, and in such an election the size of the membership of the constituent youth and youth service organizations shall be an important factor. Clause (3) shall not be construed as requiring any particular system of proportional representation in the election of the Governing Board.

(c) No funds authorized to be appropriated by this Act shall be made available to any organization to coordinate or plan for United States participation in International Youth Year if that organization does not meet the criteria specified in subsection (b).

PROHIBITION ON LOBBYING WITH UNITED STATES FUNDS BY USIA  
GRANTEE ORGANIZATIONS

SEC. 209. None of the funds authorized to be appropriated by this title shall be used by any grantee organization of the United States Information Agency for lobbying or propaganda which is directed at influencing public policy decisions of the Government of the United States or any State or locality thereof. This section shall not be construed so as to abridge the right of any grantee organization to exercise the same freedom of speech as is protected by the first article of amendment of the United States Constitution, so long as such organization does not use funds provided under this title in exercising such right.

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



## FUNDS FOR OFFICIAL RECEPTIONS AND ENTERTAINMENT EXPENSES

SEC. 210. Notwithstanding any other provision of law, not more than \$20,000 of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1984 or for the fiscal year 1985 shall be available for domestic representation or entertainment expenses, including official receptions.

## FUNDS FOR UNITED STATES-GERMAN TEENAGE EXCHANGE

SEC. 211. In addition to amounts otherwise authorized to be appropriated for the United States Information Agency, there are authorized to be appropriated \$2,500,000 for the fiscal year 1984 and \$2,500,000 for the fiscal year 1985 to carry out a United States-German teenage exchange sponsored by the Members of the United States Congress and the West German Bundestag.

## FUNDING FOR UNITED STATES PARTICIPATION IN THE TSUKUBA, JAPAN EXPOSITION 1985

SEC. 212. In addition to amounts otherwise made available for such purpose, there are authorized to be appropriated to the United States Information Agency, without fiscal year limitation, \$4,000,000 for expenses in connection with United States participation in the Tsukuba, Japan Exposition 1985.

\* \* \* \* \*

**I. United States Information Agency Authorization Act,  
Fiscal Years 1982 and 1983**

**Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273 at 291, approved  
August 24, 1982**

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

NOTE.—Sections in this Act amend State Department, USIA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

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

\* \* \* \* \*

**TITLE III—UNITED STATES INFORMATION AGENCY**

**SHORT TITLE**

SEC. 301. This title may be cited as the “United States Information Agency Authorization Act, Fiscal Years 1982 and 1983”.

**AUTHORIZATIONS OF APPROPRIATIONS**

SEC. 302. There are authorized to be appropriated for the United States Information Agency, as so redesignated by section 303 of this Act, \$494,034,000 for the fiscal year 1982<sup>1</sup> and \$559,000,000 for the fiscal year 1983<sup>2</sup> to carry out international communication,

<sup>1</sup>The Continuing Appropriations Act, 1982 (Public Law 97-92; 95 Stat. 1183), and H.R. 4169, as passed by the House and made applicable to Public Law 97-92, included \$488,886,000 for fiscal year 1982, itemized as follows: salaries and expenses—\$443,286,000; salaries and expenses (special foreign currency program)—\$9,800,000; Center for Cultural and Technical Interchange between East and West—\$16,800,000; and acquisition and construction of radio facilities—\$19,000,000.

<sup>2</sup>Further Continuing Appropriations Act, 1983 (Public Law 97-377; 96 Stat. 1830 at 1877), and S. 2956, as reported in the Senate on September 24, 1982, and made part of Public Law 97-377, appropriated \$545,449,000 for fiscal year 1983 itemized in the following manner: salaries and expenses—\$492,122,000, of which \$84,292,000 shall be for certain USIA exchange programs; salaries and expenses (special foreign currency program)—\$10,327,000; Center for Cultural and Technical Interchange Between East and West—\$18,000,000; and acquisition of radio facilities—\$25,000,000.

In addition to funds contained in Public Law 97-377 for the United States Information Agency during fiscal year 1983, the Supplemental Appropriations Act, 1983 (Public Law 98-63; 97 Stat. 307), provided the following:

educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

REDESIGNATION OF THE INTERNATIONAL COMMUNICATION AGENCY AS  
THE UNITED STATES INFORMATION AGENCY

SEC. 303.<sup>3</sup> (a) The International Communication Agency, established by Reorganization Plan Numbered 2 of 1977, is hereby redesignated the United States Information Agency. The Director of the International Communication Agency or any other official of the International Communication Agency is hereby redesignated the Director or other official, as appropriate, of the United States Information Agency.

(b) Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a).

\* \* \* \* \*

INTERNATIONAL EXCHANGES AND NATIONAL SECURITY

SEC. 305. (a) The Congress finds that—

(1) United States Government sponsorship of international exchange-of-persons activities has, during the postwar era, contributed significantly to United States national security interests;

(2) during the 1970's, while United States programs declined dramatically, Soviet exchange-of-persons activities increased steadily in pace with the Soviet military buildup;

(3) as a consequence of these two trends, Soviet exchange-of-persons programs now far exceed those sponsored by the United States Government and thereby provide the Soviet Union an important means of extending its worldwide influence;

(4) the importance of competing effectively in this area is reflected in the efforts of major United States allies, whose programs also represent far greater emphasis on exchange-of-persons activities than is demonstrated by the current United States effort; and

“UNITED STATES INFORMATION AGENCY

“SALARIES AND EXPENSES

“For an additional amount for ‘Salaries and expenses’, \$9,000,000, and, in addition there shall be available the sum of \$4,000,000.

“ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES

“For an additional amount for ‘Acquisition and construction of radio facilities’, \$10,800,000.”.  
<sup>3</sup>22 U.S.C. 1461 note.

- (5) with the availability of increased resources, the United States exchange-of-persons program could be greatly strengthened, both qualitatively and quantitatively.
- (b) It is therefore the sense of the Congress that—
- (1) United States exchange-of-persons activities should be strengthened;
  - (2) the allocation of resources necessary to accomplish this improvement would constitute a highly cost-effective means of enhancing the United States national security; and
  - (3) because of the integral and continuing national security role of exchange-of-persons programs, such activities should be accorded a dependable source of long-term funding.
- (c)<sup>4</sup> The amount obligated by the United States Information Agency each fiscal year for grants for exchange-of-persons activities shall be increased, through regular annual increases, so that by the fiscal year 1986 the amount obligated for such grants is at least double (in terms of constant dollars) the amount obligated for such grants for the fiscal year 1982.
- (d)<sup>4</sup> (1) In furtherance of the purposes of subsection (c), the Congress directs that of the amount appropriated for the United States Information Agency for the fiscal year 1983—
- (A) \$84,256,000 shall be available only for grants for the Fulbright Academic Exchange Programs and the International Visitor Program; and
  - (B) \$3,248,000 shall be available only for grants for the Humphrey Fellowship Program; and
  - (C) \$8,906,000 shall be available only for grants to private, not-for-profit organizations engaging in exchange-of-persons programs;
- subject to paragraphs (2) and (3) of this subsection.
- (2) If the amount appropriated for the United States Information Agency for the fiscal year 1983 is less than the amount authorized for the fiscal year 1983, then the amounts specified in subparagraphs (A) through (C) of paragraph (1) shall each be deemed to be reduced to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the amount authorized. For purposes of this paragraph—
- (A) the term “amount appropriated” means the amount appropriated under section 302 of this Act (less any rescissions), and does not include amounts appropriated under section 704 of the United States Information and Educational Exchange Act of 1948 (relating to nondiscretionary personnel costs and currency fluctuations) or under any other provision of law; and
  - (B) the term “amount authorized” means the amount authorized to be appropriated by section 302 of this Act, less an amount equal to any amount which was withheld from appropriation (or was rescinded) in order to reduce the amount available for a particular program or activity.
- (3) The Director of the United States Information Agency may authorize up to 5 percent of the amount earmarked under subparagraph (A), (B), or (C) of paragraph (1) to be used for a purpose other than the exchange-of-persons activities specified in that sub-

<sup>4</sup> 22 U.S.C. 2455 note.

paragraph. Not less than 15 days prior to any such authorization, the Director shall submit to the Committee on Foreign Affairs<sup>5</sup> of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a justification for authorizing the use of earmarked funds for a purpose other than the specified exchange-of-persons activities.

\* \* \* \* \*

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

**m. International Communication Agency Authorization Act,  
Fiscal Years 1980 and 1981**

**Partial text of Public Law 96-60 [H.R. 3363], 93 Stat. 395 at 398, approved  
August 15, 1979**

AN ACT To authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

NOTE.—Sections in this Act amend State Department, ICA, and other foreign affairs legislation and are incorporated in the appropriate Acts.

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

\* \* \* \* \*

**TITLE II—INTERNATIONAL COMMUNICATION AGENCY**

**SHORT TITLE**

SEC. 201. This title may be cited as the “International Communication Agency Authorization Act, Fiscal Years 1980 and 1981”.

**AUTHORIZATIONS OF APPROPRIATIONS**

SEC. 202. There are authorized to be appropriated for the International Communication Agency \$432,547,000 for the fiscal year 1980 and \$465,944,000 for the fiscal year 1981<sup>1</sup> to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

<sup>1</sup>The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), which included funds for the ICA, was adopted by Congress on December 3, 1980, but vetoed by the President on December 13, 1980. Appropriations for the ICA during fiscal year 1981 were governed by Public Law 96-536 (94 Stat. 3166), a continuing resolution providing funds for any Federal agency that had not received funding through an appropriation act. Under the terms of Public Law 96-536, the ICA was funded at levels established in H.R. 7584. H.R. 7584 provided \$419,000,000, of which not to exceed \$3,746,000 allocated by the ICA to carry out sec. 102(a)(3) of the Mutual Educational and Cultural Exchange Act shall remain available until expended. “Provided, That not to exceed \$460,000 may be used for representation abroad.”

ADMINISTRATIVE AUTHORITIES

SEC. 203. (a) \* \* \*

(b) \* \* \*

(c)<sup>2</sup> Section 602(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474) is amended—

(1) by striking out “or” at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof “; or”; and

(3) by inserting immediately after paragraph (20) the following new paragraph:

“(21) the Director of the International Communication Agency with respect to the furnishing of facilities in foreign countries and reception centers within the United States.”.

\* \* \* \* \*

EFFECTIVE DATE

SEC. 209. The amendments made by sections 203 and 204 shall take effect on October 1, 1979, and to the extent that they provide new authorities involving the expenditure of appropriated funds, shall apply only with respect to funds appropriated after the date of enactment of this Act.

<sup>2</sup>The Federal Property and Administrative Services Act of 1946 provided for a uniform procedure for the management and disposal of Government property. Sec. 602(d) of such Act exempted the provisions of the Act from impairing or affecting any authority of 21 specified Government agency heads to perform specific tasks. This amendment added the Director of the ICA to this exemption list.

**n. International Communication Agency Authorization for  
Fiscal Year 1979**

**Partial text of Public Law 95-426 [H.R. 12598], 92 Stat. 963 at 972, approved  
October 7, 1978**

AN ACT To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 1979”.

\* \* \* \* \*

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1979

SEC. 201. (a) There is authorized to be appropriated for the International Communication Agency for fiscal year 1979 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law, \$420,577,000, and such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

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

MISSION OF THE INTERNATIONAL COMMUNICATION AGENCY

SEC. 202.<sup>1</sup> The mission of the International Communication Agency shall be to further the national interest by improving

<sup>1</sup>22 U.S.C. 1461-1. Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.  
Sec. 1333(a) of Public Law 105-277 (112 Stat. 2681-785) provided the following:



United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the International Communication Agency shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the Agency, to enhance understanding on the part of the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the mission of the Agency.

#### EXPANDED EXCHANGE ACTIVITIES

SEC. 203. The President shall, by a process of gradual expansion during the four-year period beginning October 1, 1979, increase significantly the financial resources expended annually by the International Communication Agency for exchange-of-persons activities. The President shall prepare at an early date a general plan for the accomplishment of this goal and shall adjust that plan annually, as he finds appropriate, in consultation with the Congress.

\* \* \* \* \*

#### FUNCTIONS RELATING TO THE NATIONAL GALLERY OF ART

SEC. 205. The Secretary of State may delegate to the Director of the International Communication Agency, with the consent of the

#### “SEC. 1333. APPLICATION OF CERTAIN LAWS.

“(a) APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

“(b) APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.—Section 501 of Public Law 80-402 (22 U.S.C. 1461), section 202 of Public Law 95-426 (22 U.S.C. 1461-1), and section 208 of Public Law 99-93 (22 U.S.C. 1461-1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

“(c) LIMITATION ON USE OF FUNDS.—Except as provided in section 501 of Public Law 80-402 and section 208 of Public Law 99-93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.”

Director, the functions vested in the Secretary by section 2(a) of the joint resolution entitled "Joint Resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (20 U.S.C. 72(a)).

FUNCTIONS RELATING TO THE WOODROW WILSON INTERNATIONAL  
CENTER FOR SCHOLARS

SEC. 206.<sup>2</sup> \* \* \*

\* \* \* \* \*

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<sup>2</sup>Sec. 206 amended the Woodrow Wilson Memorial Act of 1968 at 20 U.S.C. 80f.

**o. United States Information Agency Authorization for  
Fiscal Year 1978**

**Partial text of Public Law 95-105 [H.R. 6689], 91 Stat. 844 at 849, approved  
August 17, 1977**

AN ACT To authorize fiscal year 1978 appropriations for the Department of State,  
the United States Information Agency, and the Board for International Broad-  
casting, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Foreign Relations Au-  
thorization Act, Fiscal Year 1978".

\* \* \* \* \*

TITLE II—UNITED STATES INFORMATION AGENCY

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) There are authorized to be appropriated for the  
United States Information Agency for fiscal year 1978, to carry out  
international informational activities and programs under the  
United States Information and Educational Exchange Act of 1948,  
the Mutual Educational and Cultural Exchange Act of 1961, and  
Reorganization Plan Numbered 8 of 1953, and other purposes au-  
thorized by law, the following amounts:

(1) For "Salaries and expenses" and "Salary and expenses  
(special foreign currency program)", \$269,286,000.

(2) For "Special international exhibitions", \$4,360,000.

(3) For "Acquisition and construction of radio facilities",  
\$19,872,000.

(4) For increases in salary, pay, retirement, and other em-  
ployee benefits authorized by law, and for other nondis-  
cretionary costs, such additional amounts as may be necessary.

(b) Amounts appropriated under this section are authorized to re-  
main available until expended.

TRANSFER AUTHORITY

SEC. 202. Funds authorized to be appropriated for fiscal year  
1978 by any paragraph of section 201(a) (other than paragraph (4))  
may be appropriated for such fiscal year for a purpose for which  
appropriations are authorized by any other paragraph of such sec-  
tion (other than paragraph (4)), except that the total amount ap-  
propriated for a purpose described in any paragraph of section  
201(a) (other than paragraph (4)) may not exceed the amount spe-  
cifically authorized for such purpose by section 201(a) by more than  
10 per centum.

## REPLACEMENT OF FACILITIES IN SOWETO, REPUBLIC OF SOUTH AFRICA

SEC. 203. The Director of the United States Information Agency<sup>1</sup> shall prepare and submit to the Secretary of State plans for the replacement under the Foreign Service Buildings Act, 1926, of the Agency's facilities in Soweto, Republic of South Africa.

\* \* \* \* \*

USE BY THE JOHN FITZGERALD KENNEDY LIBRARY OF CERTAIN FILMS  
PREPARED BY THE UNITED STATES INFORMATION AGENCY

SEC. 205. Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency<sup>1</sup> shall, upon receipt of reimbursement for any expenses involved, make available to the Administrator of General Services for deposit or use at the John Fitzgerald Kennedy Library in Boston, Massachusetts, copies of the following films and trims and outs:

“President Kennedy Addresses Canadian Parliament”.  
 “United in Progress”.  
 “America Welcomes Prime Minister Baldewa (Nigeria)”.  
 “U.S. Welcomes Crown Prince Hassan (Libya)”.  
 “America Welcomes Ayub Khan”.  
 “America Welcomes President Aboud (Sudan)”.  
 “Firm Alliance (Iran)”.  
 “American Journey (Ivory Coast)”.  
 “A Welcome Visitor (Nehru)”.  
 “Haile Selassie (Return Trip)”.  
 “His Majesty, King Hassan (Morocco) Visits U.S.”.  
 “Salute to an African Leader (Bourguiba-Tunisia)”.  
 “Inauguration of John F. Kennedy”.  
 “The Task Begun”.  
 “Progress Through Freedom”.  
 “Forging the Alliance”.  
 “Prime Minister of Somali Republic Visits U.S.”.  
 “President Olympio of Togo Visits U.S.”.  
 “Five Cities in June”.  
 “From Uganda to America”.  
 “President Ahidjo Visits U.S.”.  
 “Mrs. Kennedy's Asian Journey”.  
 “Invitation to India”.  
 “Invitation to Pakistan”.

<sup>1</sup> Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

However, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

**p. United States Information Agency Authorization for  
Fiscal Year 1977**

**Partial text of Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12,  
1976**

AN ACT To authorize fiscal year 1977 appropriations for the Department of State,  
the United States Information Agency, and the Board for International Broad-  
casting, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled, That this Act may  
be cited as the "Foreign Relations Authorization Act, Fiscal Year  
1977".*

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATION AGENCY**

**AUTHORIZATION OF APPROPRIATIONS**

SEC. 201. (a) There are authorized to be appropriated for the  
United States Information Agency for fiscal year 1977, to carry out  
international informational activities and programs under the  
United States Information and Educational Exchange Act of 1948,  
the Mutual Educational and Cultural Exchange Act of 1961 and  
Reorganization Plan Numbered 8 of 1953, and other purposes au-  
thorized by law, the following amounts:

(1) For "Salaries and Expenses" and "Salary and Expenses  
(special foreign currency program)", \$255,925,000.

(2) For "Special International Exhibitions", \$4,841,000.

(3) For "Acquisition and Construction of Radio Facilities",  
\$2,142,000.

(4) Such additional amounts as may be necessary for in-  
creases in salary, pay, retirement, other employee benefits au-  
thorized by law, or other nondiscretionary costs.

(b) Amounts appropriated under this section are authorized to re-  
main available until expended.

**TRANSFER AUTHORITY**

SEC. 202. Funds authorized to be appropriated for fiscal year  
1977 by any paragraph of section 201(a) (other than paragraph (4))  
may be appropriated for such fiscal year for a purpose for which  
appropriations are authorized by any other paragraph of such sec-  
tion (other than paragraph (4)), except that the total amount ap-  
propriated for a purpose described in any paragraph of section  
201(a) (other than paragraph (4)) may not exceed the amount spe-  
cifically authorized for such purpose by section 201(a) by more than  
10 per centum.

\* \* \* \* \*

BICENTENNIAL DISTRIBUTION OF CERTAIN ITEMS PREPARED BY THE  
UNITED STATES INFORMATION AGENCY

SEC. 205.<sup>1</sup> \* \* \*

\* \* \* \* \*

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<sup>1</sup>The titles of films and related items authorized for distribution within the United States are listed on pages 1436-1437.

**q. United States Informational, Educational, and Cultural Programs Appropriations, 2006**

**Partial text of Public Law 109–108 [Department of State and Related Agency Appropriations Act, 2006; title IV of H.R. 2862], 114 Stat. 2290 at 2319, approved November 22, 2005**

AN ACT Making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

\* \* \* \* \*

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

\* \* \* \* \*

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized, \$431,790,000, to remain available until expended: *Provided*, That not to exceed \$2,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, educational advising and counseling programs, and exchange visitor programs as authorized.

\* \* \* \* \*

OTHER

\* \* \* \* \*

CENTER FOR MIDDLE EASTERN-WESTERN DIALOGUE TRUST FUND

For a grant to the Center for Middle Eastern-Western Dialogue Trust Fund (22 U.S.C. 2078), \$5,000,000 for operation of the Center for Middle Eastern-Western Dialogue in Istanbul, Turkey.

In addition, for necessary expenses of the Center for Middle Eastern-Western Dialogue Trust Fund, the total amount of the interest and earnings accruing to such Fund on or before September 30, 2006, to remain available until expended.

## EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2006, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

## ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2006, to remain available until expended.

## EAST-WEST CENTER

To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$19,240,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

## NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$75,000,000, to remain available until expended.

\* \* \* \* \*



## r. Au Pair Provisions

### (1) Extension of Au Pair Program

Public Law 104-72 [S. 1465], 109 Stat. 776, approved December 23, 1995; as amended by Public Law 105-48 [S. 1211], 111 Stat. 1165, approved October 1, 1997

AN ACT To extend au pair programs.

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

#### SECTION 1. EXTENSION OF AU PAIR PROGRAMS.

(a) REPEAL.—Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101-454) is repealed.<sup>1</sup>

(b) AUTHORITY FOR AU PAIR PROGRAMS.—The Director of the United States Information Agency is authorized to continue to administer an au pair program, operating on a world-wide basis.<sup>2</sup>

(c) REPORT.—Not later than October 1, 1996, the Director of the United States Information Agency shall submit a report regarding the continued extension of au pair programs to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. This report shall specifically detail the compliance of all au pair organizations with regulations governing au pair programs as published on February 15, 1995.

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<sup>1</sup>Sec. 8 of Public Law 101-454 extended USIA's authority to administer an au pair program until such programs could be taken over by another U.S. Government agency.

Sec. 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 751), amended sec. 8 (after its repeal) to extend the authority therein to fiscal year 1996.

<sup>2</sup>Sec. 1 of Public Law 105-48 (111 Stat. 1165) struck out “, through fiscal year 1997” at this point.

**(2) Miscellaneous International Affairs Authorizations Act of  
1988**

**Title III of S. 2757, enacted by reference in Public Law 100-461, 102 Stat.  
2268, approved October 1, 1988**

**TITLE III—AU PAIR PROVISION**

**SEC. 301. AU PAIR PROVISION**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the terms and conditions (including, but not limited to, those relating to educational requirements and permissible hours of child care) previously authorized by the United States Information Agency to implement Exchange Visitor Program Nos. P-3-5214T and P-3-5238T are in keeping with the goals and objectives of the Fulbright-Hayes Act (Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. 2451 et seq.).

(b) PROHIBITION ON CERTAIN USE OF FUNDS.—Notwithstanding any other provision of law, no funds authorized to be appropriated to the United States Information Agency may be obligated or expended for the purpose of, or which would result in, the termination or a substantial alteration of the terms and conditions previously authorized by the Agency for the implementation of Exchange Visitor Programs Nos. P-3-5214T and P-3-5238T.

## s. Reorganization Plan No. 8 of 1953<sup>1</sup>

**Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended**

**Effective August 1, 1953, 18 F.R. 4542, 67 Stat. 642, as amended by Act of June 28, 1955 (69 Stat. 183); Reorganization Plan No. 2 of 1977 (October 11, 1977), 42 F.R. 62461, 91 Stat. 1636**

### UNITED STATES INFORMATION AGENCY

SEC. 2. *Transfer of functions.*—(a) Subject to subsection (c) of this section, there are hereby transferred to the Director, (1) the functions vested in the Secretary of State by Title V of the United States Information and Educational Exchange Act of 1948, as amended, and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act as is an integral part of information programs under that Act, together with so much of the functions vested in the Secretary of State by other provisions of the said Act as is incidental to or is necessary for the performance of the functions under Title V and sections 202 and 203 transferred by this section.

(b) \* \* \* [Superseded—1978]

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

(2) The Secretary of State shall continue to provide to the Director on a current basis full guidance concerning the foreign policy of the United States.

(3) \* \* \* [Superseded—1978]

(d) To the extent the President deems it necessary in order to carry out the functions transferred by the foregoing provisions of this section, he may authorize the Director to exercise, in relation to the respective functions so transferred, any authority or part thereof available by law, including appropriation acts, to the Secretary of State, the Director for Mutual Security, or the Director of the Foreign Operations Administration, in respect of the said transferred functions.

<sup>1</sup>22 U.S.C. 1461 note. Much of Reorganization Plan No. 8 of 1953 was superseded by Reorganization Plan No. 2 of 1977. The retained provisions of the 1953 plan are included here. See following page for text of the 1977 plan.

## **t. Reorganization Plan No. 2 of 1977<sup>1</sup>**

42 F.R. 62461, 91 Stat. 1636, October 11, 1977; as amended by Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in sec. 1000(a)(7) of H.R. 3194], 113 Stat. 1536, approved November 29, 1999; and Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977, pursuant to the provisions of chapter 9 of title 5 of the United States Code

### INTERNATIONAL COMMUNICATION AGENCY<sup>2</sup>

**Section 1-6.**<sup>1</sup> \* \* \* [Repealed—1998]

#### **Section 7. Transfer of Functions**

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431-1479), except to the extent that any function in sections 302, 401, or 602 is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108; (B) to the extent that such functions were assigned to the Secretary of Health, Education, and Welfare immediately prior to the effective date of this Reorganization Plan, sections

<sup>1</sup> 22 U.S.C. 1461 note. Sec. 1336(6) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed secs. 1 through 6.

<sup>2</sup> "United States Information Agency" was substituted for "International Communication Agency" pursuant to sec. 303(b) of Public Law 97-241 (96 Stat. 291; 22 U.S.C. 1461 note), which provided that: "Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a)."

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.". See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

104(b), 105(d)(2), 105(f), 106(d), and 106(f); and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c).

(3) Public Law 90-494 (22 U.S.C. 929-932, 1221-1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency;

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93-168;

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorizations Act, Fiscal Year 1978, Public Law 95-105, 91 Stat. 844; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1011(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c.138, 65 Stat. 71 (50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)), to the extent that such functions are vested in the Secretary of State;

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89-665, as amended by section 201(5) of Public Law 94-422 (16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95-86 (headed "UNITED STATES INFORMATION AGENCY, SALARIES AND EXPENSES"), 91 Stat. 440-41;

(17) The twentieth unnumbered paragraph of title I of Public Law 95-86 (headed "CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST"), 91 Stat. 424;

(18) Sections 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926, as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(1)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c.301, 63 Stat. 408 (22 U.S.C. 2681-2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

(c) The Director shall insure that the scholarly integrity and non-political character of educational and cultural exchange activities vested in the Directors are maintained.

**Section 8.<sup>3</sup> Establishment of the United States Advisory Commission on International Communication, Cultural and Educational Affairs**

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission"). The Commission shall consist of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business and professional backgrounds. Not more than four members shall be from any one political party. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Education and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466–1468, 1741(6)), and under sections 106(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where

<sup>3</sup>Sec. 1334(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–786) repealed sec. 8. Sec. 404(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–446), amended Public Law 105–277 to provide that sec. 8 "shall continue to exist and operate under such provisions of law until October 1, 2001". Sec. 404(c) of Public Law 106–113, however, repealed sec. 8, effective September 30, 2001. Subsequently, sec. 407(c) of the State Department Appropriations Act, 2002 (title IV of Public Law 107–77; 115 Stat. 790), reenacted into law those provisions, including sec. 8, struck out by sec. 404(c) of Nance/Donovan, thus restoring sec. 8 to current law.

feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency. The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the Director have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(c)<sup>4</sup> The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO.

### Section 9. Abolitions and Supersessions

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c.143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315(22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. 1466-1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. 2456(c)); and

<sup>4</sup> Sec. 204(c) of Public Law 101-246 (104 Stat. 50) provided that "Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board." Subsec. (c) formerly read as follows:

"(c) The Commission shall have no authority with respect to the Board of Foreign Scholarships or the United States National Commission for UNESCO."

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c.841, 70 Stat. 890 (22 U.S.C. 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

#### **Section 10. Other Transfers**

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, and offices abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

#### **Section 11. Effective Date**

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.



## **u. Coordination of United States Government International Exchanges and Training Programs**

**Executive Order 13055, July 15, 1997, 62 F.R. 39099, U.S.C. 2460 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the coordination of United States Government International Exchanges and Training Programs, it is hereby ordered as follows:

**Section 1.** There is hereby established within the United States Information Agency a senior-level Interagency Working Group on United States Government-Sponsored International Exchanges and training (“the Working Group”). The purpose of the Working Group is to recommend to the President measures for improving the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training. The Working Group shall establish a clearinghouse to improve data collection and analysis of international exchanges and training.

**Sec. 2.** The term “Government-sponsored international exchanges and training” shall mean the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

**Sec. 3.** the Working Group shall consist of the Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair, and a comparable senior representative appointed by the respective Secretary of each of the Departments of State, Defense, Education, and the Attorney General, by the Administrator of the United States Agency for International Development, and by heads of other interested executive departments and agencies. In addition, representatives of the National Security Council and the Director of the Office of Management and Budget shall participate in the Working Group at their discretion. The Working Group shall be supported by an interagency staff office established in the Bureau of Education and Cultural Affairs of the United States Information Agency.

**Sec. 4.** The Working Group shall have the following responsibilities:

(a) Collect, analyze, and report data provide by all United States Government departments and agencies conducting international exchanges and training programs;

(b) Promote greater understanding of and cooperation on, among concerned United States Government departments and agencies, common issues and challenges faced in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors;

(c) In order to achieve the most efficient and cost-effective use of Federal resources, identify administrative and programmatic duplication and overlap of activities by the various United States Government agencies involved in Government-sponsored international exchange and training programs, and report thereon;

(d) No later than 1 year from the date of this order, develop initially and thereafter assess annually a coordinated strategy for all United States Government-sponsored international exchange and training programs, and issue a report on such strategy;

(e) No later than 2 years from the date of this order, develop recommendations on performance measures for all United States Government-sponsored international exchange and training programs, and issue a report thereon; and

(f) Develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

**Sec. 5.** All reports prepared by the Working Group pursuant to section 4 shall be made to the President, through the Director of the United States Information Agency.

**Sec. 6.** The Working Group shall meet on at least a quarterly basis.

**Sec. 7.** Any expenses incurred by a member of the Working Group in connection with such member's service on the Working Group shall be borne by the member's respective department or agency.

**Sec. 8.** If any member of the Working Group disagrees with respect to any matter in any report prepared pursuant to section 4, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

**Sec. 9.** Nothing in this Executive order is intended to alter the authorities and responsibilities of the head of any department or agency.

## v. International Communication Agency

**Executive Order 12048, March 27, 1978, 43 F.R. 13361, 5 U.S.C. Appendix; as amended by Executive Order 12388, October 14, 1982, 47 F.R. 46245; and by Executive Order 12608, September 9, 1987, 52 F.R. 34617**

### INTERNATIONAL COMMUNICATION AGENCY<sup>1</sup>

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 11 of Reorganization Plan No. 2 of 1977 (42 FR 62461 (December 13, 1977)), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the establishment of the International Communication Agency, it is hereby ordered as follows:

**Sec. 1.** (a) Reorganization Plan No. 2 of 1977 (42 FR 62461), which establishes the International Communication Agency, except for Section 7(a)(14) thereof, is hereby effective.

(b) Section 7(a)(14) of Reorganization Plan No. 2 of 1977, relating to the Woodrow Wilson Memorial Act of 1968, shall be effective on July 1, 1978.

**Sec. 2.** The functions vested in the Secretary of State by Executive Order No. 11312<sup>2</sup> are assigned and redelegated to the Director of the International Communication Agency. All authority vested in the United States Information Agency or its Director by Executive Order is reassigned and redelegated to the International Communication Agency or its Director, respectively.

**Sec. 3.** In order to ensure appropriate coordination among the Executive agencies, the Director of the International Communication Agency shall exercise primary responsibility for Government-wide policy guidance for international informational, educational, and cultural activities, including exchange programs. The Director shall take into account the statutory functions of the other concerned Executive agencies.

<sup>1</sup>22 U.S.C. 1461 note. Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency. See sec. 10 of this order.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

<sup>2</sup>Executive Order 12047 revoked Executive Order 11312, effective April 1, 1978.

**Sec. 4.** The Director of the International Communication Agency, with the assistance of the Secretary of Education, shall prepare and submit to the President the reports which the President is to transmit to the Congress pursuant to Section 108(b) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2458).

**Sec. 5.** The functions vested in the President by Sections 108(c) and 108(d) of the Mutual Educational and Cultural Exchange Act of 1961, as amended, are delegated to the Director of the International Communication Agency; because, (a) such a delegation is in the interest of the purposes expressed in that Act and the efficient administration of the programs undertaken pursuant thereto, (b) the Director is an appropriate official to perform those functions, and (c) those functions are not now delegated to any other officer of the Government.

**Sec. 6.** The Director of the International Communication Agency shall be the principal adviser to the President, the National Security Council, and the Secretary of State on international informational, educational, and cultural matters. As such, the Director shall provide advice within the policy formulation activities of the National Security Council when such matters are considered. The Director shall ensure that the senior official of the Agency at each diplomatic mission provides advice to the Chief of Mission on such matters. The scope of the Director's advice shall include assessments of the impact of actual and proposed United States foreign policy decisions on public opinion abroad.

**Sec. 7.** The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned, or redelegated as provided in this Order, are hereby transferred to the Director of the International Communication Agency.

**Sec. 8.** The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions, necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer of funds, records, property, and personnel.

**Sec. 9.** This Order shall be effective on April 1, 1978.

**Sec. 10.**<sup>3</sup> In accord with the name change provisions of Section 303 of Public Law 97-241 and effective on August 24, 1982, references in this Order to the International Communication Agency shall be deemed to be references to the United States Information Agency.

<sup>3</sup>Sec. 2 of Executive Order 12388 added sec. 10.

## w. Authority of Director, United States Information Agency<sup>1</sup>

**Executive Order 10477, August 1, 1953, 18 F.R. 4540, 22 U.S.C. 1472 note; as amended by Executive Order 10822, May 20, 1959, 24 F.R. 4159; and by Executive Order 12292, February 23, 1981, 46 F.R. 13967**

Authorizing the Director of the United States Information Agency To Exercise Certain Authority Available by Law to the Secretary of State and the Director of the Foreign Operations Administration

By virtue of the authority vested in me by section 2(d) of Reorganization Plan No. 8 of 1953, and as President of the United States, it is ordered as follows:

**Section 1. Determination.** It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to the respective functions so transferred, the authority specified in sections 2 and 3 hereof.

**Sec. 2.**<sup>2</sup> \* \* \* [Revoked—1981]

**Sec. 3. Authority under various other statutes.** The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 (5 U.S.C. 170 a, b, and c), regarding the transfer, acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950 (19 U.S.C. 1201, para. 1628), regarding the importation of sound recordings.

(d) The provisions under the first heading “Salaries and Expenses” of the Department of State Appropriation Act, 1954, regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his furniture and effects, under such regulations as the Secretary of State may prescribe, (4) dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others, (5)

<sup>1</sup>Sec. 1311 of division G of Public Law 105–277 (112 Stat. 2681–776) abolished the USIA (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) and sec. 1312 of that Act transferred relevant authority to the Secretary of State.

<sup>2</sup>Executive Order 12292 (46 F.R. 13967) revoked sec. 2, which pertained to authority under the Foreign Service Act and related laws.

examination of estimates of appropriations in the field, (6) purchase of ice and drinking water abroad, (7) payment of excise taxes on negotiable instruments abroad, and (8) procurement, by contract or otherwise, of services, supplies, and facilities, as follows: (i) maintenance, improvement, and repair of properties used for international information activities in foreign countries, (ii) fuel and utilities for Government-owned or leased property abroad, and (iii) rental or lease for periods not exceeding ten years of offices, buildings, ground, and living quarters, and the furnishing of living quarters to officers and employees engaged in international information activities abroad (22 U.S.C. 291).

(e) The provisions of the Department of State Appropriation Act, 1954, regarding (1) exchange of funds for payment of expenses in connection with the operation of information establishments abroad without regard to the provisions of section 3651 of the Revised Statutes (31 U.S.C. 543) (section 103 of the General Provisions of the Department of State Appropriation Act, 1954), (2) payment of travel expenses outside the continental limits of the United States from funds available in the fiscal year that such travel is authorized and actually begins (section 104 of the General Provisions of the Department of State Appropriation Act, 1954), (3) granting authority to the chief of each information Field Staff to approve, with the concurrence of the Chief of Mission, use of Government-owned vehicles for travel under conditions described in section 105 of the General Provisions of the Department of State Appropriation Act, 1954, and (4) purchase with foreign currencies for use abroad of passenger motor vehicles (exclusive of buses, ambulances, and station wagons) at a cost not to exceed the equivalent of \$2,200 for each vehicle (section 106 of the General Provisions of the Department of State Appropriation Act, 1954).

(f) Section 202 of the Revised Statutes of the United States (5 U.S.C. 156), so far as it authorizes the Secretary of State to keep the American public informed about the international information aspects of the United States foreign affairs.

(g) Section 504(d) of the Mutual Security Act of 1951, as amended (relating to reduction in personnel), with respect to personnel transferred from the Mutual Security Agency or the Foreign Operations Administration to the United States Information Agency.

(h) Section 161 of the Revised Statutes of the United States (5 U.S.C. 301) and section 4 of the act of May 26, 1949 (5 U.S.C. 151c), regarding the promulgation of rules and regulations and the delegation of authority.

**Sec. 4. Effective date.** This order shall become effective on August 1, 1953.

## 2. Mutual Educational and Cultural Exchange Act and Related Materials

### a. Mutual Educational and Cultural Exchange Act of 1961, as amended (Fulbright-Hays Act)

Public Law 87-256 [H.R. 8666], 75 Stat. 527, approved September 21, 1961; as amended by Public Law 87-565 [Foreign Assistance Act of 1962, S. 2996], 76 Stat. 255, approved August 1, 1962; Public Law 87-793 [H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 89-698 [H.R. 14263], 80 Stat. 1066, approved October 29, 1966; Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 973, approved October 7, 1978; Public Law 96-60 [ICA Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363] 93 Stat. 395 at 398, approved August 15, 1979; Public Law 96-465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 96-470 [Congressional Reports Elimination Act of 1980, H.R. 6686], 94 Stat. 2237 at 2246, approved October 19, 1980; Public Law 98-164 [Foreign Relations Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017, approved November 22, 1983; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 102-54 [Veterans Programs for Housing and Memorial Affairs Amendments; H.R. 232], 105 Stat. 267, approved June 13, 1991; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; subdivision A of division G of H.R. 4328], 112 Stat. 2681-765, approved October 21, 1998; Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; subdivision B of division G of H.R. 4328], 112 Stat. 2681-801, approved October 21, 1998; Public Law 105-292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; Public Law 107-77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To provide for the improvement and strengthening of the international relations of the United States by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Mutual Educational and Cultural Exchange Act of 1961.”

SEC. 101.<sup>1</sup> STATEMENT OF PURPOSE.—The purpose of this Act is to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.

SEC. 102.<sup>2</sup> (a) The President<sup>3</sup> is authorized, when he considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for—

(1) educational exchanges, (i) by financing studies, research, instructions, and other educational activities—

(A) of or for American citizens and nationals in foreign countries, and

<sup>1</sup>22 U.S.C. 2451. See also sec. 107 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 845), which called for a strengthening of educational exchange programs. See also sec. 7112 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3796), which authorized the President “to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Muslim world.”

<sup>2</sup>22 U.S.C. 2452.

See also sec. 602 of Public Law 101-610. See also in Public Law 102-138, sec. 210 (Claude and Mildred Pepper Scholarship Program), sec. 214 (Israeli Arab Scholarship Program), sec. 225 (Eastern Europe Student Exchange Endowment Fund), sec. 226 (Enhanced Educational Exchange Program), sec. 227 (law and business training), sec. 228 (Near and Middle East research and training), and sec. 229 (scholarships for Vietnamese).

See also sec. 807 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353).

See also sec. 102 (leaders in human rights and democracy movements) and sec. 103 (exchanges and scholarships for Tibetans and Burmese) of Public Law 104-319.

See also sec. 3011 of Public Law 106-31 (Russian Leadership Program); secs. 301 through 306 of Public Law 106-309 (International Academic Opportunity Act of 2000); and title II of H.R. 5666, as enacted by reference in sec. 1(a)(4) of Public Law 106-554 (Vietnam Education Foundation Act of 2000).

See also sec. 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3797), which authorized the Secretary of State to “conduct a pilot program to make grants to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations for the purpose of providing full or partial merit-based scholarships to students from lower-income and middle-income families of such countries to attend such schools.”

<sup>3</sup>Pursuant to sec. 7(a)(1) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this section except for those in subsecs. (b)(6) and (b)(10) were transferred to the Director of the International Communication Agency.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.” See also secs. 1301 and 1601 of that Act to determine date of effectiveness.



(B) of or for citizens and nationals of foreign countries in American schools and institutions of learning located in or outside the United States;  
and (ii) by financing visits and interchanges between the United States and other countries of students, trainees, teachers, instructors, and professors;

(2) cultural exchanges, by financing—

(i) visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons;

(ii) tours in countries abroad by creative and performing artists and athletes from the United States, individually and in groups, representing any field of the arts, sports, or any other form of cultural attainment;

(iii) United States representation in international artistic, dramatic, musical, sports, and other cultural festivals, competitions, meetings, and like exhibitions and assemblies;

(iv) participation by groups and individuals from other countries in nonprofit activities in the United States similar to those described in subparagraphs (ii) and (iii) of this paragraph, when the President<sup>3</sup> determines that such participation is in the national interest.

(3) United States participation in international fairs and expositions abroad,<sup>4</sup> including trade and industrial fairs and other public or private demonstrations of United States economic accomplishments and cultural attainments.

(b) In furtherance of the purposes of this Act, the President<sup>3</sup> is further authorized to provide for—

(1) interchanges between the United States and other countries of handicrafts, scientific, technical, and scholarly books, books of literature, periodicals, and Government publications, and the reproduction and translation of such writings, and the preparation, distribution, and interchange of other educational and research materials, including laboratory and technical equipment for education and research;

(2) establishing and operating in the United States and abroad centers for cultural and technical interchanges to promote better relations and understanding between the United States and other nations through cooperative study, training, and research;

(3) assistance in the establishment, expansion, maintenance, and operation of schools and institutions of learning abroad,

<sup>4</sup>Sec. 403 of Public Law 87-565 (76 Stat. 263) inserted “abroad” after “expositions.” The intent of Congress, as stated in the conference report (House Report 2008, 87th Congress) was to make clear that U.S. participation in fairs is limited to fairs held abroad and to conform to the long-established practice by which Congress authorizes on an individual basis U.S. participation in major fairs held in the United States. The amendment excepted U.S. participation in fairs or expositions for which an appropriation had already been provided, specifically participation in the New York World’s Fair of 1964-65 for which funds had been approved (sec. 403, Public Law 87-565).

founded, operated, or sponsored by citizens or nonprofit institutions of the United States, including such schools and institutions serving as demonstration centers for methods and practices employed in the United States;

(4) fostering and supporting American studies in foreign countries through professorships, lectureships, institutes, seminars, and courses in such subjects as American history, government, economics, language and literature, and other subjects related to American civilization and culture, including financing the attendance at such studies by persons from other countries;

(5) promoting and supporting medical, scientific, cultural, and educational research and development;

(6) promoting modern foreign language training and area studies in United States schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers in such schools, colleges, and universities for the purpose of improving their skill in languages and their knowledge of the culture of the people of those countries, and by financing visits by teachers from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities;

(7) United States representation at international nongovernmental educational, scientific, and technical meetings;

(8) participation by groups and individuals from other countries in educational, scientific, and technical meetings held under American auspices in or outside the United States;

(9) encouraging independent research into the problem of educational and cultural exchange;

(10)<sup>5</sup> promoting studies, research, instruction, and other educational activities of citizens and nationals of foreign countries in American schools, colleges, and universities located in the United States by making available to citizens and nationals of less developed friendly foreign countries for exchange for currencies of their respective countries (other than excess foreign currencies), at United States embassies, United States dollars in such amounts as may be necessary to enable such foreign citizens or nationals who are coming temporarily to the United States as students, trainees, teachers, instructors, or professors to meet expenses of the kind described in section 104(e)(1) of this Act,<sup>6</sup>

(11)<sup>7</sup> interchanges and visits between the United States and other countries of scientists, scholars, leaders, and other experts in the fields of environmental science and environmental management; and<sup>6</sup>

<sup>5</sup>Sec. 203(a) of the International Education Act of 1966 (Public Law 89-698; 80 Stat. 1071) added para. (10).

<sup>6</sup>Sec. 503 of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) struck out "and" at the end of para. (10); replaced a period at the end of para. (11) with "; and", and added a new para. (12).

<sup>7</sup>Sec. 703(a) of Public Law 98-164 (97 Stat. 1045) added para. (11). Sec. 703(b) of that Act specified the following:

"(b) Of the amount by which expenditures for the Fulbright Academic Exchange Programs, for the Humphrey Fellowship Program, and for the International Visitor Program for each of the fiscal years 1984 and 1985 exceeds the expenditures for these programs in fiscal year 1982,

(12)<sup>6</sup> promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.

SEC. 103.<sup>8</sup> (a) The President<sup>3</sup> is authorized to enter into agreements with foreign governments and international organizations, in furtherance of the purposes of this Act. In such agreements the President<sup>3</sup> is authorized, when he deems it in the public interest, to seek the agreement of the other governments concerned to cooperate and assist, including making use of funds placed in special accounts pursuant to agreements concluded in accordance with section 115(b)(6) of the Economic Cooperation Act of 1948, or any similar agreements,<sup>9</sup> in providing for the activities authorized in section 102, and particularly those authorized in subsection 102(a)(1),

5 percent shall be used to finance programs authorized by the amendment made by subsection (a) of this section.”

<sup>8</sup> 22 U.S.C. 2453.

<sup>9</sup> The Economic Cooperation Act of 1948, as amended, was repealed by sec. 542(a) of the Mutual Security Act of 1954. Sec. 115(b)(6) and (h) of the former Act were replaced by sec. 142(b) of the latter Act. Sec. 142(b) of the Mutual Security Act of 1954, as amended, was in turn repealed by the Foreign Assistance Act of 1961, Public Law 87-195 (75 Stat. 424); and replaced by sec. 609 of Public Law 87-195. Sec. 609 of Public Law 87-195, in turn, was superseded by sec. 592 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167); then by sec. 575 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513); which was extended into fiscal year 1992 by a continuing resolution (sec. 106, Public Law 102-145; 105 Stat. 968); further continued for fiscal year 1994 in sec. 537 of Public Law 103-87; for fiscal year 1995 in sec. 536 of Public Law 103-306; for fiscal year 1996 in sec. 532 of Public Law 104-107; for fiscal year 1997 in sec. 531 of Public Law 104-208; for fiscal year 1998 in sec. 532 of Public Law 105-118; for fiscal year 1999 in sec. 533 of Public Law 105-277; for fiscal year 2000 in sec. 532 of H.R. 3422, enacted by reference in Public Law 106-113; for fiscal year 2001 in sec. 532 of H.R. 5526, enacted by reference in Public Law 106-429; for fiscal year 2002 in sec. 529 of Public Law 107-117; for fiscal year 2003 in sec. 529 of Public Law 108-7; for fiscal year 2004 in sec. 529 of Public Law 108-199; for fiscal year 2005 in sec. 529 of Public Law 108-447; and for fiscal year 2006 in sec. 529 of Public Law 109-102.

Most recently, sec. 529 of Public Law 109-102 (119 Stat. 2206; 22 U.S.C. 2362 note), provided the following:

“SEPARATE ACCOUNTS

“SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—

“(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

“(A) require that local currencies be deposited in a separate account established by that government;

“(B) enter into an agreement with that government which sets forth—

“(i) the amount of the local currencies to be generated; and

“(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

“(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

“(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

“(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

“(i) project and sector assistance activities; or

“(ii) debt and deficit financing; or

“(B) for the administrative requirements of the United States Government.

“(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

“(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant

Continued

of this Act with respect to the expenses of international transportation of their own citizens and nationals and of activities in furtherance of the purposes of this Act carried on within the borders of such other nations.

(b) Such agreements may also provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purpose of administering programs in furtherance of the purposes of this Act.

(c) In such agreements with international organizations, the President<sup>3</sup> may provide for equitable United States participation in and support for, including a reasonable share of the cost of, educational and cultural programs to be administered by such organizations.

SEC. 104.<sup>10</sup> (a) The President may delegate, to such officers of the Government as he determines to be appropriate, any of the powers conferred upon him by this Act to the extent that he finds such delegation to be in the interest of the purposes expressed in this Act and the efficient administration of the programs undertaken pursuant to this Act: *Provided*, That where the President has delegated any of such powers to any officer, before the President implements any proposal for the delegation of any of such powers to another officer, that proposal shall be submitted to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, and thereafter a period of not less than sixty days shall have elapsed while Congress is in session. In computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days.

(b)<sup>11</sup> The President is authorized to employ such other personnel as he deems necessary to carry out the provisions and purposes of this Act, and of such personnel not to exceed ten may be compensated without regard to the provisions of the Classification Act

to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(5) REPORTING REQUIREMENT.—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

"(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—

"(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98-1159).

"(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

"(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations."

<sup>10</sup> 22 U.S.C. 2454.

<sup>11</sup> Sec. 1001(j) of Public Law 87-793 (76 Stat. 865) amended and restated subsec. (b).

of 1949, as amended,<sup>12</sup> but not in excess of the highest rate of grade 18 of the general schedule established by such Act. Such positions shall be in addition to the number authorized by section 505 of the Classification Act of 1949, as amended.<sup>13</sup>

(c)<sup>14</sup> \* \* \* [Repealed—1981]

(d) For the purpose of performing functions under this Act outside the United States, the President<sup>3</sup> is authorized to provide that any person employed or assigned by a United States Government agency shall be entitled, except to the extent that the President<sup>3</sup> may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of the Foreign Service Act of 1980,<sup>15</sup> for individuals appointed to the Foreign Service.

(e)(1) In providing for the activities and interchanges authorized by section 102 of this Act, grants may be made to or for individuals, either directly or through foundations or educational or other institutions, which foundations or institutions are public or private nonprofit, and may include funds for tuition and other necessary incidental expenses, for travel expenses from their places of residence and return for themselves, and, whenever it would further the purposes of this Act, for the dependent members of their immediate families, for health and accident insurance premiums, emergency medical expenses, costs of preparing and transporting to their former homes the remains of any of such persons who may die while away from their homes as participants or dependents of participants in any program under this Act, and for per diem in lieu of subsistence at rates prescribed by the Director of the International Communication Agency,<sup>16</sup> for all such persons, and for such other expenses as are necessary for the successful accomplishment of the purposes of this Act.

(2) Funds available for programs under this Act may be used (i) to provide for orientation courses, language training, or other appropriate services and materials for persons traveling out of the countries of their residence for educational and cultural purposes

<sup>12</sup> 5 U.S.C. 5101 *et seq.*

<sup>13</sup> 5 U.S.C. 5332(a).

<sup>14</sup> Sec. 2205(7) of the Foreign Service Act of 1980 (Public Law 96-465; 94 Stat. 2160) repealed subsec. (c), which authorized the Secretary of State to employ or assign persons in or to the Foreign Service Reserve or Foreign Service Staff and alien clerks and employees for the purpose of performing functions under this Act outside of the United States.

<sup>15</sup> Sec. 2206(9) of Public Law 96-465 (94 Stat. 2162) struck out "section 528 of the Foreign Service Act of 1946" and inserted in lieu thereof "section 310 of the Foreign Service Act of 1980".

<sup>16</sup> Sec. 204(a) of Public Law 95-426 (92 Stat. 973) struck out "President" and inserted in lieu thereof "Director of the International Communication Agency". Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776), however, abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.". See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

which further the purposes of this Act, whether or not they are receiving other financial support from the Government, and (ii) to provide or continue services to increase the effectiveness of such programs following the return of such persons to the countries of their residence.

(3) For the purpose of assisting foreign students in making the best use of their opportunities while attending colleges and universities in the United States, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements, by contract or otherwise, for the establishment and maintenance at colleges and universities in the United States attended by foreign students of an adequate counseling service.

(4) The President is authorized to provide for publicity and promotion (including representation) abroad of activities of the type provided for in this Act, and of similar services and opportunities for interchange not supported by the United States Government.<sup>17</sup>

(f)<sup>18</sup> \* \* \* [Repealed—1979]

(g)<sup>19</sup> (1) For the purpose of performing functions authorized by section 102(b)(10) of this Act, the President is authorized to establish the exchange rates at which all foreign currencies may be acquired through operations under such section, and shall issue regulations binding upon all embassies with respect to the exchange rates to be applicable in each of the respective countries where currency exchanges are authorized under such section.

(2) In performing the functions authorized under section 102(b)(10) of this Act, the President shall make suitable arrangements for protecting the interests of the United States Government in connection with the ownership, use, and disposition of all foreign currencies acquired pursuant to exchanges made under such section.

(3) The total amount of United States dollars acquired by any individual through currency exchanges under the authority of section 102(b)(10) of this Act shall in no event exceed \$3,000 during any academic year.

(4) An individual shall be eligible to exchange foreign currency for United States dollars at United States embassies under section 102(b)(10) of this Act only if he gives satisfactory assurances that (A) he will devote essentially full time to his proposed educational activity in the United States and will maintain good standing in relation to such program; (B) he will return to the country of his citizenship or nationality prior to coming to the United States and will render such public service as is determined acceptable for a period of time determined reasonable and necessary by the government of such country; and (C) he will not apply for an immigrant visa or

<sup>17</sup>Sec. 231 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 424), added “, and of similar services and opportunities for interchange not supported by the United States Government” at the end of para. (4).

<sup>18</sup>Sec. 203(a)(1) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 398), repealed subsec. (f), which required that all persons employed or assigned duties under this Act be investigated with respect to loyalty and suitability.

<sup>19</sup>Sec. 203(b) of the International Education Act of 1966 (Public Law 89-698; 80 Stat. 1071) added subsec. (g).

for permanent residence or for a nonimmigrant visa under the Immigration and Nationality Act after having received any benefits under such section for a period of time equal to the period of study, research, instruction, or other educational activity he performed pursuant to such section.

(5) As used in section 102(b)(10) of this Act, the term “excess foreign currencies” means foreign currencies, which if acquired by the United States (A) would be in excess of the normal requirements of departments, agencies, and embassies of the United States for such currencies, as determined by the President, and (B) would be available for the use of the United States Government under applicable agreements with the foreign country concerned.

SEC. 105.<sup>20</sup> (a) Amounts appropriated to carry out the purposes of this Act are authorized to be made available until expended.

(b) Funds appropriated for programs under this Act may, without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), be used for the acquisition from any source of foreign currencies in such amounts as may be necessary for current expenditures and for grants, including grants to foundations and commissions in accordance with international agreements providing for the accomplishment of the purposes of this Act.

(c) Moneys appropriated to any department or agency of the Government in furtherance of the purposes of this Act for research, technical aid, and educational and cultural programs, may be transferred by the President to any other appropriation available for like purposes, but no appropriation authorized by this Act shall be increased or decreased by more than 10 per centum by reason of transfers pursuant to this paragraph.

(d) The President is authorized—

(1) to reserve in such amounts and for such periods as he shall determine to be necessary to provide for the programs authorized by subsections 102(a)(1) and 102(a)(2)(i), and

(2) notwithstanding the provisions of any other law, to use in such amounts as may from time to time be specified in appropriation Acts, to the extent that such use is not restricted by agreement with the foreign nations concerned, for any programs authorized by this Act,

any currencies of foreign nations received or to be received by the United States or any agency thereof—

(i) under agreements disposing of surplus property or settling lend-lease and other war accounts concluded after World War II;

(ii) as the proceeds of sales or loan repayments, including interests, for transactions heretofore or hereafter effected under the Agricultural Trade Development and Assistance Act of 1954, as amended;

<sup>20</sup> 22 U.S.C. 2455. Sec. 227 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), amended and restated subsec. (a). It formerly read as follows:

“(a) Appropriations to carry out the purposes of this Act, to remain available until expended, are hereby authorized, and this authorization includes the authority to grant, in any appropriation Act, the authority to enter into contracts, within the amounts so authorized, creating obligations in advance of appropriations.”

(iii) in repayment of principal or interest on any other credit extended or loan heretofore or hereafter made by the United States or any agency thereof; or

(iv) as deposits to the account of the United States pursuant to section 115(b)(6) or section 115(h) of the Economic Cooperation Act of 1948, as amended, or any similar provision of any other law.<sup>9</sup>

(e) The President<sup>3</sup> is further authorized to reserve and use for educational and cultural exchange programs and other activities authorized in subsections 102 (a) and (b) of this Act, in relation to Finland and the people of Finland, all sums due or paid on and after August 24, 1949, by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the Act of February 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to the authority contained in the Act of February 9, 1922, or of any other indebtedness incurred by that Republic and owing to the United States as a result of World War I.

(f) Foreign governments, international organizations and private individuals, firms, associations, agencies, and other groups shall be encouraged to participate to the maximum extent feasible in carrying out this Act and to make contributions of funds, property, and services which the President is hereby authorized to accept, to be utilized to carry out the purposes of this Act. Funds made available for the purposes of this Act may be used to contribute toward meeting the expenses of activities carried out through normal private channels, by private means, and through foreign governments and international organizations.

(g)<sup>21</sup> Notwithstanding any other provision of this Act, there are authorized to be appropriated for the purposes of making currency exchanges under section 102(b)(10) of this Act, not to exceed \$10,000,000 for the fiscal year ending June 30, 1968, and not to exceed \$15,000,000 for the fiscal year ending June 30, 1969.

SEC. 106.<sup>22</sup> (a)(1) For the purpose of selecting students, scholars, teachers, trainees, and other persons to participate in the programs authorized under section 102(a)(1) of this Act, and of supervising such programs and the programs authorized under section 102(b)(4) and (6), there is hereby continued the authority of the President to appoint a board of foreign scholarships which shall be known as the "J. William Fulbright Foreign Scholarship Board"<sup>23</sup> (hereinafter referred to as the "Board") consisting of twelve members. In connection with appointments to such Board, due consideration shall be given to the selection of distinguished representatives of cultural, educational, student advisory, and war veterans

<sup>21</sup>Sec. 203(c) of the International Education Act of 1966 (Public Law 89-698; 80 Stat. 1072) added subsec. (g).

<sup>22</sup>22 U.S.C. 2456.

<sup>23</sup>Sec. 204(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 49), struck out "Board of Foreign Scholarships" and inserted in lieu thereof "board of foreign scholarships which shall be known as the 'J. William Fulbright Foreign Scholarship Board'".

Sec. 204(b) of that Act provided that each member appointed to the Board of Foreign Scholarships before enactment of Public Law 101-246 (February 16, 1990) shall complete their term of appointment.

Sec. 204(c) of that Act provided that "Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board."



groups, and representatives of the United States Office of Education, the United States Department of Veterans Affairs,<sup>24</sup> public and private nonprofit educational institutions.

(2) In the selection of American citizens for participation in programs under this Act, preference shall be given to those who have served in the Armed Forces of the United States, and due consideration shall be given to applicants from all geographical areas of the United States.

(b)(1) The United States Advisory Commission on International Educational and Cultural Affairs<sup>25</sup> (hereinafter referred to as the "Commission") is hereby established to replace the United States Advisory Commission on Educational Exchange. The Commission shall formulate and recommend to the President policies for exercising his authority under this Act and shall appraise the effectiveness of programs carried out pursuant to it. The Commission shall make a special study of the effectiveness of past programs with emphasis on the activities of a reasonably representative cross section of past recipients of aid and shall submit a report to the Congress not later than December 31, 1962.

(2) The Commission shall consist of nine members who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Commission shall be appointed on a nonpartisan basis.

(3) The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(4) The term of each member shall be three years except that, of the first nine appointments, three shall be for a term of one year and three shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any member may continue to serve until his successor is appointed and has qualified.

(5) The President shall designate a Chairman from among members of the Commission.

(6) The Commission is authorized to adopt such rules and regulations as it may deem necessary to carry out the authority conferred upon it by this Act.

(c)<sup>26</sup> \* \* \* [Repealed—1998]

(d) The President is authorized to create such interagency and other advisory committees as in his judgment may be of assistance in carrying out the purposes of this Act, and from time to time to convene conferences of persons interested in educational and cultural affairs to consider matters relating to the purposes of this Act.

<sup>24</sup> Sec. 13(h)(1) of Public Law 102-54 (105 Stat. 275) struck out "Veterans' Administration" and inserted in lieu thereof "Department of Veterans Affairs".

<sup>25</sup> The functions vested in this commission were consolidated and vested in a new United States Advisory Commission on International Communication, Cultural and Educational Affairs, pursuant to sec. 8(b) of Reorganization Plan No. 2 of 1977 (such new commission was redesignated as the U.S. Advisory Commission on Public Diplomacy in 1979).

<sup>26</sup> Sec. 1336(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-790) repealed subsec. (c), which had continued the Advisory Committee on the Arts, originally created under sec. 10 of the International Cultural Exchange and Trade Fair Participation Act of 1956.

(e) The provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691), shall be applicable to any interagency committee created pursuant to the provisions of this Act. Members of the Commission, the Committee, and other committees provided for in this section shall be entitled (i) to transportation expenses and per diem in lieu of subsistence at the rate prescribed by or established pursuant to section 5 of the Administrative Expense Act of 1946, as amended (5 U.S.C. 73b-2), while away from home in connection with attendance at meetings or in consultation with officials of the Government or otherwise carrying out duties as authorized, and (ii) if not otherwise in the employ of the United States Government, to compensation at rates not in excess of \$50 per diem while performing services for Commission, Committee, or other committee. Members of the Board shall be entitled to such expenses and per diem in lieu of subsistence as provided for under clause (i) of the preceding sentence and, while performing services for the Board, to compensation at a rate, prescribed by the Director of the International Communication Agency,<sup>27</sup> not in excess of the daily rate for the first step of GS-15 of the General Schedule under section 5332 of title 5, United States Code.<sup>28</sup>

(f) The President is authorized to provide for necessary secretarial and staff assistance for the Board, the Commission, the Committee, and such other committees as may be created under this section.

SEC. 107.<sup>29</sup> The Board, the Commission, and the Committee shall submit annual reports to the Congress and such other reports to the Congress as they deem appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs authorized by this Act.

SEC. 108.<sup>30</sup> (a)(1)<sup>31</sup> Whenever the President determines it to be in furtherance of this Act, the functions authorized in section 102(a) (2) and (3) may be performed without regard to such provisions of law or limitations of authority regulating or relating to the making, performance, amendment, or modification of contracts, the acquisition and disposition of property, and the expenditure of Government funds, as he may specify.

<sup>27</sup>Sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title." See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

<sup>28</sup>Sec. 205 of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 401) added this sentence, effective October 1, 1979. Previously, the entitlements of members of the Board were included under clauses (i) and (ii).

<sup>29</sup>22 U.S.C. 2457.

<sup>30</sup>22 U.S.C. 2458.

<sup>31</sup>Sec. 203(d) of the ICA Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 399) added para. designation "(1)" and para. (2).

(2)<sup>31</sup> Notwithstanding any other provision of law, the Director of the International Communication Agency<sup>27</sup> may provide, on a reimbursable basis, services within the United States in connection with exchange activities otherwise authorized by this Act when such services are requested by a department or executive agency. Reimbursements under this paragraph shall be credited to the applicable appropriation of the Agency.

(b)<sup>32</sup> The President shall submit periodic reports to the Congress of activities carried on and expenditures made in furtherance of the purposes of this Act and of the United States Information and Educational Exchange Act of 1948, as amended.

(c) In connection with activities authorized by section 102(a) (2) and (3) of this Act, the President is authorized to provide for all necessary expenditures involved in the selection, purchase, rental, construction, or other acquisition of exhibits and materials and equipment therefor, and the actual display thereof, including but not limited to costs of transportation, insurance, installation, safekeeping and storage, maintenance and operation, rental of space, and dismantling.

(d) The President is authorized to utilize the provisions of title VIII of the United States Information and Educational Exchange Act of 1948, as amended, to the extent he deems necessary in carrying out the provisions and purposes of this Act.

SEC. 108A.<sup>33</sup> (a)(1) Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such Federal employee in a cultural exchange—

(A) which is of the type described in section 102(a)(2)(i) of this Act,

(B) which is conducted for a purpose comparable of the purpose stated in section 101 of this Act, and

(C) which is specifically approved by the Secretary of State for purposes of this section;

but the Congress does not consent to the acceptance by any Federal employee of any portion of any such grant or other form of assistance which provides assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

(2) For purposes of this section, the term “Federal employee” means any employee as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5 of the United States Code, but does not include a person described in subparagraph (G) of such section.

(b) The grants and other forms of assistance with respect to which the consent of Congress is given in subsection (a) of this section shall not constitute gifts for purposes of section 7342 of title 5 of the United States Code.

(c) The Secretary of State is authorized to promulgate regulations for purposes of this section.

<sup>32</sup> Sec. 212(a) of Public Law 96-470 (94 Stat. 2246) amended and restated subsec. (b). The report required under subsec. (b) previously had been required annually.

<sup>33</sup> 22 U.S.C. 2458a. Added by sec. 111 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

SEC. 109.<sup>34</sup> \* \* \*

SEC. 110.<sup>35</sup> \* \* \*

SEC. 111. (a) There are hereby repealed—

(1) Section 32(b)(2) of the Surplus Property Act of 1944, as amended (60 Stat. 754, 50 U.S.C. App. Sec. 1641);

(2) Sections 2(2), 201, 203 insofar as it relates to schools, 601, 602, and 603 insofar as they relate to the Advisory Commission on Education Exchange, 1001 insofar as it relates to persons employed or assigned to duties under this Act, and 1008 and 1009 insofar as they relate to educational exchange activities, of the United States Information and Educational Exchange Act of 1948, as amended (62 Stat. 6; 22 U.S.C. sections 1431(2); 1434, 1439, 1440, 1446, 1448, 1466, 1467, and 1468);

(3) The International Cultural Exchange and Trade Fair Participation Act of 1956 (70 Stat. 778; 22 U.S.C. 1991-2001);

(4) The joint resolution of August 24, 1949, authorizing the use of Finnish World War I debt payments available for educational and technical instruction, and so forth (63 Stat. 630; 20 U.S.C. 222-224).

(b) All Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of any provisions of law repealed by subsection (a) of this section shall continue in full force and effect and shall be applicable to the appropriate provisions of this Act until modified or superseded by appropriate authority.

(c) Any reference in any other Act to the provisions of law listed in subsection (a) shall hereafter be considered to be references to the appropriate provisions of this Act.

SEC. 112.<sup>36</sup> (a) In order to carry out the purposes of this Act, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this Act, including but not limited to—

(1) the J. William Fulbright Educational Exchange Program which, by promoting the exchange of scholars, researchers, students, trainees, teachers, instructors, and professors, between the United States and foreign countries, accomplishes the purposes of section 102(a)(1) of this Act;

(2) the Hubert H. Humphrey Fellowship Program which finances (A) study at American universities and institutions of higher learning, including study in degree granting programs,

<sup>34</sup>Sec. 109 amended the Immigration and Nationality Act.

<sup>35</sup>Sec. 110 amended the Internal Revenue Code of 1954 (now the IRC of 1986) and the Social Security Act.

<sup>36</sup>22 U.S.C. 2460. Sec. 213 of the USIA Authorization Act, Fiscal Years 1984 and 1985 (title II of Public Law 98-164; 97 Stat. 1034), added sec. 112 with the exception of paras. (8) and (9) which were added respectively by secs. 302 and 303 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1378).

and (B) participation in fellowships, internships, or other programs in American governmental and nongovernmental institutions for public managers and other individuals from developing countries;

(3) the International Visitors Program which provides grants for short-term visits to the United States for foreign nationals who are, or have the potential to be, leaders in their respective fields in their own countries;

(4) the American Cultural Centers and Libraries which make available at selected foreign locations, books, films, sound recordings, and other materials about the United States, its people and culture, and about other topics;

(5) the American Overseas Schools Program which provides financial assistance to the operations of American-sponsored schools overseas;

(6) the American Studies Program which fosters and supports the study of the United States, and its people and culture, in foreign countries;

(7) a program of working with private, not-for-profit groups through contracts, grants, or cooperative agreements, as authorized by section 102 of this Act, so as to provide financial assistance to nongovernmental organizations engaged in implementing and enhancing exchange-of-persons programs;

(8)<sup>36</sup> the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the independent states of the former Soviet Union<sup>37</sup> and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 101<sup>38</sup> of the Higher Education Act of 1965<sup>38</sup> who have not received their initial baccalaureate degree or through other programs designed to promote contact between the young peoples of the United States, the independent states of the former Soviet Union,<sup>37</sup> and Eastern European countries;<sup>39</sup> and

(9)<sup>36</sup> the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.

(b)<sup>40</sup> (1) All recipients of Fulbright Academic Exchange and Humphrey Fellowship awards shall have full academic and artistic freedom, including freedom to write, publish, and create. No award granted pursuant to this Act may be revoked or diminished on account of the political views expressed by the recipient or on account

<sup>37</sup>Sec. 301(1) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "Soviet Union" and inserted in lieu thereof "independent states of the former Soviet Union" in para. (8).

<sup>38</sup>Sec. 102(a)(7)(B) of the Higher Education Amendments of 1998 (Public Law 105-244; 112 Stat. 1619) struck out "1201(a)" and inserted in lieu thereof "101"; and struck out "(20 U.S.C. 1141(a))" following "Higher Education Act of 1965".

<sup>39</sup>Sec. 223 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 56), added text to this point from "or through other programs".

<sup>40</sup>Sec. 204(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 50), redesignated subsecs. (b) and (c) as subsecs. (c) and (d), respectively, and added a new subsec. (b).

of any scholarly or artistic activity that would be subject to the protections of academic and artistic freedom normally observed in universities in the United States. The Board shall ensure that the academic and artistic freedoms of all persons receiving grants are protected.

(2) The J. William Fulbright Foreign Scholarship Board shall formulate a policy on revocation of Fulbright grants which shall be made known to all grantees. Such policy shall fully protect the right to due process as well as the academic and artistic freedom of all grantees.

(c)<sup>40</sup> The President shall insure that all programs under the authority of the Bureau shall maintain their nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. The President shall insure that academic and cultural programs under the authority of the Bureau shall maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement.

(d)<sup>40</sup> (1)<sup>41</sup> The Bureau shall administer no programs except those operating under the authority of this Act and consistent with its purposes.

(2)<sup>41</sup> Notwithstanding paragraph (1), the Bureau may also exercise the authority of this Act to administer programs authorized by, or funded pursuant to, the FREEDOM Support Act, the Support for East European Democracy Act, the Foreign Assistance Act of 1961, or any other Act authorizing educational or cultural exchanges or activities, to the extent that such programs are consistent with the purposes of this Act.

(e)<sup>42</sup> There is established in the Bureau of Educational and Cultural Affairs an Office of Citizen Exchanges. The Office shall support private not-for-profit organizations engaged in the exchange of persons between the United States and other countries.

(f)<sup>43</sup> (1) The President shall ensure that all exchange programs conducted by the United States Government, its departments and agencies, directly or through agreements with other parties, are reported at a time and in a format prescribed by the Director. The President shall ensure that such exchanges are consistent with United States foreign policy and avoid duplication of effort.

(2) Not later than 90 days after the date of enactment of this subsection, and annually thereafter, the President shall submit to the Speaker of the House of Representatives and the Chairman of

<sup>41</sup> Sec. 221 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1367) inserted para. designation "(1)", and added para. (2).

<sup>42</sup> Sec. 222(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 55), added subsec. (e).

Sec. 222(b) of that Act provided that all functions carried out by the Office of Private Sector Programs be transferred to the Office of Citizen Exchanges.

<sup>43</sup> Sec. 229(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), added subsec. (f). Sec. 229(b) of that Act further provided the following:

"(b) REPORT BY THE DIRECTOR OF USIA.—Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report—

"(1) detailing the range of exchange programs administered by the Agency;

"(2) identifying possible areas of duplication of inefficiency; and

"(3) recommending program consolidation and administrative restructuring as warranted."

the Committee on Foreign Relations of the Senate a report pursuant to paragraph (1). Such report shall include information for each exchange program supported by the United States on the objectives of such exchange, the number of exchange participants supported, the types of exchange activities conducted, the total amount of Federal expenditures for such exchanges, and the extent to which such exchanges are duplicative.

(g)<sup>44</sup> WORKING GROUP ON UNITED STATES GOVERNMENT SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.—(1) In order to carry out the purposes of subsection (f) and to improve the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training, there is established within the Department of State<sup>45</sup> a senior-level interagency working group to be known as the Working Group on United States Government-Sponsored International Exchanges and Training (in this section referred to as the “Working Group”).

(2) For purposes of this subsection, the term “Government-sponsored international exchanges and training” means the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

(3) The Working Group shall be composed as follows:

(A) The Assistant Secretary of State for Educational and Cultural Affairs<sup>46</sup> who shall act as Chair.

(B)<sup>46</sup> A senior representative of the Department of Defense, who shall be designated by the Secretary of Defense.

(C)<sup>46</sup> A senior representative of the Department of Education, who shall be designated by the Secretary of Education.

(D)<sup>46</sup> A senior representative of the Department of Justice, who shall be designated by the Attorney General.

(E)<sup>46</sup> A senior representative of the Agency for International Development, who shall be designated by the Administrator of the Agency.

(F)<sup>46</sup> Senior representatives of such other departments and agencies as the Chair determines to be appropriate.

(4) Representatives of the National Security Adviser and the Director of the Office of Management and Budget may participate in the Working Group at the discretion of the Adviser and the Director, respectively.

<sup>44</sup>Sec. 2414 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832), added subsec. (g).

<sup>45</sup>Sec. 229(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371) struck out “United States Information Agency” and inserted in lieu thereof “Department of State”.

<sup>46</sup>Sec. 229(2)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371) struck out “Associate Director for Educational and Cultural Affairs of the United States Information Agency” and inserted in lieu thereof “Assistant Secretary of State for Educational and Cultural Affairs”. Sec. 229(2)(B) of that Act struck out subpara. (B), which required the appointment of a senior representative of the Department of State, and sec. 229(2)(C) redesignated subparas. (C) through (G) as subparas. (B) through (F).

(5) The Working Group shall be supported by an interagency staff office established in the Bureau of Educational and Cultural Affairs of the Department of State.<sup>47</sup>

(6) The Working Group shall have the following purposes and responsibilities:

(A) To collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs.

(B) To promote greater understanding and cooperation among concerned United States Government departments and agencies of common issues and challenges in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors.

(C) In order to achieve the most efficient and cost-effective use of Federal resources, to identify administrative and programmatic duplication and overlap of activities by the various United States Government departments and agencies involved in Government-sponsored international exchange and training programs, to identify how each Government-sponsored international exchange and training program promotes United States foreign policy, and to report thereon.

(D)(i) Not later than 1 year after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall develop a coordinated and cost-effective strategy for all United States Government-sponsored international exchange and training programs, including an action plan with the objective of achieving a minimum of 10 percent cost savings through greater efficiency, the consolidation of programs, or the elimination of duplication, or any combination thereof.

(ii) Not later than 1 year after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall submit a report to the appropriate congressional committees setting forth the strategy and action plan required by clause (i).

(iii) Each year thereafter the Working Group shall assess the strategy and plan required by clause (i).

(E) Not later than 2 years after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to develop recommendations on common performance measures for all United States Government-sponsored international exchange and training programs, and to issue a report.

(F) To conduct a survey of private sector international exchange activities and develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

<sup>47</sup>Sec. 229(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1372) struck out "United States Information Agency" and inserted in lieu thereof "Department of State".



(G) Not later than 6 months after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to report on the feasibility and advisability of transferring funds and program management for the ATLAS or the Mandela Fellows programs, or both, in South Africa from the Agency for International Development to the Department of State.<sup>48</sup> The report shall include an assessment of the capabilities of the South African Fulbright Commission to manage such programs and the cost effects of consolidating such programs under one entity.

(7) All reports prepared by the Working Group shall be submitted to the President, through the Secretary of State, acting through the Under Secretary of State for Public Diplomacy.<sup>49</sup>

(8) The Working Group shall meet at least on a quarterly basis.

(9) All decisions of the Working Group shall be by majority vote of the members present and voting.

(10) The members of the Working Group shall serve without additional compensation for their service on the Working Group. Any expenses incurred by a member of the Working Group in connection with service on the Working Group shall be compensated by that member's department or agency.

(11) With respect to any report issued under paragraph (6), a member may submit dissenting views to be submitted as part of the report of the Working Group.

SEC. 113.<sup>50</sup> EXCHANGES BETWEEN THE UNITED STATES AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.—(a) The President is authorized to negotiate and implement agreements with the independent states of the former Soviet Union<sup>51</sup> under which repayments made by the independent states<sup>52</sup> on Lend-Lease debts to the United States would be used to finance the exchange of persons between the United States and the independent states<sup>53</sup> for educational, cultural, and artistic purposes. Exchanges authorized pursuant to this section shall be administered subject to the provisions of this Act. Part of the funds repaid to the United States shall be in convertible currency for the purpose of paying the expenses associated with study and other exchange activities in the United States by citizens of the independent states.<sup>54</sup>

<sup>48</sup>Sec. 229(4) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1372) struck out "United States Information Agency" and inserted in lieu thereof "Department of State".

<sup>49</sup>Sec. 229(5) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1372) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Secretary of State, acting through the Under Secretary of State for Public Diplomacy".

<sup>50</sup>22 U.S.C. 2461. Sec. 224 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 56), added sec. 113. Sec. 301(2)(A) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) amended the section caption; it formerly read "UNITED STATES-SOVIET EXCHANGES.—".

<sup>51</sup>Sec. 301(2)(B) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "an agreement with the Union of Soviet Socialist Republics" and inserted in lieu thereof "agreements with the independent states of the former Soviet Union".

<sup>52</sup>Sec. 301(2)(C) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "made by the Soviet Union" and inserted in lieu thereof "made by the independent states".

<sup>53</sup>Sec. 301(2)(D) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "and the Soviet Union" and inserted in lieu thereof "and the independent states".

<sup>54</sup>Sec. 301(2)(E) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out "by Soviet citizens in the United States" and inserted in lieu thereof "in the United States by citizens of the independent states".

(b) Funds made available for the purposes of this section shall be available only to the extent and in the amounts provided for in an appropriation Act.

**SEC. 114.<sup>55</sup> ALLOCATION OF FUNDS TRANSFERRED TO THE BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS.**

Of each amount transferred to the Bureau of Educational and Cultural Affairs out of appropriations other than appropriations under the heading "Educational and Cultural Exchange Programs" for support of an educational or cultural exchange program, notwithstanding any other provision of law, not more than 7.5 percent shall be made available to cover administrative expenses incurred in connection with support of the program. Amounts made available to cover administrative expenses shall be credited to the appropriations under the heading "Educational and Cultural Exchange Programs" and shall remain available until expended.

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<sup>55</sup> 22 U.S.C. 2463. Added by sec. 406 of the Department of State Appropriations Act, 2002 (title IV of Public Law 107-77; 115 Stat. 790).

## **b. International Academic Opportunity Act of 2000**

**Title III of Public Law 106–309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000, H.R. 1143], 114 Stat. 1078 at 1094, approved October 17, 2000**

AN ACT To establish a program to provide assistance for programs of credit and other financial services for microenterprises in developing countries, and for other purposes.

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

\* \* \* \* \*

### **TITLE III—INTERNATIONAL ACADEMIC OPPORTUNITY ACT OF 2000**

#### **SEC. 301.<sup>1</sup> SHORT TITLE.**

This title may be cited as the “International Academic Opportunity Act of 2000”.

#### **SEC. 302.<sup>1</sup> STATEMENT OF PURPOSE.**

It is the purpose of this title to establish an undergraduate grant program for students of limited financial means from the United States to enable such students to study abroad. Such foreign study is intended to broaden the outlook and better prepare such students of demonstrated financial need to assume significant roles in the increasingly global economy.

#### **SEC. 303.<sup>2</sup> ESTABLISHMENT OF GRANT PROGRAM FOR FOREIGN STUDY BY AMERICAN COLLEGE STUDENTS OF LIMITED FINANCIAL MEANS.**

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations and under the authorities of the Mutual Educational and Cultural Exchange Act of 1961, the Secretary of State shall establish and carry out a program in each fiscal year to award grants of up to \$5,000, to individuals who meet the requirements of subsection (b), toward the cost of up to one academic year of undergraduate study abroad. Grants under this Act shall be known as the “Benjamin A. Gilman International Scholarships”.

(b) **ELIGIBILITY.**—An individual referred to in subsection (a) is an individual who—

(1) is a student in good standing at an institution of higher education in the United States (as defined in section 101(a) of the Higher Education Act of 1965);

(2) has been accepted for up to one academic year of study on a program of study abroad approved for credit by the student’s home institution;

<sup>1</sup> 22 U.S.C. 2462 note.

<sup>2</sup> 22 U.S.C. 2462 and note.

(3) is receiving any need-based student assistance under title IV of the Higher Education Act of 1965; and

(4) is a citizen or national of the United States.

(c) APPLICATION AND SELECTION.—

(1) Grant application and selection shall be carried out through accredited institutions of higher education in the United States or a combination of such institutions under such procedures as are established by the Secretary of State.

(2) In considering applications for grants under this section—

(A) consideration of financial need shall include the increased costs of study abroad; and

(B) priority consideration shall be given to applicants who are receiving Federal Pell Grants under title IV of the Higher Education Act of 1965.

**SEC. 304.<sup>1</sup> REPORT TO CONGRESS.**

The Secretary of State shall report annually to the Congress concerning the grant program established under this title. Each such report shall include the following information for the preceding year:

(1) The number of participants.

(2) The institutions of higher education in the United States that participants attended.

(3) The institutions of higher education outside the United States participants attended during their study abroad.

(4) The areas of study of participants.

**SEC. 305.<sup>1</sup> AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated \$1,500,000 for each fiscal year to carry out this title.

**SEC. 306.<sup>1</sup> EFFECTIVE DATE.**

This title shall take effect October 1, 2000.

### c. Open World Leadership Center—Legislative Branch

Partial text of Public Law 106–554 [Legislative Branch Appropriations Act, 2001; H.R. 5657, as enacted by reference in H.R. 4577], 114 Stat. 2763 at 2763A–121, approved December 21, 2000; as amended by Public Law 108–7 [Consolidated Appropriations Resolution, 2003; H.J. Res. 2], 117 Stat. 11, approved February 20, 2003; Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; and Public Law 109–13 [Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005; H.R. 1268], 119 Stat. 231, approved May 11, 2005

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#### TITLE III—GENERAL PROVISIONS

\* \* \* \* \*

SEC. 313.<sup>1</sup> OPEN WORLD LEADERSHIP CENTER.—(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the legislative branch of the Government a center to be known as the “Open World Leadership Center (the ‘Center’).”<sup>2</sup>

(2) BOARD OF TRUSTEES.—The Center shall be subject to the supervision and direction of a Board of Trustees (the “Board”)<sup>3</sup> which shall be composed of 11 members<sup>4</sup> as follows:

(A) Two members appointed by the Speaker of the House of Representatives, one of whom shall be designated by the Majority Leader of the House of Representatives and one of whom shall be designated by the Minority Leader of the House of Representatives.

(B) Two members appointed by the President pro tempore of the Senate, one of whom shall be designated by the Majority Leader of the Senate and one of whom shall be designated by the Minority Leader of the Senate.

(C) The Librarian of Congress.

(D) Four private individuals with interests in improving relations between the United States and eligible foreign states,<sup>5</sup> designated by the Librarian of Congress.

<sup>1</sup>2 U.S.C. 1151. Sec. 1401(1) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108–7; 117 Stat. 382), struck out “CENTER FOR RUSSIAN LEADERSHIP DEVELOPMENT” and inserted in lieu thereof “OPEN WORLD LEADERSHIP CENTER”.

<sup>2</sup>Sec. 1401(2)(A) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108–7; 117 Stat. 382), struck out “a center to be known as the ‘Center for Russian Leadership Development’ (the ‘Center’).” and inserted in lieu thereof “a center to be known as the ‘Open World Leadership Center (the “Center”).” (resulting in an open quotation).

<sup>3</sup>Sec. 1401(2)(B)(i) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108–7; 117 Stat. 382), inserted “(the ‘Board’)” after “Board of Trustees”.

<sup>4</sup>Sec. 1502(1) of the Legislative Branch Appropriations Act, 2005 (division H of Public Law 108–447; 118 Stat. 3192), struck out “nine members” and inserted in lieu thereof “11 members”.

<sup>5</sup>Sec. 1401(2)(B)(ii) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108–7; 117 Stat. 382), struck out “United States and Russian relations” and inserted in lieu thereof “between the United States and eligible foreign states”.

(E)<sup>6</sup> The chair of the Committee on Appropriations of the House of Representatives (or another member of such Committee designated by the chair<sup>6</sup> and the chair of the Subcommittee on Legislative Branch of the Committee on Appropriations of the Senate.

Each member appointed under this paragraph shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term. Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(b) PURPOSE AND AUTHORITY OF THE CENTER.—

(1) PURPOSE.—The purpose of the Center is to establish, in accordance with the provisions of paragraph (2), a program to enable emerging political leaders of eligible foreign states<sup>7</sup> at all levels of government to gain significant, firsthand exposure to the American free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States and to establish and administer a program to enable cultural leaders of Russia to gain significant, firsthand exposure to the operation of American cultural institutions.<sup>8</sup>

(2) GRANT PROGRAM.—Subject to the provisions of paragraphs (3) and (4), the Center shall establish a program under which the Center annually awards grants to government or community organizations in the United States that seek to establish programs under which those organizations will host nationals of eligible foreign states<sup>9</sup> who are emerging political leaders at any level of government.

(3) RESTRICTIONS.—

(A) DURATION.—The period of stay in the United States for any individual supported with grant funds under the program shall not exceed 30 days.

(B) LIMITATION.—The number of individuals supported with grant funds under the program shall not exceed 3,500<sup>10</sup> in any fiscal year.

(C) USE OF FUNDS.—Grant funds under the program shall be used to pay—

<sup>6</sup>Sec. 1502(2) of the Legislative Branch Appropriations Act, 2005 (division H of Public Law 108-447; 118 Stat. 3192), added subpara. (E). Sec. 3402(b) of Public Law 109-13 (119 Stat. 272) struck out “chair of the Subcommittee on Legislative Branch of the Committee on Appropriations of the House of Representatives” and inserted in lieu thereof “chair of the Committee on Appropriations of the House of Representatives (or another member of such Committee designated by the chair”.

<sup>7</sup>Sec. 1401(3)(A)(i) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “Russia” and inserted in lieu thereof “eligible foreign states”.

<sup>8</sup>Sec. 1401(3)(A)(ii) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out a period at the end of para. (1) and inserted “and to establish and administer a program to enable cultural leaders of Russia to gain significant, firsthand exposure to the operation of American cultural institutions.”

<sup>9</sup>Sec. 1401(3)(B) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “Russian nationals” and inserted in lieu thereof “nationals of eligible foreign states”.

<sup>10</sup>Sec. 1401(3)(C)(i) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “3,000” and inserted in lieu thereof “3,500”.

(i) the costs and expenses incurred by each program participant in traveling between an eligible foreign state<sup>11</sup> and the United States and in traveling within the United States;

(ii) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(iii) such additional administrative expenses incurred by organizations in carrying out the program as the Center may prescribe.

(4) APPLICATION.—

(A) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to the Center at such time, in such manner, and accompanied by such information as the Center may reasonably require.

(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

(i) describe the activities for which assistance under this section is sought;

(ii) include the number of program participants to be supported;

(iii) describe the qualifications of the individuals who will be participating in the program; and

(iv) provide such additional assurances as the Center determines to be essential to ensure compliance with the requirements of this section.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the “Open World Leadership Center Trust Fund”<sup>12</sup> (the “Fund”) which shall consist of amounts which may be appropriated, credited, or transferred to it under this section.

(2) DONATIONS.—Any money or other property donated, bequeathed, or devised to the Center under the authority of this section shall be credited to the Fund.

(3) FUND MANAGEMENT.—

(A) IN GENERAL.—The provisions of subsections (b), (c), and (d) of section 116 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1105 (b), (c), and (d)), and the provisions of section 117(b) of such Act (2 U.S.C. 1106(b)), shall apply to the Fund.

(B) EXPENDITURES.—The Secretary of the Treasury is authorized to pay to the Center from amounts in the Fund such sums as the Board<sup>13</sup> determines are necessary and appropriate to enable the Center to carry out the provisions of this section.

<sup>11</sup> Sec. 1401(3)(C)(ii) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “Russia” and inserted in lieu thereof “an eligible foreign state”.

<sup>12</sup> Sec. 1401(4)(A) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “Russian Leadership Development Center Trust Fund” and inserted in lieu thereof “Open World Leadership Center Trust Fund”.

<sup>13</sup> Sec. 1401(4)(B) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “of Trustees of the Center” after “Board”.

(d) EXECUTIVE DIRECTOR.—The Board shall appoint an Executive Director who shall be the chief executive officer of the Center and who shall carry out the functions of the Center subject to the supervision and direction of the Board of Trustees. The Executive Director of the Center shall be compensated at the annual rate specified by the Board, but in no event shall such rate exceed level III of the Executive Schedule under section 5314 of title 5, United States Code.

(e) ADMINISTRATIVE PROVISIONS.—

(1) IN GENERAL.—The provisions of section 119 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1108) shall apply to the Center.

(2) SUPPORT PROVIDED BY LIBRARY OF CONGRESS.—The Library of Congress may disburse funds appropriated to the Center, compute and disburse the basic pay for all personnel of the Center, provide administrative, legal, financial management, and other appropriate services to the Center, and collect from the Fund the full costs of providing services under this paragraph, as provided under an agreement for services ordered under sections 1535 and 1536 of title 31, United States Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) TRANSFER OF FUNDS.—Any amounts appropriated for use in the program established under section 3011 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 93)<sup>14</sup> shall be transferred to the Fund and shall remain available without fiscal year limitation.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) TRANSFER.—Subsection (g) shall only apply to amounts which remain unexpended on and after the date the Board<sup>15</sup> certifies to the Librarian of Congress that grants are ready to be made under the program established under this section.

(j)<sup>16</sup> ELIGIBLE FOREIGN STATE DEFINED.—In this section, the term “eligible foreign state” means—

(1) any country specified in section 3 of the FREEDOM Support Act (22 U.S.C. 5801);<sup>17</sup>

(2) Estonia, Latvia, and Lithuania; and<sup>17</sup>

(3)<sup>17</sup> any other country that is designated by the Board, except that the Board shall notify the Committees on Appropriations of the Senate and the House of Representatives of the designation at least 90 days before the designation is to take effect.

\* \* \* \* \*

<sup>14</sup> See page 1583 for text, and notes.

<sup>15</sup> Sec. 1401(5) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), struck out “of Trustees of the Center” after “Board”.

<sup>16</sup> Sec. 1401(6) of the Legislative Branch Appropriations Act, 2003 (division H of Public Law 108-7; 117 Stat. 382), added subsec. (j).

<sup>17</sup> Sec. 1501 of the Legislative Branch Appropriations Act, 2005 (division H of Public Law 108-447; 118 Stat. 3192), struck out “and” at the end of para. (1), replaced a period at the end of para. (2) with “; and”, and added para. (3).



#### d. Russian Leadership Program—Library of Congress

Partial text of Public Law 106-31 [1999 Emergency Supplemental Appropriations Act; H.R. 1141], 113 Stat 57 at 93, approved May 21, 1999; as amended by Public Law 106-113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in sec. 1000(a)(2) of the Consolidated Appropriations Act for Fiscal Year 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and Public Law 106-554 [Legislative Branch Appropriations Act, 2001; H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of the Consolidated Appropriations Act for Fiscal Year 2001; H.R. 4577], 114 Stat. 2763, approved December 21, 2000

AN ACT Making emergency supplemental appropriations for the fiscal year ending September 30, 1999, and for other purposes.

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#### TITLE III—SUPPLEMENTAL APPROPRIATIONS

\* \* \* \* \*

#### CHAPTER 6

#### CONGRESSIONAL OPERATIONS

\* \* \* \* \*

#### ADMINISTRATIVE PROVISIONS—THIS CHAPTER

\* \* \* \* \*

SEC. 3011.<sup>1</sup> RUSSIAN LEADERSHIP PROGRAM.—(a) PURPOSE.—It is the purpose of this section to establish, in accordance with the provisions of this section—

(1) a pilot program within the Library of Congress for fiscal years 2000 and 2001;<sup>2</sup> and

(2) a permanent program within the Executive agency designated by the President of the United States for fiscal years 2002<sup>3</sup> and thereafter,

<sup>1</sup>22 U.S.C. 2452a note. See also sec. 313 of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), which, as amended, establishes the Open World Leadership Center in the legislative branch.

<sup>2</sup>Sec. 585(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113; 113 Stat. 1501A-117), struck out “fiscal year 1999” and inserted in lieu thereof “fiscal years 1999 and 2000” in subsecs. (a)(1), (b)(4)(B), (d)(3), and (h)(1)(A). Sec. 310(1) of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), struck out “fiscal years 1999 and 2000” and inserted in lieu thereof “fiscal years 2000 and 2001” in the same subsections.

<sup>3</sup>Sec. 585(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference in sec. 1000(a)(2) of Public Law 106-113; 113 Stat. 1501A-117), struck out “2000” and inserted in lieu thereof “2001” in subsecs. (a)(2), (e)(1), and (h)(1)(B). Sec. 310(2) of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), struck out “2001” and inserted in lieu thereof “2002” in the same subsections.

to enable emerging political leaders of Russia at all levels of government to gain significant, firsthand exposure to the American free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States.

(b) GRANTS.—

(1) IN GENERAL.—The head of the administering agency shall annually award grants to government or community organizations in the United States that seek to establish programs under which those organizations will host eligible Russians for the purpose described in subsection (a).

(2) DURATION.—The period of stay in the United States for any eligible Russian supported with grant funds under this section shall not exceed 30 days.

(3) LIMITATION.—The number of eligible Russians supported with grant funds under this section shall not exceed 3,000 in any fiscal year.

(4) ADMINISTRATION.—

(A) IN GENERAL.—Subject to the availability of appropriations, the head of the administering agency—

(i) may contract with nongovernmental organizations having expertise in carrying out the activities described in subsection (a) for the purpose of carrying out the administrative functions of the program (other than the awarding of grants); and

(ii) may, without regard to the civil service laws and regulations (or, in the case of the Librarian of Congress, any requirement for competition in hiring), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the administering agency to perform its duties under this section.

(B) WAIVER OF COMPETITIVE BIDDING.—The Librarian of Congress, after consultation with the Joint Committee on the Library of Congress, may enter into contracts under subparagraph (A)(i) to carry out the pilot program during fiscal years 2000 and 2001<sup>2</sup> without regard to section 3709 of the Revised Statutes or any other requirement for competitive contracting or the providing of notice of contracting opportunities.

(c) USE OF FUNDS.—Grants awarded under subsection (b) shall be used to pay—

(1) the costs and expenses incurred by each program participant in traveling between Russia and the United States and in traveling within the United States;

(2) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(3) such additional administrative expenses incurred by organizations in carrying out the program as the head of the administering agency may prescribe.

(d) APPLICATION.—

(1) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to

the head of the administering agency at such time, in such manner, and accompanied by such information as such head may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought;

(B) include the number of program participants to be supported;

(C) describe the qualifications of the individuals who will be participating in the program; and

(D) provide such additional assurances as the head of the administering agency determines to be essential to ensure compliance with the requirements of this section.

(3) WAIVER.—The Librarian of Congress may waive the requirement of this subsection in carrying out the pilot program during fiscal years 2000 and 2001.<sup>2</sup>

(e) ADVISORY BOARD.—

(1) IN GENERAL.—There is established a Russian Leadership Program Advisory Board which shall advise the head of the administering agency as to the carrying out of the permanent program during fiscal years 2002<sup>3</sup> and thereafter.

(2) MEMBERSHIP.—The Advisory Board under paragraph (1) shall consist of—

(A) two members appointed by the Speaker of the House of Representatives, of whom one shall be designated by the Majority Leader of the House of Representatives and one shall be designated by the Minority Leader of the House of Representatives;

(B) two members appointed by the President pro tempore of the Senate, of whom one shall be designated by the Majority Leader of the Senate and one shall be designated by the Minority Leader of the Senate;

(C) the Librarian of Congress;

(D) a private individual with expertise in international exchange programs, designated by the Librarian of Congress; and

(E) an officer or employee of the administering agency, designated by the head of the administering agency.

(3) TERMS.—Each member appointed under paragraph (2) shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term.

(f) REPORTING.—The head of the administering agency shall, not later than 3 months following the close of each fiscal year for which such agency administered the program, report to Congress with respect to the conduct of such program during such fiscal year. Such report shall include information with respect to the number of participants in the program and the cost of the program, and any recommendations on improvements necessary to enable the program to carry out the purposes of this section.

(g) FUNDING.—

(1) FISCAL YEAR 1999.—

(A) **IN GENERAL.**—Of funds made available under the heading “SENATE” under title I of the Legislative Appropriations Act, 1999 (Public Law 105-275; 112 Stat. 2430 et seq.), \$10,000,000 shall be made available, subject to the approval of the Committee on Appropriations of the Senate, to the administering agency to carry out the program.

(B) **USE OF FUNDS AT CLOSE OF FISCAL YEAR.**—Funds made available under this paragraph which are unexpended and unobligated as of the close of fiscal year 1999 shall no longer be available for such purpose and shall be available for the purpose originally appropriated.

(2)<sup>4</sup> **FISCAL YEAR 2000 AND SUBSEQUENT FISCAL YEARS.**—

(A) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the administering agency for fiscal years 2000 and thereafter such sums as may be necessary to carry out the program.

(B) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(h) **DEFINITIONS.**—In this section:

(1) **ADMINISTERING AGENCY.**—The term “administering agency” means—

(A) for fiscal years 2000 and 2001,<sup>2</sup> the Library of Congress; and

(B) for fiscal year 2002,<sup>3</sup> and subsequent fiscal years, the Executive agency designated by the President of the United States under subsection (a)(2).

(2) **ELIGIBLE RUSSIAN.**—The term “eligible Russian” means a Russian national who is an emerging political leader at any level of government.

(3) **PROGRAM.**—The term “program” means the grant program established under this section.

(4) **PROGRAM PARTICIPANT.**—The term “program participant” means an eligible Russian selected for participation in the program.

\* \* \* \* \*

<sup>4</sup>Title II of the Legislative Branch Appropriations Act, 2001 (H.R. 5657, introduced on December 14, 2000, as enacted in sec. 1(a)(2) of Public Law 106-554; 114 Stat. 2763), provided: “That of the total amount appropriated, \$10,000,000 is to remain available until expended for salaries and expenses to carry out the Russian Leadership Program enacted on May 21, 1999 (113 Stat. 93 et seq.).”

**e. Exchange Program With Countries in Transition From  
Totalitarianism to Democracy**

Partial text of Public Law 101-610 [National and Community Service Act of 1990, S. 1430], 104 Stat. 3127 at 3186, approved November 16, 1990; as amended by Public Law 105-277 [Foreign Affairs Reform and Restructuring Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-761, approved October 21, 1998

AN ACT To enhance national and community service, and for other purposes.

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

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “National and Community Service Act of 1990”.

\* \* \* \* \*

**TITLE VI—MISCELLANEOUS PROVISIONS**

\* \* \* \* \*

**SEC. 602. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.**

(a)<sup>1</sup> AUTHORIZATION OF ACTIVITIES; GRANTS OR CONTRACTS FOR EXCHANGES WITH FOREIGN COUNTRIES.—Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

<sup>1</sup> 22 U.S.C. 2452a.

The program under this section shall be coordinated by the Department of State.<sup>2</sup>

(b) TRANSFER OF FUNDS.—The President is authorized to transfer to the appropriate appropriations account of the Department of State<sup>3</sup> such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State,<sup>4</sup> as the President shall designate. Such transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

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<sup>2</sup>Sec. 1335(c)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-787) struck out “United States Information Agency” and inserted in lieu thereof “Department of State”.

<sup>3</sup>Sec. 1335(c)(2)(A) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-787) struck out “appropriations account of the United States Information Agency” and inserted in lieu thereof “appropriate appropriations account of the Department of State”.

<sup>4</sup>Sec. 1335(c)(2)(B) of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-787) struck out “and the United States Information Agency”.

**f. Administration of the Mutual Educational and Cultural Exchange Act of 1961**

Executive Order 11034, June 25, 1962, 27 F.R. 6071, 22 U.S.C. 2454 note, 3 CFR, 1959-1963 Comp., p. 614; as amended by Executive Order 11380, November 8, 1967, 32 F.R. 15627, 3 CFR, 1966-70 Comp., p. 689; Executive Order 12292, February 23, 1981, 46 F.R. 13967; and Executive Order 12608, September 9, 1987, 52 F.R. 34617

ADMINISTRATION OF THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961

By virtue of the authority vested in me by the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87-256; 75 Stat. 527; hereinafter referred to as the Act), and as President of the United States, I find that the delegations set forth in this order are in the interest of the purposes expressed in the said Act and the efficient administration of the programs undertaken pursuant to that Act and determine that the delegates specified in the order are appropriate and I hereby order as follows:

**Section 1. Department of State.** (a) The following functions conferred upon the President by the Act are hereby delegated to the Secretary of State:

(1) The functions so conferred by Sections 102(a)(1), 102(a)(2)(i), (ii) and (iv), 102(b)(3), (5) and (9), 103, 104(e)(3), and 105(d)(1) and (e) of the Act.

(2) The functions so conferred by Sections 102(a)(2)(iii) and (b)(1), (2), (4), (7), and (8) of the Act (the provisions of Section 2(a) of this order notwithstanding).

(3) The functions so conferred by Section 102(a)(3) of the Act to the extent that they pertain to liquidation of affairs respecting the Universal and International Exhibition of Brussels, 1958.

(4) The functions so conferred by Sections 104(d) and (e)(4) and 108(c) and (d) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(5) The functions so conferred by Section 104(e)(1) of the Act of prescribing rates for per diem in lieu of subsistence; but in carrying out the said function as it relates to functions herein delegated to the Director of the United States Information Agency or the Secretary of Education, the Secretary of State shall consult with them.

(b) The Secretary of State, in collaboration with the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, with respect to the functions delegated by Sections 2, 3, and 4, respectively, of this order, shall prepare and transmit to the President the reports which the President is required to submit to the Congress by Section 108(b) of the Act,

excluding, however, the reports for which the Director of the United States Information Agency is responsible under section 2(b) of this order.<sup>1</sup>

(c) With respect to the carrying out of functions under Section 102(a)(2)(ii) of the Act hereinabove delegated to the Secretary of State, the Director of the United States Information Agency shall participate in the planning of cultural and other attractions. Such participation shall include consultation in connection with (1) the selection and scheduling of such attractions, and (2) the designation of the areas where the attractions will be presented.

**Sec. 2. United States Information Agency.** (a)<sup>2</sup> Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Director of the United States Information Agency:

(1)<sup>3</sup> The functions so conferred by Sections 102(a)(2)(iii) and (b)(1); Section 102(b)(2) to the extent that it authorizes the type of centers now supported by the United States Information Agency abroad and designated as binational, community, or student centers; Section 102(b)(4) exclusive of professorships and lectureships; and Sections 102(b)(7) and (8) of the Act; all of the foregoing notwithstanding the provisions of Section 1(a)(2) of this order.

(2)<sup>3</sup> The functions so conferred by Section 104(e)(4) of the Act (the provisions of Section 1(a)(4) and 3(b) of this order notwithstanding).

(3)<sup>3</sup> The functions so conferred by Section 102(a)(3) of the Act to the extent that they are in respect of fairs, expositions, and demonstrations held outside of the United States, but exclusive of the functions delegated by the provisions of Section 1(a)(3) of this order.

(4)<sup>3</sup> The functions so conferred by Sections 104(d) and 108(c) and (d) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(b)<sup>4</sup> The Director of the United States Information Agency shall prepare and transmit to the President the reports which the President is required to submit to the Congress by section 108(b) of the Act to the extent that they are with respect to activities carried out by the United States Information Agency pursuant to section 102(a)(2)(iii) and section 102(a)(3) of the Act.

**Sec. 3. Department of Commerce.** Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Secretary of Commerce:

(a) The functions so conferred by Section 102(a)(3) of the Act to the extent that they are in respect of fairs, expositions, and demonstrations held in the United States.

<sup>1</sup>Executive Order No. 11380 (November 8, 1967; 32 F.R. 15627) changed the period following the words "of the Act" to a comma and added all the words following thereafter.

<sup>2</sup>Executive Order No. 11380 inserted the subsection designation (a).

<sup>3</sup>Executive Order No. 11380 changed the former designation of subsecs. (a), (b), (c), and (d) to (1), (2), (3), and (4).

<sup>4</sup>Executive Order No. 11380 (November 8, 1967; 32 F.R. 15627) added subsec. (b).



(b) The functions so conferred by Sections 104(e)(4) and 108(c) of the Act to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

**Sec. 4. Department of Education.** Subject to the provisions of Section 6 of this order, the functions conferred upon the President by Section 102(b)(6) of the Act are hereby delegated to the Secretary of Education.

**Sec. 5. Certain incidental matters.** (a) In respect of functions hereinabove delegated to them, there is hereby delegated to the Secretary of State, the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, respectively:

(1) The authority conferred upon the President by Sections 105 (d)(2) and (f) and 106 (d) and (f) of the Act.

(2) Subject to the provisions of Section 5(b) and (c) of this order, the authority conferred upon the President by Section 104(b) of the Act to employ personnel.

(b) The employment, by any department or other executive agency under Section 5(a)(2) of this order, of any of the not to exceed ten persons who may be compensated without regard to the Classification Act of 1949 under Section 104(b) of the Act shall require prior authorization by the Secretary of State concurred in by the Director of the Office of Management and Budget.

(c) Persons employed or assigned by a department or other executive agency for the purpose of performing functions under the Act outside the United States shall be entitled, except in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by Section 310 of the Foreign Service Act of 1980 (22 U.S.C. 4085).<sup>5</sup> In cases in which the period of employment or assignment exceeds thirty months, persons so employed or assigned shall be entitled to such benefits if agreed by the agency in which such benefits may be exercised.

(d) Pursuant to Section 104(f) of the Act, Executive Order No. 10450 of April 27, 1953 (18 F.R. 2489) is hereby established as the standards and procedures for the employment or assignment to duties of persons under the Act.

(e) Any officer to whom functions vested in the President by the Act are hereinabove delegated may (1) allocate to any other officer of the executive branch of the Government any funds appropriated or otherwise made available for the functions so delegated to him as he may deem appropriate for the best carrying out of the functions and (2) make available, for use in connection with any funds so allocated by him, any authority he has under this order.

**Sec. 6. Policy guidance.** In order to assure appropriate coordination of programs and taking into account the statutory functions of the departments and other executive agencies concerned, the Secretary of State shall exercise primary responsibility for Government-wide leadership and policy guidance with regard to international educational and cultural affairs.

**Sec. 7. Functions reserved to the President.** (a) There are hereby excluded from the functions delegated by the provisions of

<sup>5</sup> This reference to sec. 310 of the Foreign Service Act of 1980 was substituted in lieu of a reference to sec. 528 of the Foreign Service Act of 1946 "for persons appointed to the Foreign Service Reserve" by sec. 5 of Executive Order 12292 (February 23, 1981; 46 F.R. 13967).

this order the functions conferred upon the President with respect to (1) the delegation of powers under Section 104(a) of the Act, (2) the establishment of standards and procedures for the investigation of personnel under Section 104(f) of the Act, (3) the transfer of appropriations under Section 105(c) of the Act, (4) the appointment of members of the Board of Foreign Scholarships under Section 106(a)(1) of the Act, (5) the appointment of members, the designation of a chairman, and the receipt of recommendations of the United States Advisory Commission on International Educational and Cultural Affairs under Section 106(b) of the Act, (6) the waiver of provisions of law or limitations of authority under Section 108(a) of the Act, and (7) the submission of annual reports to the Congress under Section 108(b) of the Act.

(b) Notwithstanding the delegations made by this order, the President may in his discretion exercise any function comprehended by such delegations.

**Sec. 8. Waivers.** (a) It is hereby determined that the performance by any department or other executive agency of functions authorized by Sections 102(a)(2) and 102(a)(3) of the Act (22 U.S.C. 2452(a)(2) and (3)) without regard to prohibitions and limitations of authority contained in the following specified provisions of law is in furtherance of the purposes of the Act:

(1) Section 15 of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810), as amended (5 U.S.C. 3109) (experts and consultants); but the compensation paid individuals in pursuance of this paragraph shall not exceed the rate of \$100.00 per diem.

(2) Section 16(a) of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810; 31 U.S.C. 638a) to the extent that it pertains to hiring automobiles and aircraft.

(3) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(4) Section 322 of the Act of June 30, 1932, c. 314, 47 Stat. 412 (40 U.S.C. 278a) (maximum charges).

(5) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(6) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(7) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(8) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(9) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts; advances).

(10) Section 87 of the Act of January 12, 1895, c. 23, 28 Stat. 622, and the second proviso of Section 11 of the Act of March 1, 1919, c. 86, 40 Stat. 1270, as amended (44 U.S.C. 111) to the extent that they pertain to printing by the Government Printing Office.

(11) Section 1 of the Act of June 20, 1878, c. 359, 20 Stat. 216, as amended (44 U.S.C. 322) (advertising).

(12) Section 3828 of the Revised Statutes (44 U.S.C. 324) (advertising).

(13) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. 1241(a)) (official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States).

(14) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit construction of buildings by the United States on property not owned by it.

(15)<sup>6</sup> Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit (i) receipt of admission fees or payments under contracts through advances or otherwise, for concessions, services, space, or other consideration, and the credit of such receipts to the applicable appropriation, and (ii) rental or lease for periods not exceeding ten years of buildings and grounds.

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps should be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

**Sec. 9. Definition.** As used in this order, the word "function" or "functions" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

**Sec. 10. References to orders and acts.** Except as may for any reason be inappropriate:

(a) References in this order to the Act or any provision of the Act shall be deemed to include references thereto as amended from time to time.

(b) References in this order to any prior Executive order not superseded by this order shall be deemed to include references thereto as amended from time to time.

(c)<sup>7</sup> References in this order shall be deemed to include references thereto as amended from time to time.

**Sec. 11. Prior directives and actions.** (a) This order supersedes Executive Order No. 10716 of June 17, 1957, and Executive Order No. 10912 of January 18, 1961. Except to the extent that they may be inconsistent with law or with this order, other directives, regulations, and actions relating to the functions delegated by this order and in force immediately prior to the issuance of this order shall remain in effect until amended, modified, or revoked by appropriate authority.

(b) This order shall neither limit nor be limited by Executive Order No. 11014 of April 17, 1962.

<sup>6</sup> Executive Order 11380 (November 8, 1967; 32 F.R. 15627) added subpara. (15).

<sup>7</sup> Executive Order 11380 (November 8, 1967; 32 F.R. 15627) added subsec. (c).

(c) To the extent not heretofore superseded, there are hereby superseded the provisions of the letters of the President to the Director of the United States Information Agency dated August 16, 1955, and August 21, 1956 (22 F.R. 101-103).

**Sec. 12. Effective date.** The provisions of this order shall be effective immediately.

### 3. Vietnam Education Foundation Act of 2000

Partial text of Public Law 106-554 [Miscellaneous Appropriations Act, 2001; H.R. 5666, enacted by reference in H.R. 4577], 114 Stat. 2763 at 2763A-254, approved December 21, 2000; as amended by Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

\* \* \* \* \*

#### TITLE II—VIETNAM EDUCATION FOUNDATION ACT OF 2000<sup>1</sup>

##### SEC. 201. SHORT TITLE.

This title may be cited as the “Vietnam Education Foundation Act of 2000”.

##### SEC. 202. PURPOSES.

The purposes of this title are the following:

(1) To establish an international fellowship program under which—

(A) Vietnamese nationals can undertake graduate and post-graduate level studies in the sciences (natural, physical, and environmental), mathematics, medicine, and technology (including information technology) in the United States;<sup>2</sup> and

(B) United States citizens can teach in the fields specified in subparagraph (A) in academic institutions in Vietnam.<sup>3</sup>

(2) To further the process of reconciliation between the United States and Vietnam and the building of a bilateral relationship serving the interests of both countries.

##### SEC. 203. DEFINITIONS.

In this title:

(1) BOARD.—The term “Board” means the Board of Directors of the Foundation.

(2) FOUNDATION.—The term “Foundation” means the Vietnam Education Foundation established in section 204.

(3) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) UNITED STATES-VIETNAM DEBT AGREEMENT.—The term “United States-Vietnam debt agreement” means the Agreement Between the Government of the United States of America and

<sup>1</sup> 22 U.S.C. 2452 note.

<sup>2</sup> Sec. 227(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1369), inserted “in the United States” after “technology”.

<sup>3</sup> Sec. 227(a)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1369), struck out “appropriate Vietnamese institutions” and inserted in lieu thereof “academic institutions in Vietnam”.

the Government of the Socialist Republic of Vietnam Regarding the Consolidation and Rescheduling of Certain Debts Owed to, Guaranteed by, or Insured by the United States Government and the Agency for International Development, dated April 7, 1997.

**SEC. 204. ESTABLISHMENT.**

There is established the Vietnam Education Foundation as an independent establishment of the executive branch under section 104 of title 5, United States Code.

**SEC. 205. BOARD OF DIRECTORS.**

(a) IN GENERAL.—The Foundation shall be subject to the supervision and direction of the Board of Directors, which shall consist of 13 members, as follows:

(1) Two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

(2) Two members of the Senate, appointed by the President pro tempore, one of whom shall be appointed upon the recommendation of the Majority Leader and one of whom shall be appointed upon the recommendation of the Minority Leader, and who shall serve as ex officio, nonvoting members.

(3) Secretary of State.

(4) Secretary of Education.

(5) Secretary of Treasury.

(6) Six members to be appointed by the President from among individuals in the nongovernmental sector who have academic excellence or experience in the fields of concentration specified in section 202(1)(A) or a general knowledge of Vietnam, not less than three of whom shall be drawn from academic life.

(b) ROTATION OF MEMBERSHIP.—(1) The term of office of each member appointed under subsection (a)(6) shall be 3 years, except that of the members initially appointed under that subsection, two shall serve for terms of 1 year, two shall serve for terms of 2 years, and two shall serve for terms of 3 years.

(2) A member of Congress appointed under subsection (a)(1) or (2) shall not serve as a member of the Board for more than a total of 6 years.

(3)<sup>4</sup> (A) Any member appointed to fill a vacancy prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

(B) Upon the expiration of his or her term of office, any member may continue to serve until a successor is appointed.

(c) CHAIR.—The voting members of the<sup>5</sup> Board shall elect one of the members appointed under subsection (a)(6) to serve as Chair.

<sup>4</sup>Sec. 227(f) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), added para. (3).

<sup>5</sup>Sec. 227(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1369), inserted “voting members of the” after “The”.

(d) MEETINGS.—The Board shall meet upon the call of the Chair but not less frequently than twice each year. A majority of the voting members of the Board shall constitute a quorum.

(e) DUTIES.—The Board shall—

(1)<sup>6</sup> provide overall supervision and direction of the Foundation;

(2)<sup>6</sup> establish criteria for the eligibility of applicants, including criteria established by section 206(b), and for the selection of fellowship recipients; and

(3)<sup>6</sup> select the fellowship recipients.

(f) COMPENSATION.—

(1)<sup>7</sup> IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Board shall serve without compensation.

(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

(3)<sup>8</sup> COMPENSATION OF PRESIDENTIAL APPOINTEES.—The members of the Board appointed under subsection (a)(6) shall be paid at the daily equivalent of the rate of basic pay payable for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Board member.

(g)<sup>9</sup> TREATMENT OF PRESIDENTIAL APPOINTEES AS SPECIAL GOVERNMENT EMPLOYEES.—The members of the Board appointed under subsection (a)(6) shall be special Government employees, as defined in section 202(a) of title 18, United States Code.

(h)<sup>10</sup> TRAVEL REGULATIONS.—Members of the Board shall be subject to the same travel regulations as apply to officers and employees of the Department of State.

#### SEC. 206. FELLOWSHIP PROGRAM.

(a) AWARD OF FELLOWSHIPS.—

(1) IN GENERAL.—To carry out the purposes of this title, the Foundation shall award fellowships to—

(A) Vietnamese nationals to study at institutions of higher education in the United States at graduate and post-graduate levels in the following fields: physical sciences, natural sciences, mathematics, environmental sciences, medicine, technology, and computer sciences; and

<sup>6</sup>Sec. 227(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1369), amended and restated paras. (1) and (2) and added a new para. (3).

<sup>7</sup>Sec. 227(d)(1)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), amended and restated para. (1).

<sup>8</sup>Sec. 227(d)(1)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), added para. (3).

<sup>9</sup>Sec. 227(d)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), added subsec. (g).

<sup>10</sup>Sec. 227(e) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), added subsec. (h).

(B) United States citizens to teach in Vietnam in appropriate Vietnamese institutions in the fields of study described in subparagraph (A).

(2)<sup>11</sup> SCIENTIFIC AND TECHNOLOGY VOCABULARY IN ENGLISH.—Fellowships awarded to Vietnamese nationals under paragraph (1) may include funding to improve English proficiency in a fellowship recipient's field of study.

(b) CRITERIA FOR SELECTION.—Fellowships under this title shall be awarded to persons who meet the minimum criteria established by the Foundation, including the following:

(1) VIETNAMESE NATIONALS.—Fellowship candidates from Vietnam<sup>12</sup> shall have basic English proficiency and must have the ability to meet the criteria for admission into graduate or post-graduate programs in United States institutions of higher learning.

(2) UNITED STATES CITIZEN TEACHERS.—American candidates for teaching fellowships<sup>13</sup> shall be highly competent in their fields and be experienced and proficient teachers.

(c) IMPLEMENTATION.—The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of fellowships awarded under this section.

(d)<sup>14</sup> AUTHORITY TO AWARD FELLOWSHIPS ON A COST-SHARING BASIS.—The Foundation may require, as a condition of the availability of funds for the award of a fellowship under this title, that an institution of higher education make available funds for such fellowship on a cost-sharing<sup>14</sup> basis.

(e) FELLOWSHIP CONDITIONS.—A person awarded a fellowship under this title may receive payments authorized under this title only during such periods as the Foundation finds that the person is maintaining satisfactory progress<sup>15</sup> and devoting full time to study or teaching, as appropriate, and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board and applicable law.<sup>16</sup>

(f) FUNDING.—

(1) FISCAL YEAR 2001.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foundation \$5,000,000 for fiscal year 2001 to carry out the activities of the Foundation.

<sup>11</sup>Sec. 227(g) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), amended and restated para. (2).

<sup>12</sup>Sec. 227(h)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), struck out "Vietnamese candidates for fellowships" and inserted in lieu thereof "Fellowship candidates from Vietnam".

<sup>13</sup>Sec. 227(h)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), struck out "teaching candidates" and inserted in lieu thereof "candidates for teaching fellowships".

<sup>14</sup>Sec. 227(k)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), struck out "MATCHING" in the subsection heading and in the text of subsec. (d) and inserted in lieu thereof "COST-SHARING".

<sup>15</sup>Sec. 227(k)(2)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), struck out "proficiency" and inserted in lieu thereof "progress".

<sup>16</sup>Sec. 227(k)(2)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), added "and applicable law".



(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(2) FISCAL YEAR 2002 AND SUBSEQUENT FISCAL YEARS.—Effective October 1, 2001, the Foundation shall utilize funds transferred to the Foundation under section 207.

**SEC. 207. VIETNAM DEBT REPAYMENT FUND.**

(a) ESTABLISHMENT.—Notwithstanding any other provision of law, there is established in the Treasury a separate account which shall be known as the Vietnam Debt Repayment Fund (in this subsection referred to as the “Fund”).

(b) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all payments (including interest payments) made by the Socialist Republic of Vietnam under the United States-Vietnam debt agreement.

(c) AVAILABILITY OF THE FUNDS.—

(1) FISCAL YEAR LIMITATION.—Beginning with fiscal year 2002, and each subsequent fiscal year through fiscal year 2018, \$5,000,000 of the amounts deposited into the Fund (or accrued interest) each fiscal year shall be available to the Foundation, without fiscal year limitation, under paragraph (2).

(2) DISBURSEMENT OF FUNDS.—The Secretary of the Treasury, at least on a quarterly basis, shall transfer to the Foundation amounts allotted to the Foundation under paragraph (1) for the purpose of carrying out its activities.

(3) TRANSFER OF EXCESS FUNDS TO MISCELLANEOUS RECEIPTS.—Beginning with fiscal year 2002, and each subsequent fiscal year through fiscal year 2018, the Secretary of the Treasury shall withdraw from the Fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in the Fund in excess of amounts made available to the Foundation under paragraph (1).

(d) ANNUAL REPORT.—The Secretary of the Treasury<sup>17</sup> shall prepare and submit annually to Congress statements of financial condition of the Fund, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

**SEC. 208. FOUNDATION PERSONNEL MATTERS.**

(a) APPOINTMENT BY BOARD.—There shall be an Executive Director<sup>18</sup> of the Foundation who shall be appointed by the Board without regard to the provisions of title 5, United States Code, or any regulation thereunder, governing appointment in the competitive service. The Executive Director shall be the Chief Executive Officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe. The decision to employ or terminate an Executive Director shall be

<sup>17</sup>Sec. 227(i)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), struck out “Board” and inserted in lieu thereof “Secretary of the Treasury”.

<sup>18</sup>Sec. 227(k)(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), struck out “Secretary” and inserted in lieu thereof “Director”.

made by an affirmative vote of at least six of the nine voting members of the Board.

(b) PROFESSIONAL STAFF.—The Executive Director shall hire Foundation staff on the basis of professional and nonpartisan qualifications.

(c) EXPERTS AND CONSULTANTS.—The Executive Director may procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code to carry out the purposes of the Foundation.

(d) COMPENSATION.—The Board may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5,<sup>19</sup> United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315<sup>20</sup> of such title.

**SEC. 209. ADMINISTRATIVE PROVISIONS.**

(a) IN GENERAL.—In order to carry out this title, the Foundation may—

(1) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) accept and use the services of voluntary and noncompensated personnel;

(4) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of a majority of the members of the Board, without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(5) rent office space in the metropolitan Washington, D.C., area;<sup>21</sup> and

(6) make other necessary expenditures.

(b) ANNUAL REPORT.—The Board<sup>22</sup> shall submit to the President and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives an annual report of the operations of the Foundation under this title, including the financial condition of the Foundation.<sup>23</sup>

<sup>19</sup>Sec. 227(k)(4) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), struck out “title V” and inserted in lieu thereof “title 5”.

<sup>20</sup>Sec. 227(j) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), struck out “level V of the Executive Schedule under section 5316” and inserted in lieu thereof “level IV of the Executive Schedule under section 5315”.

<sup>21</sup>Sec. 227(k)(5) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1371), struck out “District of Columbia” and inserted in lieu thereof “metropolitan Washington, D.C., area”.

<sup>22</sup>Sec. 227(i)(2)(A) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), struck out “Foundation” and inserted in lieu thereof “Board”.

<sup>23</sup>Sec. 227(i)(2)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1370), struck out “its operations under this title” and inserted in lieu thereof

**SEC. 210. TERMINATION.**

(a) **IN GENERAL.**—The Foundation may not award any new fellowship, or extend any existing fellowship, after September 30, 2016.

(b) **ABOLISHMENT.**—Effective 120 days after the expiration of the last fellowship in effect under this title, the Foundation is abolished.

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“the operations of the Foundation under this title, including the financial condition of the Foundation”.

#### 4. Irish Peace Process Cultural and Training Program Act of 1998

Public Law 105-319 [H.R. 4293], 112 Stat. 3013, approved October 30, 1998; as amended by Public Law 107-234 [H.R. 4558], 116 Stat. 1481, approved October 4, 2002; and Public Law 108-449 [H.R. 2655], 118 Stat. 3469, approved December 10, 2004

AN ACT To establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

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

##### SECTION 1.<sup>1</sup> SHORT TITLE.

This Act may be cited as the “Irish Peace Process Cultural and Training Program Act of 1998”.

##### SEC. 2. IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.

###### (a) PURPOSE.—

(1) IN GENERAL.—The Secretary of State and the Secretary of Homeland Security<sup>2</sup> shall establish a program to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish peace process. The program shall promote cross-community and cross-border initiatives to build grassroots support for long-term peaceful coexistence. The Secretary of State and the Secretary of Homeland Security<sup>2</sup> shall cooperate with nongovernmental organizations to assist those admitted to participate fully in the economic, social, and cultural life of the United States.

###### (2) SCOPE AND DURATION OF PROGRAM.—

(A) IN GENERAL.—The program under paragraph (1) shall provide for the admission of not more than 4,000 aliens under section 101(a)(15)(Q)(ii) of the Immigration and Nationality Act (including spouses and minor children) in each of 4<sup>3</sup> consecutive program years.

(B) OFFSET IN NUMBER OF H-2B NONIMMIGRANT ADMISSIONS ALLOWED.—Notwithstanding any other provision of law, for each alien so admitted in a fiscal year, the numerical limitation specified under section 214(g)(1)(B) of the

<sup>1</sup>8 U.S.C. 1101 note.

<sup>2</sup>Sec. 1(a)(4) of Public Law 108-449 (118 Stat. 3470) struck out “Attorney General” and inserted in lieu thereof “Secretary of Homeland Security” throughout the Act.

<sup>3</sup>Sec. 1(1) of Public Law 107-234 (116 Stat. 1481) struck out “3” and inserted in lieu thereof “4”.

Immigration and Nationality Act shall be reduced by 1 for that fiscal year or the subsequent fiscal year.

(3) RECORDS AND REPORT.—The Department of Homeland Security<sup>4</sup> shall maintain records of the nonimmigrant status and place of residence of each alien admitted under the program. Not later than 120 days after the end of each program year,<sup>5</sup> the Department of Homeland Security<sup>4</sup> shall compile and submit to the Congress a report on the number of aliens admitted with nonimmigrant status under section 101(a)(15)(Q)(ii) who have overstayed their visas.

(4) DESIGNATED COUNTIES DEFINED.—For the purposes of this Act, the term “designated counties” means the six counties of Northern Ireland and the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland.

(5)<sup>6</sup> PROGRAM PARTICIPANT REQUIREMENTS.—An alien entering the United States as a participant in the program shall satisfy the following requirements:

(A) The alien shall be a citizen of the United Kingdom or the Republic of Ireland.

(B) The alien shall be between 21 and 35 years of age on the date of departure for the United States.

(C) The alien shall have resided continuously in a designated county for not less than 18 months before such date.

(D) The alien shall have been continuously unemployed for not less than 12 months before such date.

(E) The alien may not have a degree from an institution of higher education.

(b) TEMPORARY NONIMMIGRANT VISA.—

(1) IN GENERAL.—Section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

\* \* \*

(c)<sup>7</sup> COST-SHARING.—The Secretary of State shall verify that the United Kingdom and the Republic of Ireland continue to pay a reasonable share of the costs of the administration of the cultural and training programs carried out pursuant to this Act.

(d)<sup>7</sup> AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(e)<sup>8</sup> SUNSET.—

(1) Effective October 1, 2008, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

<sup>4</sup>Sec. 1(a)(4)(B) of Public Law 108-449 (118 Stat. 3470) struck out “Immigration and Naturalization Service” and inserted in lieu thereof “Department of Homeland Security”.

<sup>5</sup>Sec. 1(a)(2)(A) of Public Law 108-449 (118 Stat. 3469) struck out “the third program year and for the 4 subsequent years,” and inserted in lieu thereof “each program year.” Previously, sec. 1(2) of Public Law 107-234 (116 Stat. 1481) struck out “3” and inserted in lieu thereof “4”.

<sup>6</sup>Sec. 1(a)(1) of Public Law 108-449 (118 Stat. 3469) added para. (5).

<sup>7</sup>Sec. 1(a)(3) of Public Law 108-449 (118 Stat. 3470) redesignated subsecs. (c) and (d) as subsecs. (d) and (e), and added a new subsec. (c).

<sup>8</sup>Sec. 1(a)(3) of Public Law 108-449 (118 Stat. 3470) redesignated subsecs. (c) and (d) as subsecs. (d) and (e), and added a new subsec. (c). Prior to this amendment, sec. 1(a)(2)(B) of Public Law 108-449 (118 Stat. 3469) amended and restated this subsec. to extend the sunset provisions from 2006 to 2008. Previously, Sec. 1 of Public Law 107-234 (116 Stat. 1481) extended the sunset provisions from 2005 to 2006.

(2) Effective October 1, 2008, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

- (A) by striking “or” at the end of clause (i);
- (B) by striking “(i)” after “(Q)”; and
- (C) by striking clause (ii).

## 5. Caribbean and Central America Scholarship Assistance

Partial text of Public Law 101-382 [Customs and Trade Act of 1990; H.R. 1594], 104 Stat. 629 at 661, approved August 20, 1990

AN ACT To make miscellaneous and technical changes to various trade laws.

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

### SECTION 1.<sup>1</sup> SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Customs and Trade Act of 1990”.

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## TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

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### SUBTITLE C—SCHOLARSHIP ASSISTANCE AND TOURISM PROMOTION

#### SEC. 231.<sup>2</sup> COOPERATIVE PUBLIC AND PRIVATE SECTOR PROGRAM FOR PROVIDING SCHOLARSHIPS TO STUDENTS FROM THE CARIBBEAN AND CENTRAL AMERICA.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange or understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the “scholarship diplomacy” efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

<sup>1</sup> 19 U.S.C. 2101 note.

<sup>2</sup> 20 U.S.C. 226.

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the “American experience” for foreign students.

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students’ respective countries.

(d) AGREEMENT WITH STATES.—The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers of subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient’s prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

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

(1) The term “eligible country” means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and



(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

\* \* \* \* \*

## 6. United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 and 1987

Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405 at 439, approved August 16, 1985; as amended by Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998

NOTE.—Sections in this Act amend other State Department and foreign relations legislation and are incorporated elsewhere in this compilation.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

\* \* \* \* \*

### TITLE VI—UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES

#### SEC. 601.<sup>1</sup> STATEMENT OF PURPOSE.

The purpose of this title is to establish an undergraduate scholarship program designed to bring students of limited financial means from developing countries to the United States for study at United States institutions of higher education.

#### SEC. 602.<sup>2</sup> FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) it is in the national interest for the United States Government to provide a stable source of financial support to give students in developing countries the opportunity to study in the United States, in order to improve the range and quality of educational alternatives, increase mutual understanding, and build lasting links between those countries and the United States;

(2) providing scholarships to foreign students to study in the United States has proven over time to be an effective means

<sup>1</sup> 22 U.S.C. 4701.

<sup>2</sup> 22 U.S.C. 4702.

of creating strong bonds between the United States and the future leadership of developing countries and, at the same time, assists countries substantially in their development efforts;

(3) study in United States institutions by foreign students enhances trade and economic relationships by providing strong English language skills and establishing professional and business contacts;

(4) students from families of limited financial means have, in the past, largely not had the opportunity to study in the United States, and scholarship programs sponsored by the United States have made no provision for identifying preparing, or supporting such students for study in the United States;

(5) it is essential that the United States citizenry develop its knowledge and understanding of the developing countries and their languages, cultures, and socioeconomic composition as these areas assume an ever larger role in the world community;

(6)<sup>3</sup> an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities;

(7)<sup>3</sup> the National Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education; and

(8)<sup>3</sup> it is also in the interest of the United States, as well as peaceful cooperation in the Western Hemisphere, that particular attention be given to the students of the Caribbean region.

**SEC. 603.<sup>4</sup> SCHOLARSHIP PROGRAM AUTHORITY.**

(a) IN GENERAL.—The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for undergraduate study at United States institutions of higher education by citizens and nationals of developing countries who have completed their secondary education and who

<sup>3</sup>Sec. 305 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2324) struck out paras. (6) and (7), and redesignated paras. (8) through (10) as (6) through (8). Former paras. (6) and (7) provided as follows:

“(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by Soviet-bloc governments to students in developing countries, and this disparity entails the serious long-run cost of having so many of the potential future leaders of the developing world educated in Soviet-bloc countries;

“(7) from 1972 through 1982 the Soviet Union and Eastern European governments collectively increased their education exchange programs to Latin America and the Caribbean by 205 percent while those of the United States declined by 52 percent.”.

<sup>4</sup>22 U.S. 4703.

would not otherwise have an opportunity to study in the United States due to financial limitations.

(b) **FORM OF SCHOLARSHIP; FORGIVENESS OF LOAN REPAYMENT.**—To encourage students to use their training in their countries of origin each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to his or her country or origin for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 208 of the Immigration and Nationality Act or is admitted to the United States as a refugee pursuant to section 207 of that Act, half of the repayment shall be forgiven.

(c) **CONSULTATION.**—Before allocation any of the funds made available to carry out this title, the President shall consult with United States institutions of higher education, educational exchange organizations, United States missions in developing countries, and the governments of participating countries on how to implement the guidelines specified in section 604.

(d) **DEFINITION.**—For purposes of this title, the term "institution of higher education" has the same meaning as given to such term by section 101<sup>5</sup> of the Higher Education Act of 1965.

**SEC. 604.<sup>6</sup> GUIDELINES.**

The scholarship program under this title shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this title shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity.

(2) United States missions shall design ways to identify promising students who are in secondary educational institutions, or who have completed their secondary education, for study in the United States. In carrying out this paragraph, the United States mission in a country shall consult with Peace Corps volunteers and staff assigned to that country and with private and voluntary organizations with a proven record of providing development assistance to developing countries.

(3) United States missions shall develop and strictly implement specific economic need criteria. Scholarships under this title may only be provided to students who meet the economic need criteria.

(4) The program shall utilize educational institutions in the United States and in developing countries to help participants in the programs acquire necessary skills in English and other appropriate education training.

(5) Each participant from a developing country shall be selected on the basis of academic and leadership potential and the economic, political, and social development needs of such country. Such needs shall be determined by each United States mission in consultation with the government of the respective

<sup>5</sup>Sec. 102(a)(7)(D) of Public Law 105-244 (112 Stat. 1619) struck out "1201(a)" and inserted in lieu thereof "101".

<sup>6</sup>22 U.S.C. 4704.

country. Scholarship opportunities shall emphasize fields that are critical to the development of the participant's country, including agriculture, civil engineering, communications, social science, education, public and business administration, health, nutrition, environmental studies, population and family planning, and energy.

(6) The program shall be flexible in order to take advantage of different training and educational opportunities offered by universities, postsecondary vocational training schools, and community colleges in the United States.

(7) The program shall be flexible with respect to the number of years of undergraduate education financed but in no case shall students be brought to the United States for a period less than one year.

(8) Adequate allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide adequate opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The United States Information Agency shall recommend to each student, who receives a scholarship under this title for study at a college or university, that the student enroll in a course on the classics of American political thought or which otherwise emphasizes the ideas, principles, and documents upon which the United States was founded.

**SEC. 605.<sup>7</sup> AUTHORITY TO ENTER INTO AGREEMENTS.**

The President may enter into agreements with foreign governments in furtherance of the purposes of this title. Such agreements may provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purposes of administering programs under this title.

**SEC. 606.<sup>8</sup> POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS.**

(a) AID-FUNDED PROGRAMS.—The Congress urges the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, in implementing programs authorized under that part, to increase assistance for undergraduate scholarships for students of limited financial means from developing countries to study in the United States at United States institutions of higher education. To the maximum extent practicable, such scholarship assistance shall be furnished in accordance with the guidelines contained in section 604 of this title.

(b) USIA-FUNDED POSTGRADUATE STUDY IN THE UNITED STATES.—The Congress urges the Director of the United States Information Agency to expand opportunities for students of limited financial means from developing countries to receive financial assist-

<sup>7</sup> 22 U.S.C. 4705.

<sup>8</sup> 22 U.S.C. 4706.

ance for postgraduate study at United States institutions of higher education.

(c) **STUDY BY AMERICANS IN DEVELOPING COUNTRIES.**—The Congress urges the President to take such steps as are necessary to expand the opportunities for Americans from all economic classes to study in developing countries.

**SEC. 607.<sup>9</sup> ESTABLISHMENT AND MAINTENANCE OF COUNSELING SERVICES.**

(a) **COUNSELING SERVICES ABROAD.**—For the purpose of assisting foreign students in choosing fields of study, selecting appropriate institutions of higher education, and preparing for their stay in the United States, the President may make suitable arrangements for counseling and orientation services abroad.

(b) **COUNSELING SERVICES IN THE UNITED STATES.**—For the purposes of assisting foreign students in making the best use of their opportunities while attending United States institutions of higher education, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements (by contract or otherwise) for the establishment and maintenance of adequate counseling services at United States institutions of higher education which are attended by foreign students.

**SEC. 608.<sup>10</sup> BOARD OF FOREIGN SCHOLARSHIPS.**

The Board of Foreign Scholarships shall advise and assist the President in the discharge of the scholarship program carried out pursuant to this title, in accordance with the guidelines set forth in section 604. The President may provide for such additional secretarial and staff assistance for the board as may be required to carry out this title.

**SEC. 609.<sup>11</sup> GENERAL AUTHORITIES.**

(a) **PUBLIC AND PRIVATE SECTOR CONTRIBUTIONS.**—The public and private sectors in the United States and in the developing countries shall be encouraged to contribute to the costs of the scholarship program financed under this title.

(b) **UTILIZATION OF RETURNING PROGRAM PARTICIPANTS.**—The President shall seek to engage the public and private sectors of developing countries in programs to maximize the utilization of recipients of scholarships under this title upon their return to their own countries.

(c) **PROMOTION ABROAD OF SCHOLARSHIP PROGRAM.**—The President may provide for publicity and promotion abroad of the scholarship program provided for in this title.

(d) **INCREASING UNITED STATES UNDERSTANDING OF DEVELOPING COUNTRIES.**—The President shall encourage United States institutions of higher education, which are attended by students from developing countries who receive scholarships under this title, to provide opportunities for United States citizens attending those institutions to develop their knowledge and understanding of the devel-

<sup>9</sup>22 U.S.C. 4707.

<sup>10</sup>22 U.S.C. 4708.

<sup>11</sup>22 U.S.C. 4709.

oping countries, and the languages and cultures of those countries, represented by those foreign students.

(e) OTHER ACTIVITIES TO PROMOTE IMPROVED UNDERSTANDING.—Funds allocated by the United States Information Agency, or the agency primarily responsible for carrying out part I of the Foreign Assistance Act of 1961, for scholarships in accordance with this title shall be available to enhance the educational training and capabilities of the people of Latin America and the Caribbean and to promote better understanding between the United States and Latin America and the Caribbean through programs of cooperation, study, training, and research. Such funds may be used for program and administrative costs for institutions carrying out such programs.

**SEC. 610.<sup>12</sup> ENGLISH TEACHING, TEXTBOOKS, AND OTHER TEACHING MATERIALS.**

Wherever adequate facilities or materials are not available to carry out the purposes of paragraph (4) of section 604 in the participant's country and the President determines that the purposes of this title are best served by providing the preliminary training in the participant's country, the President may (by purchase, contract, or other appropriate means) provide the necessary materials and instructors to achieve such purpose.

**SEC. 611.<sup>13</sup> \* \* \*** [Repealed—1994]

**SEC. 612.<sup>14</sup> FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1986 AND FISCAL YEAR 1987.**

(a) CENTRAL AMERICAN UNDERGRADUATE SCHOLARSHIP PROGRAM.—The undergraduate scholarship program financed by the United States Information Agency for students from Central America for fiscal year 1986 and fiscal year 1987 shall be conducted in accordance with this title.

(b) SCHOLARSHIPS FOR STUDENTS FROM OTHER DEVELOPING COUNTRIES.—Any funds appropriated to the United States Information Agency for fiscal year 1986 or fiscal year 1987 for any purpose (other than funds appropriated for educational exchange programs under section 102(a)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(1))) may be used to carry out this title with respect to students from developing countries outside Central America.

**SEC. 613.<sup>15</sup> LATIN AMERICAN EXCHANGES.**

Of any funds authorized to be appropriated for activities authorized by this title, not less than 25 percent shall be allocated to fund grants and exchanges to Latin America and the Caribbean.

<sup>12</sup> 22 U.S.C. 4710.

<sup>13</sup> Formerly at 22 U.S.C. 4711. Sec. 611, which had required that the President report annually to Congress on activities and expenditures under this title, was repealed by sec. 139(13) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398).

<sup>14</sup> 22 U.S.C. 4712.

<sup>15</sup> 22 U.S.C. 4713.

**SEC. 614.<sup>16</sup> FEASIBILITY STUDY OF TRAINING PROGRAMS IN SIZABLE HISPANIC POPULATIONS.**

No later than December 15, 1985, the Director of the United States Information Agency and the Administrator of the Agency for International Development shall report jointly, to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs<sup>17</sup> of the House of Representatives, on the feasibility of greater utilization in those two agencies' scholarship and participant training programs of the United States universities in States bordering Latin America and Caribbean which are located in areas characterized by the presence of sizable Hispanic populations.

**SEC. 615.<sup>18</sup> COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.**

Any authority provided by this title to enter into contracts shall be effective only—

- (1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or
- (2) to the extent or in such amounts as are provided in advance in appropriation Acts.

<sup>16</sup> 22 U.S.C. 4714.

<sup>17</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>18</sup> 22 U.S.C. 4715.



## 7. National Endowment for Democracy Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1039, approved November 22, 1983; as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

\* \* \* \* \*

### TITLE V—NATIONAL ENDOWMENT FOR DEMOCRACY

#### SHORT TITLE

SEC. 501. This title may be cited as the “National Endowment for Democracy Act”.

#### NATIONAL ENDOWMENT FOR DEMOCRACY<sup>1</sup>

<sup>1</sup>See also sec. 212 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), and sec. 211 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138), for reporting requirements relating to the National Endowment for Democracy.

Sec. 534 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 481), provided the following:

#### “SEC. 534. STUDY OF DEMOCRACY EFFECTIVENESS.

“(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on a streamlined, cost-effective organization of United States democracy assistance. The report shall include a review of all activities funded by the United States Government, including those funded through the National Endowment for Democracy, the United States Information Agency, and the Agency for International Development.

“(b) CONTENT OF REPORT.—The report shall include the following:

“(1) A review of all United States-sponsored programs to promote democracy, including identification and discussion of those programs that are overlapping.

“(2) A clear statement of achievable goals and objectives for all United States-sponsored democracy programs, and an evaluation of the manner in which current democracy activities meet these goals and objectives.

“(3) A review of the current United States Government organization for the delivery of democracy assistance and recommended changes to reduce costs and streamline overhead involved in the delivery of democracy assistance.

“(4) Recommendations for coordinating programs, policies, and priorities to enhance the United States Government’s role in democracy promotion.

Continued

SEC. 502.<sup>2</sup> (a) The Congress finds that there has been established in the District of Columbia a private, nonprofit corporation known as the National Endowment for Democracy (hereafter in this title referred to as the “Endowment”) which is not an agency or establishment of the United States Government.

(b) The purposes of the Endowment, as set forth in its articles of incorporation, are—

(1) to encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions;

(2) to facilitate exchanges between United States private sector groups (especially the two major American political parties, labor, and business) and democratic groups abroad;

(3) to promote United States nongovernmental participation (especially through the two major American political parties, labor, business, and other private sector groups) in democratic training programs and democratic institution-building abroad;

(4) to strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

<sup>5</sup>(5) A review of all agencies involved in delivering United States Government funds in the form of democracy assistance and a recommended focal point or lead agency within the United States Government for policy oversight of the effort.

<sup>6</sup>(6) A review of the feasibility and desirability of mandating non-United States Government funding, including matching funds and in-kind support, for democracy promotion programs. If it is determined that such non-Government funding is feasible and desirable, recommendations should be made regarding goals and procedures for implementation.”

Sec. 2411 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-831; 22 U.S.C. 4416), provided the following:

**“SEC. 2411. RETENTION OF INTEREST.**

“Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.”

<sup>22</sup>22 U.S.C. 4411. Authorization of appropriations for fiscal year 2003 for the National Endowment for Democracy was included in general authorization levels for several programs; see sec. 112(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1358).

Previous authorizations: fiscal year 1984—\$31,300,000; fiscal year 1985—\$31,300,000; fiscal year 1986—\$18,400,000; fiscal year 1987—\$18,400,000; fiscal year 1988—\$17,500,000; fiscal year 1989—\$18,100,000; fiscal year 1990—\$25,000,000; fiscal year 1991—\$25,000,000; fiscal year 1992—\$30,000,000; fiscal year 1993—\$31,250,000.; fiscal year 1994—\$35,000,000; fiscal year 1995—\$35,000,000; fiscal year 1998—\$31,000,000; fiscal year 1999—\$30,000,000; fiscal year 2000—\$32,000,000; fiscal year 2001—\$32,000,000; and fiscal year 2003—\$42,000,000.

The Department of State and Related Agency Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2325), provided the following for fiscal year 2006:

**“NATIONAL ENDOWMENT FOR DEMOCRACY**

“For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$75,000,000, to remain available until expended.”

Previous appropriations include: fiscal year 1984—\$18,000,000; fiscal year 1985—\$18,500,000; fiscal year 1986—\$18,000,000; fiscal year 1987—\$15,000,000; fiscal year 1988—\$16,875,000; fiscal year 1989—\$15,800,000; fiscal year 1990—\$17,000,000; fiscal year 1991—\$25,000,000; fiscal year 1992—\$27,500,000; fiscal year 1993—\$30,000,000; fiscal year 1994—\$35,000,000; fiscal year 1995—\$34,000,000; fiscal year 1996—\$30,000,000; fiscal year 1997—\$30,000,000; fiscal year 1998—\$30,000,000; fiscal year 1999—\$30,000,000; fiscal year 2000—\$31,000,000; fiscal year 2001—\$30,999,000; fiscal year 2002—\$33,500,000; fiscal year 2003—\$42,000,000; fiscal year 2004—\$40,000,000; fiscal year 2005—\$60,000,000; and fiscal year 2006—\$75,000,000.

(5) to support the participation of the two major American political parties, labor, business, and other United States private sector groups in fostering cooperation with those abroad dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) to encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by programs funded by the Endowment.

#### GRANTS TO THE ENDOWMENT

SEC. 503.<sup>3</sup> (a) The Director of the United States Information Agency shall make an annual grant to the Endowment to enable the Endowment to carry out its purposes as specified in section 502(b). Such grants shall be made with funds specifically appropriated for grants to the Endowment or with funds appropriated to the Agency for the "Salaries and Expenses" account. Such grants shall be made pursuant to a grant agreement between the Director and the Endowment which requires that grant funds will only be used for activities which the Board of Directors of the Endowment determines are consistent with the purposes described in section 502(b), that the Endowment will allocate funds in accordance with subsection (e) of this section, and that the Endowment will otherwise comply with the requirements of this title. The grant agreement may not require the Endowment to comply with requirements other than those specified in this title.

(b) Funds so granted may be used by the Endowment to carry out the purposes described in section 502(b), and otherwise applicable limitations on the purposes for which funds appropriated to the United States Information Agency may be used shall not apply to funds granted to the Endowment.

(c) Nothing in this title shall be construed to make the Endowment an agency or establishment of the United States Government or to make the members of the Board of Directors of the Endowment, or the officers or employees of the Endowment, officers or employees of the United States.

(d) The Endowment and its grantees shall be subject to the appropriate oversight procedures of the Congress.

(e) Of the amounts made available to the Endowment for each of the fiscal years 1984 and 1985 to carry out programs in furtherance of the purposes of this Act—

(1) not less than \$13,800,000 shall be for the Free Trade Union Institute; and

(2) not less than \$2,500,000 shall be to support private enterprise development programs of the National Chamber Foundation.

(f)<sup>4</sup> Nothing in this title shall preclude the Endowment from making grants to independent labor unions.

<sup>3</sup> 22 U.S.C. 4412.

<sup>4</sup> Sec. 212 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376) added subsec. (f).

## ELIGIBILITY OF THE ENDOWMENT FOR GRANTS

SEC. 504.<sup>5</sup> (a) Grants may be made to the Endowment under this title only if the Endowment agrees to comply with the requirements specified in this section and elsewhere in this title.

(b)(1) The Endowment may only provide funding for programs of private sector groups and may not carry out programs directly.

(2) The Endowment may provide funding only for programs which are consistent with the purposes set forth in section 502(b).

(c)(1) Officers of the Endowment may not receive any salary or other compensation from any source, other than the Endowment, for services rendered during the period of their employment by the Endowment.

(2) If an individual who is an officer or employee of the United States Government serves as a member of the Board of Directors or as an officer or employee of the Endowment, that individual may not receive any compensation or travel expenses in connection with services performed for the Endowment.

(d)(1) The Endowment shall not issue any shares of stock or declare or pay any dividends.

(2) No part of the assets of the Endowment shall inure to the benefit of any member of the Board, any officer or employee of the Endowment, or any other individual, except as salary or reasonable compensation for services.

(e)(1) The accounts of the Endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Endowment are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required by subsection (h). The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Endowment's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Endowment's income and expenses during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(f)(1) The financial transactions of the Endowment for each fiscal year may be audited by the General Accounting Office<sup>6</sup> in accordance with such principles and procedures and under such rules and

<sup>5</sup> 22 U.S.C. 4413.

<sup>6</sup> Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office."

regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Endowment are normally kept. The representatives of the General Accounting Office<sup>6</sup> shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment pertaining to its financial transactions and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Endowment shall remain in the possession and custody of the Endowment.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Endowment, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this title. A copy of each report shall be furnished to the President and to the Endowment at the time submitted to the Congress.

(g)<sup>7</sup> The financial transactions of the Endowment for each fiscal year shall<sup>8</sup> be audited by the United States Information Agency under the conditions set forth in subsection (f)(1).

(h)(1)<sup>9</sup> The Endowment shall ensure that each recipient of assistance provided through the Endowment under this title keeps separate bank accounts or separate self-balancing ledger accounts with respect to such assistance<sup>10</sup> and such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Endowment shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Endowment under this title. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose.

<sup>7</sup>Sec. 210(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405) added subsec. (g).

<sup>8</sup>Sec. 211(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 695), struck out "may also" and inserted in lieu thereof "shall".

<sup>9</sup>Sec. 210(b)(1) of Public Law 99-93 (99 Stat. 432) redesignated subsecs. (g) and (h) as subsecs. (h) and (i), respectively.

<sup>10</sup>Sec. 211 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1376), inserted "separate accounts with respect to such assistance". Subsequently, sec. 228 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), struck out "accounts" and inserted in lieu thereof "bank accounts or separate self-balancing ledger accounts".

(i)<sup>9</sup> Not later than February 1<sup>11</sup> of each year, the Endowment shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress. The report shall include a comprehensive and detailed report of the Endowment's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Endowment deems appropriate. The Board members and officers of the Endowment shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (f), or any other matter which any such committee may determine.

(j)<sup>12</sup> After January 31, 1993, no member of the Board of the Endowment may be a member of the board of directors or an officer of any grantee of the National Endowment for Democracy which receives more than 5 percent of the funds of the Endowment for any fiscal year.

#### REQUIREMENTS RELATING TO THE ENDOWMENT AND ITS GRANTEES

SEC. 505.<sup>13</sup> (a) PARTISAN POLITICS.—(1) Funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office.

(2) No funds granted by the Endowment may be used to finance activities of the Republican National Committee or the Democratic National Committee.

(3) No grants may be made to any institute, foundation, or organization engaged in partisan activities on behalf of the Republican or Democratic National Committee, on behalf of any candidate for public office, or on behalf of any political party in the United States.

(b) CONSULTATION WITH DEPARTMENT OF STATE.—The Endowment shall consult with the Department of State on any overseas program funded by the Endowment prior to the commencement of the activities of that program.

#### FREEDOM OF INFORMATION

SEC. 506.<sup>14</sup> (a) COMPLIANCE WITH FREEDOM OF INFORMATION ACT.—Notwithstanding the fact that the Endowment is not an

<sup>11</sup> Sec. 210(d) of Public Law 99-93 (99 Stat. 432) struck out "December 31" and inserted in lieu thereof "February 1".

Sec. 209(e)(17) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-424), stated that sec. 3003(a)(1) of Public Law 104-66 (109 Stat. 734) is not applicable to this subsection. Sec. 3003(a)(1) of that Act, as amended, provided that " \* \* \* each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list \* \* \* [prepared by the Clerk of the House of Representatives for the first session of the One Hundred Third Congress] shall cease to be effective, with respect to that requirement, May 15, 2000."

<sup>12</sup> Sec. 215 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 697), added subsec. (j).

<sup>13</sup> 22 U.S.C. 4414. Sec. 210(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405), added sec. 505.

<sup>14</sup> 22 U.S.C. 4415. Sec. 210(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 405), added sec. 506.

agency or establishment of the United States Government, the Endowment shall fully comply with all of the provisions of section 552 of title 5, United States Code.

(b) PUBLICATION IN FEDERAL REGISTER.—For purposes of complying pursuant to subsection (a) with section 552(a)(1) of such title, the Endowment shall make available to the Director of the United States Information Agency such records and other information as the Director determines may be necessary for such purposes. The Director shall cause such records and other information to be published in the Federal Register.

(c) REVIEW BY USIA.—(1) In the event that the Endowment determines not to comply with a request for records under section 552, the Endowment shall submit a report to the Director of the United States Information Agency explaining the reasons for not complying with such request.

(2) If the Director approves the determination not to comply with such request, the United States Information Agency shall assume full responsibility, including financial responsibility, for defending the Endowment in any litigation relating to such request.

(3) If the Director disapproves the determination not to comply with such request, the Endowment shall comply with such request.

## 8. Fascell Fellowship Act

Partial text of Public Law 99-399 [Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, H.R. 4151], 100 Stat. 853, approved August 27, 1986; as amended by Public Law 99-529 [Special Foreign Assistance Act of 1986, S. 1917], 100 Stat. 3010, approved October 24, 1986; Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 101-454 [Fascell Fellowship Amendments Act of 1990; S. 2017], 104 Stat. 1063 at 1065, approved October 24, 1990; Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1994; and Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998

AN ACT To provide enhanced diplomatic security and combat international terrorism, and for other purposes.

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

\* \* \* \* \*

### TITLE X—FASCELL FELLOWSHIP PROGRAM

#### SEC. 1001. SHORT TITLE.

This title may be cited as the “Fascell Fellowship Act.”

#### SEC. 1002.<sup>1</sup> FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS ABROAD.

(a) ESTABLISHMENT.—There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions which would otherwise be<sup>2</sup> held by foreign national employees at United States diplomatic or consular missions abroad.<sup>2</sup>

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this title shall be known as “Fascell Fellowships.”

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this title shall be provided in order to allow the recipient (hereafter in this title referred to as a “Fellow”) to serve on a short-term basis at a United States diplomatic or consular mission abroad<sup>3</sup> in order to

<sup>1</sup>22 U.S.C. 4901. Sec. 303 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2323) struck out “IN THE SOVIET UNION AND EASTERN EUROPE” from the section heading and inserted in lieu thereof “ABROAD”.

<sup>2</sup>Sec. 9(b)(1) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1065) struck out “formerly” and inserted in lieu thereof “which would otherwise be”; and struck out “in the Soviet Union or Eastern European countries” and inserted in lieu thereof “abroad”.

<sup>3</sup>Sec. 9(b)(2) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) struck out “in the Soviet Union or an Eastern European country” and inserted in lieu thereof “abroad”; and struck out “Soviet or Eastern European” and inserted in lieu thereof “that country’s”.



obtain first hand exposure to that country, including (as appropriate) independent study in that country's<sup>3</sup> area studies or languages.

(d) **INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.**—To receive a fellowship under this title, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in international affairs, foreign languages, or career and professional experience or interest in international affairs,<sup>4</sup> and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) **WOMEN AND MEMBERS OF MINORITY GROUPS.**—In carrying out this section, the Secretary of State shall actively recruit women and members of minority groups.

**SEC. 1003.<sup>5</sup> FELLOWSHIP BOARD.**

(a) **ESTABLISHMENT AND FUNCTION.**—There is hereby established a Fellowship Board (hereafter in this title referred to as the “Board”), which shall select the individuals who will be eligible to serve as Fellows.

(b) **MEMBERSHIP.**—The Board shall consist of 7 members<sup>6</sup> as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3)<sup>7</sup> Five<sup>8</sup> academic specialists in international affairs or foreign languages,<sup>9</sup> appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs<sup>10</sup> of the House of Representatives and the chairman and ranking minority of the Committee on Foreign Relations of the Senate).

(c) **MEETINGS.**—The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) **COMPENSATION AND PER DIEM.**—Members of the Board shall receive no compensation on account of their service on the Board,

<sup>4</sup>Sec. 9(b)(3) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) struck out “Soviet or Eastern European area studies or languages” and inserted in lieu thereof “international affairs, foreign languages, or career and professional experience or interest in international affairs.”

<sup>5</sup>22 U.S.C. 4902.

<sup>6</sup>Sec. 1335(f)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out “9 members” and inserted in lieu thereof “7 members”.

<sup>7</sup>Sec. 1335(f)(3) and (4) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out para. (3) at this point, which designated an officer of the United States Information Agency as a member of the Board, and redesignated para. (4) as new para. (3).

<sup>8</sup>Sec. 1335(f)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out “Six” and inserted in lieu thereof “Five”.

<sup>9</sup>Sec. 9(c)(1) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) struck out “Soviet or Eastern European area studies or languages,” and inserted in lieu thereof “international affairs or foreign languages.”

Sec. 9(c)(2) of that Act made this amendment applicable “only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.”

<sup>10</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

but while away from their homes or regular places of business in the performance of their duties under this title, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

**SEC. 1004.<sup>11</sup> FELLOWSHIPS.**

(a) NUMBER.—Up to 100 fellowships may be provided under this title each year. Not less than 15 shall be provided during fiscal year 1993.<sup>12</sup>

(b) REMUNERATION AND PERIOD.—The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

- (1) the amount of remuneration the Fellow will receive for his or her service under this title, and
- (2) the period of the fellowship, which shall be between one and two years.

(c) TRAINING.—Each Fellow may be given appropriate training at the Foreign Service Institute<sup>13</sup> or other appropriate institution.

(d) HOUSING AND TRANSPORTATION.—The Secretary of State shall, pursuant to regulations—

- (1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and
- (2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) EFFECTIVE DATE.—Subsection (d) of this section shall not take effect until October 1, 1986.

**SEC. 1005.<sup>14</sup> SECRETARY OF STATE.**

(a) DETERMINATIONS.—The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission abroad<sup>15</sup> and the position in which each will serve.

(b)<sup>16</sup> AUTHORITIES.—Fellows may be employed—

- (1) under a temporary appointment in the civil service;
- (2) under a limited appointment in the Foreign Service; or
- (3) by contract under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956.

<sup>11</sup> 22 U.S.C. 4903.

<sup>12</sup> Sec. 1004(a) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353) added the second sentence.

<sup>13</sup> Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center.’”.

<sup>14</sup> 22 U.S.C. 4904.

<sup>15</sup> Sec. 9(d) of the Eisenhower Exchange Fellowship Act of 1990 (sec. 9 cited as “Fascell Fellowship Amendments Act of 1990”; Public Law 101-454; 104 Stat. 1066) struck out “in the Soviet Union or Eastern Europe” and inserted in lieu thereof “abroad”.

<sup>16</sup> Sec. 187 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1368), amended and restated subsec. (b).

(c) FUNDING.—Funds appropriated to the Department of State for “Salaries and Expenses” shall be used for the expenses incurred in carrying out this title.<sup>17</sup>

\* \* \* \* \*

<sup>17</sup>Sec. 804(b) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3353) provided the following:

“(b) FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act [Fascell Fellowship Act], funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union.”.

**9. Soviet, Former Soviet, Eastern European Education and Training Programs**

**a. Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992**

**FREEDOM Support Act**

**Partial text of Public Law 102-511 [S. 2532], 106 Stat. 3320, approved October 24, 1992**

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

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

**SECTION 1.<sup>1</sup> SHORT TITLES.**

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

\* \* \* \* \*

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

**SEC. 801.<sup>2</sup> DESIGNATION OF EDMUND S. MUSKIE FELLOWSHIP PROGRAM. \* \* \***

**SEC. 802. NEW DIPLOMATIC POSTS IN THE INDEPENDENT STATES.**

There are authorized to be appropriated for “NEW DIPLOMATIC POSTS” for personnel, support, and other expenses, not otherwise provided for, for the Department of State and the United States Information Agency to establish and operate new diplomatic posts in the independent states of former Soviet Union, \$25,000,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.

**SEC. 803.<sup>3</sup> OCCUPANCY OF NEW CHANCERY BUILDINGS. \* \* \***

**SEC. 804.<sup>4</sup> CERTAIN POSITIONS AT UNITED STATES MISSIONS.**

(a) AMENDMENT.—Section 1004(a) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 is amended by adding at the

<sup>1</sup>22 U.S.C. 5801 note. See also the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2317), in *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>2</sup>Sec. 801 added the Edmund S. Muskie Fellowship Program to sec. 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note).

<sup>3</sup>Sec. 803 repealed subsecs. (f) and (g) of sec. 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

<sup>4</sup>Title X of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 is the Fасcell Fellowship Act.

end the following: "Not less than 15 shall be provided during fiscal year 1993."

(b)<sup>5</sup> FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act, funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union.

**SEC. 805.<sup>6</sup> INTERNATIONAL DEVELOPMENT LAW INSTITUTE.**

For purposes of the International Organizations Immunities Act (22 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

**SEC. 806.<sup>7</sup> CERTAIN BOARD FOR INTERNATIONAL BROADCASTING CONSTRUCTION ACTIVITIES. \* \* \***

**SEC. 807.<sup>8</sup> EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.**

(a) FUNDING FOR EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out a broad spectrum of exchanges, and of training and similar programs to promote the objectives described in section 498 of the Foreign Assistance Act of 1961, between the United States and the independent states of the former Soviet Union, there are authorized to be appropriated for fiscal year 1993 (in addition to amounts otherwise available for such purposes) the following:

(A) \$20,000,000 for exchange programs for secondary school students.

(B) \$30,000,000 for programs for participants other than secondary school students, including undergraduate and graduate students, farmers and other agribusiness practitioners, and participants in the exchanges carried out under paragraph (2).

(2) LOCAL AND REGIONAL SELF-GOVERNMENT EXCHANGES.—The Director of the United States Information Agency is authorized to use funds authorized to be appropriated by paragraph (1)(B) to conduct exchanges to provide technical assistance in local and regional self-government to the independent states.

(3) REPORT ON PROPOSED FUNDING ALLOCATIONS.—Within 45 days after the date of the enactment of this Act, the coordinator designated pursuant to section 102(a) of this Act shall submit to the Congress a report specifying the amount of funds authorized to be appropriated by paragraph (1) that is proposed to be allocated for each category of program and for each Government agency.

(4) PROGRAM ADMINISTRATION.—

<sup>5</sup> 22 U.S.C. 4903 note.

<sup>6</sup> 22 U.S.C. 288j. For International Organizations Immunities Act (Public Law 79-291), see vol. II-B.

<sup>7</sup> Sec. 806 amended sec. 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.

<sup>8</sup> 22 U.S.C. 2452 note.

(A) USIA.—Educational, cultural, and any other exchange programs carried out under this subsection, including any such programs for secondary school students, shall be administered by the United States Information Agency, and funds allocated for such programs shall be transferred to that Agency.

(B) OTHER AGENCIES.—Training and other non-exchange programs carried out under this subsection shall be administered by the Agency for International Development or such other Government agency as has experience and expertise in carrying out such programs.

(5) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds made available to each Government agency under this subsection may be used by that agency for administrative expenses of program implementation.

(b) ENHANCEMENT OF USIA EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the United States Information Agency for fiscal year 1993 for enhancement of existing educational and cultural exchange programs the following:

(1) \$9,950,000 for Fulbright Academic Exchange Programs.

(2) \$10,850,000 for other programs administered by the Bureau of Educational and Cultural Affairs.

(c)<sup>9</sup> REPEAL.—Effective 6 months after the date of enactment of this Act, section 225 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and the item relating to that section in the table of contents set forth in section 2 of that Act, are repealed.

(d) AGRIBUSINESS EXCHANGES.—

(1) AUTHORIZATION.—The President is authorized to establish regional agribusiness offices at State universities and land grant colleges in the United States for the purpose of expanding exchanges between agribusiness practitioners in the United States and agribusiness practitioners in the independent states of the former Soviet Union.

(2) LIMITATION ON FUNDING SOURCES.—Funds authorized to be appropriated by this section or other provisions of this Act (including chapter 11 of part I of the Foreign Assistance Act of 1961) may not be used to carry out this subsection.

\* \* \* \* \*

<sup>9</sup> 22 U.S.C. 2452 note.

**b. Soviet-Eastern Europe Educational Exchange Programs  
in the Foreign Relations Authorization Act, Fiscal Years  
1992 and 1993**

Partial text of Public Law 102-138 [H.R. 1415], 105 Stat. 647, approved October 28, 1992; as amended by Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; and Public Law 105-277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681 at 2681-801, approved October 21, 1998

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**PART A—UNITED STATES INFORMATION AGENCY**

**SEC. 210.<sup>1</sup> CLAUDE AND MILDRED PEPPER SCHOLARSHIP PROGRAM.**

(a) PURPOSE.—It is the purpose of this section to provide Federal financial assistance to facilitate a program to enable high school and college students from emerging democracies, who are visiting the United States, to spend from one to two weeks in Washington, District of Columbia, observing and studying the workings and operations of the democratic form of government of the United States.

(b) GRANTS.—The Director of the United States Information Agency is authorized to make grants to the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to carry out the purpose specified in subsection (a).

(c)<sup>2</sup> AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for fiscal year 1992 to carry out this section, of which not more than \$500,000 is authorized to be available for obligation or expenditure during that fiscal year. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

\* \* \* \* \*

<sup>1</sup>22 U.S.C. 2452 note.

<sup>2</sup>The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102-140; 105 Stat. 822), provided under educational and cultural exchange programs, that "\$1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation".

The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102-395; 106 Stat. 1870), provided under educational and cultural exchange programs, that "\$200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation and \$600,000 shall be available for the Institute for Representative Government."

**PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS**

**SEC. 221. AUTHORIZATION OF APPROPRIATIONS.**

In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts: \* \* \*<sup>2</sup>

(5) OTHER PROGRAMS.—For “East Europe Training Projects”, “Citizen Exchange Programs”, and the “Congress-Bundestag Exchange Program”, \$14,028,000 for the fiscal year 1992 and \$14,700,000 for the fiscal year 1993.

\* \* \* \* \*

(9) SOVIET-AMERICAN INTERPARLIAMENTARY EXCHANGES.—For the expenses of Soviet-American Interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress, after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency, there are authorized to be appropriated \$2,000,000 for the fiscal year 1992, of which not more than \$1,000,000 shall be available for obligation or expenditure during that fiscal year. Amounts appropriated under this subsection are authorized to be available until expended.

\* \* \* \* \*

**SEC. 223. USIA CULTURAL CENTER IN KOSOVO.**

(a) ESTABLISHMENT.—The Director of the United States Information Agency shall establish a cultural center in the capital of Kosovo in Yugoslavia when the Secretary of State determines that the physical security of the center and the personal safety of its employees may be reasonably assured.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until a center is established under subsection (a), the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs<sup>3</sup> of the House of Representatives on progress toward establishment of a center pursuant to subsection (a), including an assessment by the Secretary of State of the risks to physical and personal security of the establishment of such a center.

\* \* \* \* \*

**SEC. 225.**<sup>4</sup> \* \* \* [Repealed—1992]

**SEC. 226.**<sup>5</sup> ENHANCED EDUCATIONAL EXCHANGE PROGRAM.

(a) PROGRAMS FOR FOREIGN STUDENTS AND SCHOLARS.—

<sup>3</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>4</sup>Formerly at 22 U.S.C. 2452 note. Sec. 225 established the “Eastern Europe Student Exchange Endowment Fund”. Sec. 807(c) of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3354) repealed sec. 225, effective 6 months after the date of enactment of that Act (October 24, 1992). For text of sec. 225, see 105 Stat. 699.



(1) Not later than September 30, 1993, the number of scholarships provided to foreign students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in the United States shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only—

(A) to students and scholars from the new democracies of Eastern Europe,

(B) to students and scholars from the Soviet Union;

(C) to students and scholars from countries determined by the Associate Director of the Bureau of Educational and Cultural Affairs to be not adequately represented in the foreign student population in the United States.

(b) PROGRAMS FOR UNITED STATES STUDENTS AND SCHOLARS.—

(1) Not later than September 30, 1993, the number of scholarships provided to United States students and scholars by the Bureau of Educational and Cultural Affairs of the United States Information Agency for the purpose of study, research, or teaching in other countries shall be increased by 100 over the number of such scholarships provided in fiscal year 1991, subject to the availability of appropriations.

(2) Scholarships provided to meet the requirements of paragraph (1) shall be available only for study, research, and teaching in the new democracies of Eastern Europe, the Soviet Union, and non-European countries.

(c) DEFINITION.—For the purposes of this section, the term “scholarship” means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books and supplies, equipment required for courses at an educational institution, and living expenses at a United States or foreign educational institution.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for the Bureau of Educational and Cultural Affairs, there are authorized to be appropriated \$2,000,000 for fiscal year 1992 and \$2,000,000 for fiscal year 1993 to carry out the purposes of this section. Amounts appropriated under this subsection are authorized to be available until expended.

**SEC. 227.<sup>5</sup> LAW AND BUSINESS TRAINING PROGRAM FOR GRADUATE STUDENTS FROM THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA.<sup>6</sup>**

(a) STATEMENT OF PURPOSE.—The purpose of this section is to establish a scholarship program designed to bring students from the

<sup>5</sup> 22 U.S.C. 2452 note.

<sup>6</sup> Sec. 2413(b)(3) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832), inserted “INDEPENDENT STATES OF THE FORMER” in the section catchline.

independent states of the former Soviet Union,<sup>7</sup> Lithuania, Latvia, and Estonia to the United States for study in the United States.

(b) SCHOLARSHIP PROGRAM AUTHORITY.—Subject to the availability of appropriations under subsection (d), the President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher education together with private and public sector internships by nationals of the independent states of the former Soviet Union,<sup>7</sup> Lithuania, Latvia, and Estonia who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency should develop and strictly implement specific financial need criteria. Scholarships under this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic reform and political development in the independent states of the former Soviet Union,<sup>7</sup> Lithuania, Latvia, and Estonia, particularly business administration, economics, law, or public administration.

(6) The program shall be flexible to include not only training and educational opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for scholarship recipients.

<sup>7</sup>Sec. 2413(b)(1) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832), struck out "Soviet Union" and inserted in lieu thereof "independent states of the former Soviet Union" in subsecs. (a), (b), and (c)(5).

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the independent states of the former Soviet Union,<sup>8</sup> Lithuania, Latvia, and Estonia.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this section that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

(d) FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.—There are authorized to be appropriated to the United States Information Agency \$7,000,000 for fiscal year 1992, and \$7,000,000 for fiscal year 1993, to carry out this section.

(e) COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.—Any authority provided by this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(f)<sup>9</sup> DESIGNATION OF PROGRAM AND SCHOLARSHIPS.—

(1) The scholarship program established by this section shall be known as the “Edmund S. Muskie Fellowship Program”.

(2) Scholarships provided under this section shall be known as “Muskie Fellowships”.

\* \* \* \* \*

<sup>8</sup>Sec. 2413(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105-277; 112 Stat. 2681-832), struck out “Soviet republics” and inserted in lieu thereof “independent states of the former Soviet Union”.

<sup>9</sup>Sec. 801 of the FREEDOM Support Act (Public Law 102-511; 106 Stat. 3352) added subsec. (f).

### c. Eisenhower Exchange Fellowship Act of 1990

Public Law 101-454 [S. 2017], 104 Stat. 1063, approved October 24, 1990; as amended by Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 104-72 [S. 1465], 109 Stat. 776, approved December 23, 1995; Public Law 104-99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104-99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104-107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104-134 [Department of State and Related Agencies Appropriations Act, 1996, title IV of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321-36, approved April 26, 1996; and Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998

AN ACT To provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

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

#### SECTION 1.<sup>1</sup> SHORT TITLE.

This Act may be cited as the “Eisenhower Exchange Fellowship Act of 1990”.

#### SEC. 2.<sup>2</sup> PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower’s leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America’s need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower’s name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower’s crusade to liberate the people’s<sup>3</sup> of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange

<sup>1</sup>20 U.S.C. 5201 note.

<sup>2</sup>20 U.S.C. 5201.

<sup>3</sup>So in original. Should read peoples.

Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

**SEC. 3.<sup>4</sup> EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the “fund”). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) **INVESTMENT IN INTEREST BEARING OBLIGATIONS.**—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests<sup>5</sup> by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other than interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) **SALE AND REDEMPTION OF OBLIGATIONS.**—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) **CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.**—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

**SEC. 4.<sup>6</sup> EXPENDITURE AND AUDIT OF TRUST FUND.**

(a) **AUTHORIZATION OF FUNDING.**—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

<sup>4</sup>20 U.S.C. 5202.

<sup>5</sup>So in original. Should probably read “interest”.

<sup>6</sup>20 U.S.C. 5203.

(b)<sup>7</sup> ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

**SEC. 5.<sup>8</sup> AUTHORIZATION OF APPROPRIATIONS.**

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

- (1) \$2,500,000, or
- (2) the lesser of—
  - (A) \$2,500,000, or
  - (B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

**SEC. 6.<sup>9</sup> USE OF INCOME ON THE ENDOWMENT.**

- (a)<sup>10</sup> \* \* \* [Repealed—1996]
- (b)<sup>10</sup> \* \* \* [Repealed—1996]

<sup>7</sup>Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the “General Accounting Office” as the “Government Accountability Office” and provided that “Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office.”

<sup>8</sup>20 U.S.C. 5204. The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2324), provided the following:

“EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

“For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204-5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2006, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A-110 (Uniform Administrative Requirements) and A-122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.”

<sup>9</sup>20 U.S.C. 5205.

<sup>10</sup>Sec. 407 of the Department of State and Related Agencies Appropriations Act, 1996 (title IV of Public Law 104-134; 110 Stat. 1321-45) repealed subsecs. (a) and (b), which had read as follows:

“(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

“(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.”

Sec. 407 of Public Law 104-134 (22 U.S.C. 5203 note), furthermore, provided the following:

“SEC. 407. Sections 6(a) and 6(b) of Public Law 101-454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.”

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representatives of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

**SEC. 7.<sup>11</sup> REPORT TO CONGRESS.**

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

**SEC. 8.<sup>12</sup> \* \* \*** [Repealed—1995]

**SEC. 9.<sup>13</sup> FASCELL FELLOWSHIP PROGRAM. \* \* \***

<sup>11</sup>20 U.S.C. 5206.

<sup>12</sup>Sec. 1 of Public Law 104-72 (109 Stat. 776) repealed sec. 8, relating to the extension of au pair programs. Sec. 1 further provided the following:

“(b) AUTHORITY FOR AU PAIR PROGRAMS.—The Director of the United States Information Agency is authorized to continue to administer an au pair program, operating on a world-wide basis, through fiscal year 1997.

“(c) REPORT.—Not later than October 1, 1996, the Director of the United States Information Agency shall submit a report regarding the continued extension of au pair programs to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. This report shall specifically detail the compliance of all au pair organizations with regulations governing au pair programs as published on February 15, 1995.”

Sec. 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (as enacted by reference in sec. 301 of Public Law 104-99; 110 Stat. 26), amended sec. 8 (after its repeal) to extend the authority therein to fiscal year 1996.

<sup>13</sup>Sec. 9 consisted entirely of amendments to the Fascell Fellowship Act (22 U.S.C. 4901 *et seq.*), and have been incorporated into that Act.

**d. Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983**

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017 at 1047, approved November 22, 1983; as amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 103-199 [FRIENDSHIP Act; H.R. 3000], 107 Stat. 2317, approved December 17, 1993; and Public Law 105-244 [Higher Education Amendments of 1998; H.R. 6], 112 Stat. 1581, approved October 7, 1998

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

\* \* \* \* \*

**TITLE VIII—RESEARCH AND TRAINING FOR EASTERN EUROPE AND THE INDEPENDENT STATES OF THE FORMER SOVIET UNION<sup>1</sup>**

**SHORT TITLE**

SEC. 801.<sup>1</sup> This title may be cited as the “Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983”.

**FINDINGS AND DECLARATIONS**

SEC. 802.<sup>2</sup> The Congress finds and declares that—

(1) factual knowledge, independently verified, about the countries of Eastern Europe and the independent states of the former Soviet Union<sup>3</sup> is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the countries of Eastern Europe and the independent states of the former Soviet Union<sup>3</sup> depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

<sup>1</sup> 22 U.S.C. 4501 note. Sec. 302(1) and (2) of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) amended and restated the title heading and the short title in sec. 801. Each formerly referred to “Soviet-Eastern European Research and Training”.

<sup>2</sup> 22 U.S.C. 4501.

<sup>3</sup> In paras. (1), (2), and (3)(E) of this section, sec. 302 of the FRIENDSHIP Act (Public Law 103-199; 107 Stat. 2322) struck out “Soviet Union and Eastern European countries”, and inserted in lieu thereof “countries of Eastern Europe and the independent states of the former Soviet Union”.



(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

- (A) graduate training;
- (B) advanced research;
- (C) public dissemination of research data, methods, and findings;
- (D) contact and collaboration among Government and private specialists; and
- (E) firsthand experience of the countries of Eastern Europe and the independent states of the former Soviet Union<sup>3</sup> by American specialists, including on site conduct of advanced training and research to the extent practicable; and

(4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

#### DEFINITIONS

SEC. 803.<sup>4</sup> As used in this title—

(1) the term “institution of higher education” has the same meaning given such term in section 101<sup>5</sup> of the Higher Education Act of 1965; and

(2) the term “Advisory Committee” means the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union<sup>6</sup> established by section 804(a).

#### ESTABLISHMENT OF ADVISORY COMMITTEE<sup>7</sup>

SEC. 804.<sup>7</sup> (a) There is established within the Department of State the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union<sup>8</sup> which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies,

<sup>4</sup> 22 U.S.C. 4502.

<sup>5</sup> Sec. 102(a)(7)(C) of Public Law 105–244 (112 Stat. 1619) struck out “1201(a)” and inserted in lieu thereof “101”.

<sup>6</sup> Sec. 302(4) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2322) struck out “Soviet-Eastern European Studies Advisory Committee” and inserted in lieu thereof “Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union”.

<sup>7</sup> 22 U.S.C. 4503. Sec. 302(5)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “THE SOVIET-EASTERN EUROPEAN STUDIES” before “ADVISORY COMMITTEE” in the section heading.

<sup>8</sup> Sec. 302(5)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “Soviet-Eastern European Studies Advisory Committee”, and inserted in lieu thereof “Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union”.

and the President of the Association of American Universities. The Secretary of State shall be the Chairman.<sup>9</sup>

(b) The Advisory Committee shall meet at the call of the Chairman and shall hold at least one meeting each year. Three members of the Advisory Committee shall constitute a quorum.

(c) The Secretary of State may detail personnel of the Department of State to provide technical and clerical assistance to the Advisory Committee in carrying out its functions under this title.

(d) The Advisory Committee shall recommend grant policies for the advancement of the objectives of this title. In proposing recipients for grants under this title, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union<sup>10</sup> and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

#### AUTHORITY TO MAKE PAYMENTS

SEC. 805.<sup>11</sup> (a) The Secretary of State, after consultation with the Advisory Committee, shall make payments, in accordance with the provisions of this section, out of funds made available to carry out this title.<sup>12</sup>

(b)(1) One part of the payments made in each fiscal year shall be used to conduct a national research program at the postdoctoral or equivalent level, such program to include—

(A) the dissemination of information about the research program and the solicitation of proposals for research contracts from American institutions of higher education and not-for-profit corporations, such contracts to contain shared-cost provisions; and

(B) the awarding of contracts for such research projects as the respective institution determines will best serve to carry out the purposes of this title after reviewing proposals submitted under subparagraph (A).

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union<sup>13</sup> and related studies, such program—

<sup>9</sup>The functions conferred upon the Secretary of State by this subsection are delegated to the Assistant Secretary of State for Intelligence and Research, pursuant to State Department Delegation of Authority No. 208 of November 30, 1993 (Public Notice 1924; 59 F.R. 1054; January 7, 1994).

<sup>10</sup>Sec. 302(5)(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “Soviet and Eastern European countries”, and inserted in lieu thereof “the countries of Eastern Europe and the independent states of the former Soviet Union”.

<sup>11</sup>22 U.S.C. 4504.

<sup>12</sup>The functions of making payments conferred upon the Secretary of State by this subsection were delegated to the Director of the Bureau of Intelligence and Research, pursuant to State Department Delegation of Authority No. 155 (September 21, 1984, 49 F.R. 39002).

<sup>13</sup>Sec. 302(6)(A) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “Soviet and Eastern European studies”, and inserted in lieu thereof “studies on the countries of Eastern Europe and the independent states of the former Soviet Union” in paras. (2)(A), (2)(B), and (6) of sec. 805(b).

- (i) to be coordinated with the research program described in paragraph (1);
  - (ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and
  - (iii) to include—
    - (I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and
    - (II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this title after reviewing applications submitted under subclause (I); and
  - (B) to disseminate research, data, and findings on studies on the countries of Eastern Europe and the independent states of the former Soviet Union<sup>13</sup> and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this title.
- (3) One part of the payments made in each fiscal year shall be used—
- (A) to provide fellowship and research support for American specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields<sup>14</sup> to conduct advanced research with particular emphasis upon the use of data on those states and countries;<sup>15</sup> and
  - (B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields.<sup>14</sup>
- (4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the independent states of the former Soviet Union<sup>16</sup> and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in those states and countries.<sup>17</sup>
- (5) One part of the payments made in each fiscal year shall be used to support “training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.”<sup>18</sup> Such payments shall include grants to individuals to pursue

<sup>14</sup>Sec. 302(6)(B) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “fields of Soviet and Eastern European studies and related studies”, and inserted in lieu thereof “independent states of the former Soviet Union and the countries of Eastern Europe and related fields” in paras. (3)(A) and (3)(B) of sec. 805(b).

<sup>15</sup>Sec. 302(6)(C) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “the Soviet Union and Eastern European countries”, and inserted in lieu thereof “those states and countries”.

<sup>16</sup>Sec. 302(6)(D)(i) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “Union of Soviet Socialist Republics”, and inserted in lieu thereof “independent states of the former Soviet Union”.

<sup>17</sup>Sec. 302(6)(D)(ii) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “the Union of Soviet Socialist Republics and Eastern European countries”, and inserted in lieu thereof “those states and countries”.

<sup>18</sup>Sec. 302(6)(E)(i) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) struck out “language training in Russian and Eastern European languages.”, and inserted in lieu thereof

such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies and, as appropriate, studies of other languages of the independent states of the former Soviet Union.<sup>19</sup>

(6) Payments may be made to carry out other research and training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union<sup>13</sup> not otherwise described in this section.

#### APPLICATIONS; PAYMENTS TO ELIGIBLE ORGANIZATIONS

SEC. 806.<sup>20</sup> (a) Any institution seeking funding under this title shall prepare and submit an application to the Secretary of State once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 805; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to ensure a proper accounting of Federal funds paid under this title, and (B) to ensure the verification of the costs of the continuing education and research programs conducted under this title.

(b) Payments under this title may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

#### REPORT

SEC. 807.<sup>21</sup> The Secretary of State shall prepare and submit to the President and the Congress at the end of each fiscal year in which an institution receives assistance under this title a report of the activities of such institution supported by such assistance, if the administrative expenses of such institution which are covered by such assistance represent more than 10 percent of such assistance, together with such recommendations as the Advisory Committee deems advisable.

#### FEDERAL CONTROL OF EDUCATION PROHIBITED

SEC. 808.<sup>22</sup> Nothing contained in this title may be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction or research, administration, or personnel of any educational institution.

<sup>13</sup>“training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe.”

<sup>19</sup>Sec. 302(6)(E)(ii) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) inserted “and, as appropriate, studies of other languages of the independent states of the former Soviet Union”.

<sup>20</sup>22 U.S.C. 4505.

<sup>21</sup>22 U.S.C. 4506.

<sup>22</sup>22 U.S.C. 4507.

ALLOCATION OF FUNDS

SEC. 809.<sup>23</sup> Of the funds authorized to be appropriated by section 102(1) of this Act—<sup>24</sup>

(1) up to \$5,000,000 for the fiscal year 1984 shall be available to carry out this title; and

(2) \$5,000,000 for the fiscal year 1985 shall be available only to carry out this title.

TERMINATION

SEC. 810.<sup>25</sup> \* \* \* [Repealed—1991]

<sup>23</sup> 22 U.S.C. 4508.

Previous years' authorizations were: fiscal year 1986—\$4,800,000; fiscal year 1987—\$5,000,000; fiscal year 1988—\$4,600,000; fiscal year 1989—\$5,000,000; fiscal year 1990—\$4,600,000; fiscal year 1991—\$5,200,000; fiscal year 1992—\$4,784,000; fiscal year 1993—\$5,025,000.

<sup>24</sup> Sec. 102(1) authorized funds for "Administration of foreign affairs" within the Department of State for fiscal years 1984 and 1985. Authorizations for "Soviet-East European Research and Training" in following years appeared in State Department Authorization Acts for those years.

<sup>25</sup> Formerly at 22 U.S.C. 4509. Sec. 810 was repealed by sec. 209 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 105 Stat. 694). It had provided that "The provisions of this title shall cease to be effective at the end of the 10-year period beginning on the date of enactment of this title."

## 10. United States-India Programs

### a. United States-India Fund for Cultural, Educational, and Scientific Cooperation Act

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, at 1051, approved November 22, 1983; as amended by Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405, approved August 16, 1985; and Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 1987

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

\* \* \* \* \*

#### TITLE IX—UNITED STATES—INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION

##### SHORT TITLE

SEC. 901. This title may be cited as the “United States-India Fund for Cultural, Educational, and Scientific Cooperation Act”.

##### ESTABLISHMENT OF THE FUND

SEC. 902.<sup>1</sup> (a) The President<sup>2</sup> is authorized to enter into an agreement with the Government of India for the establishment of a fund (hereafter in this title referred to as the “Fund”) which would provide grants and other assistance for cultural, educational, and scientific programs of mutual interest. Such programs may include exchanges of persons, exchanges of information, and other programs of study, research, and scholarly cooperation. The agreement may also provide for the establishment of an endowment, a foundation, or other means to carry out the purposes of the agreement.

(b) The United States representatives on any board or other entity created in accordance with the agreement to administer the Fund shall be designated by the President predominately from among representatives of United States Government agencies, including those administering programs which may be supported in whole or in part by the Fund.

<sup>1</sup>22 U.S.C. 290j.

<sup>2</sup>Executive Order 12517 of May 29, 1985, delegated all functions vested in the President by this Act to the Secretary of State.

(c) United States Government agencies carrying out programs of the types specified in subsection (a) may receive amounts directly from the Fund for use in carrying out those programs.

USE OF UNITED STATES OWNED RUPEES TO CAPITALIZE THE FUND

SEC. 903.<sup>3</sup> (a) Subject to applicable requirements concerning reimbursement to the Treasury for United States owned foreign currencies, the President may make available to the Fund, for use in carrying out the agreement authorized by section 902, up to the equivalent of \$200,000,000 in foreign currencies owned by the United States in India or owed to the United States by the Government of India. Such use may include investment in order to generate interest which would be retained in the Fund and used to support programs pursuant to that agreement.

(b)<sup>4</sup> In accordance with the agreement negotiated pursuant to section 902(a), sums made available for investment for the United States-India Fund for Cultural, Educational, and Scientific Cooperation under the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, 1985, and any earnings on such sums shall be available for the purposes of section 902(a).

<sup>3</sup>22 U.S.C. 290j-1.

<sup>4</sup>Subsec. (b), originally added by Public Law 99-93 (99 Stat. 405), was amended and restated by sec. 305 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1379).

**b. Delegation Concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation**

**Executive Order 12517 of May 29, 1985, 50 F.R. 23105, 22 U.S.C. 290j note**

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 301 of Title 3 of the United States Code, and in order to delegate certain functions concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation to the Secretary of State it is hereby ordered as follows:

**Section 1.** All functions vested in the President by the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (Title IX of Public Law 98-164, 97 Stat. 1051; “the Act”) are delegated to the Secretary of State.

**Sec. 2.** India rupees provided to the President for purposes of Title IX of the Act and under Title III of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98-411, 98 Stat. 1545) are allocated to the Secretary of the Treasury for investment to generate earnings for purposes of Title IX of the Act.



## 11. Dante B. Fascell North-South Center Act of 1991

**Sec. 208 of Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647 at 694, approved October 28, 1991; as amended by Public Law 106-29 [Dante B. Fascell North-South Center Act; H.R. 432], 113 Stat. 54, approved May 21, 1999**

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

\* \* \* \* \*

### **SEC. 208.<sup>1</sup> CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.**

(a) **SHORT TITLE.**—This section may be cited as the “Dante B. Fascell North-South Center Act of 1991”.

(b) **PURPOSE.**—The purpose of this section is to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities consistent with the objectives of the Mutual Educational and Cultural Exchange Act of 1961 and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

(c)<sup>2</sup> **DANTE B. FASCELL NORTH-SOUTH CENTER.**—In order to carry out the purpose of this section, the Director of the United States Information Agency shall provide for the operation in Florida of an educational institution which shall be known and designated as the Dante B. Fascell North-South Center,<sup>3</sup> through arrangements with public, educational, or other nonprofit institutions.

(d) **AUTHORITIES.**—The Director of the United States Information Agency, in carrying out this section, may utilize the authorities of the Mutual Educational and Cultural Exchange Act of 1961. Section 704(b) of the Mutual Security Act of 1960 (22 U.S.C. 2056(b)) shall apply in the administration of this section. In order to carry out the purposes of this section, the Dante B. Fascell North-South

<sup>1</sup>22 U.S.C. 2075. Sec. 1(1) of Public Law 106-29 (113 Stat. 54) restated subsec. (a) to strike out “North/South Center Act of 1991” and insert in lieu thereof “Dante B. Fascell North-South Center Act of 1991”.

See also establishment of the International University for the Americas, sec. 604 of Public Law 102-549 (106 Stat. 3671; 22 U.S.C. 2077), in *Legislation on Foreign Relations Through 2005*, vol. I-A.

<sup>2</sup>Sec. 1(2)(A) of Public Law 106-29 (113 Stat. 54) struck out “NORTH/SOUTH CENTER” and inserted in lieu thereof “DANTE B. FASCELL NORTH-SOUTH CENTER” in the subsec. heading.

<sup>3</sup>Sec. 1(2)(B) of Public Law 106-29 (113 Stat. 54) struck out “known as the North/South Center,” and inserted in lieu thereof “which shall be known and designated as the Dante B. Fascell North-South Center”.

Center<sup>4</sup> is authorized to use funds made available under this section to acquire property and facilities, by construction, lease, or purchase.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for fiscal year 1992 and \$10,000,000 for each subsequent fiscal year to carry out this section. Amounts appropriated under this section are authorized to be available until expended.<sup>5</sup>

(f) REPEAL.—Effective October 1, 1991, the section enacted by the third proviso under the heading “EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE” in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is repealed.<sup>6</sup>

<sup>4</sup>Sec. 1(3) of Public Law 106-29 (113 Stat. 54) struck out “North/South Center” and inserted in lieu thereof “Dante B. Fascell North-South Center”.

<sup>5</sup>Sec. 112(4) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1358), provided the following:

“(4) DANTE B. FASCELL NORTH-SOUTH CENTER.—For the ‘Dante B. Fascell North-South Center’, \$2,500,000 for the fiscal year 2003.”.

<sup>6</sup>Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513; 104 Stat. 1984) provided the following:

“EDUCATION AND HUMAN RESOURCES

“DEVELOPMENT, DEVELOPMENT ASSISTANCE

“For necessary expenses to carry out the provisions of section 105, \$134,201,000: *Provided* \* \* \* *further*, That \$10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted: \* \* \*”.

## 12. Center for Cultural and Technical Interchange Between East and West Act of 1960

Partial text of Public Law 86-472 [Mutual Security Act of 1960; H.R. 11510], 74 Stat. 134, approved May 14, 1960, as amended

\* \* \* \* \*

### CHAPTER VII—CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST

SEC. 701. This chapter may be cited as the “Center for Cultural and Technical Interchange Between East and West Act of 1960”.

SEC. 702.<sup>1</sup> The purpose of this chapter is to promote better relations and understanding between the United States and the nations of Asia and the Pacific (hereinafter referred to as “the East”) through cooperative study, training, and research, by establishing in Hawaii a Center for Cultural and Technical Interchange Between East and West where scholars and students in various fields from the nations of the East and West may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948, as amended, title III of chapter II of the Mutual Security Act of 1954, and other Acts promoting the international, educational, cultural, and related activities of the United States.

SEC. 703.<sup>2</sup> In order to carry out the purpose of this chapter the Secretary of State<sup>3</sup> (hereinafter referred to as the “Secretary”) shall provide for—

- (1) the establishment and operation in Hawaii of an educational institution to be known as the Center for Cultural and

<sup>1</sup>22 U.S.C. 2054.

<sup>2</sup>22 U.S.C. 2055.

<sup>3</sup>Pursuant to sec. 7(a) of Reorganization Plan No. 2 of 1977, all functions vested in the President, Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency by this Act were transferred to the Director of the International Communication Agency. The codified version of this Act has been changed to reflect this transfer of authority.

Subsequently, sec. 303 of Public Law 97-241 (96 Stat. 291) redesignated the International Communication Agency as the United States Information Agency and stated that any reference to the International Communication Agency in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding, shall be deemed to be a reference to the United States Information Agency. Sec. 303 also stated that references to the Director or other official of the International Communication Agency shall be deemed to refer to the Director or other official of the United States Information Agency.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.”. See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

Technical Interchange Between East and West, through arrangements with public, educational, or other nonprofit institutions;

(2) grants, fellowships, and other payments to outstanding scholars and authorities from the nations of the East and West as may be necessary to attract such scholars and authorities to the Center;

(3) grants, scholarships, and other payments to qualified students from the nations of the East and West as may be necessary to enable such students to engage in study or training at the Center; and

(4) making the facilities of the Center available for study or training to other qualified persons.

SEC. 704.<sup>4</sup> (a) In carrying out the provisions of this chapter, the Secretary<sup>3</sup> may utilize his authority under the provisions of the United States Information and Educational Exchange Act of 1948, as amended.

(b) The Secretary<sup>3</sup> may, in administering the provisions of this chapter, accept from public and private sources money and property to be utilized in carrying out the purposes and functions of the Center. In utilizing any gifts, bequests, or devises accepted there shall be available to the Secretary<sup>3</sup> the same authorities as are available to him in accepting and utilizing gifts, bequests, and devises to the Foreign Service Institute<sup>5</sup> under the provisions of section 25 of the State Department Basic Authorities Act of 1956.<sup>6</sup> For the purposes of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Secretary<sup>3</sup> under the authority of this chapter shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

(c)<sup>7</sup> The Director of the United States Information Agency<sup>3</sup> shall make periodic reports, as he deems necessary, to the Congress with respect to his activities under the provisions of this chapter, and such reports shall include any recommendations for needed revisions in this chapter.

SEC. 705.<sup>8</sup> There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the provisions of this chapter.

<sup>4</sup> 22 U.S.C. 2056.

<sup>5</sup> Sec. 1(b) of Public Law 107-132 (115 Stat. 2412) provided the following:

“(b) Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the ‘George P. Shultz National Foreign Affairs Training Center’.”

<sup>6</sup> This reference to the State Department Basic Authorities Act of 1956 was substituted in lieu of a reference to the Foreign Service Act of 1946 by sec. 2206(8) of Public Law 96-465 (94 Stat. 2162).

<sup>7</sup> Sec. 212(b) of Public Law 96-470 (94 Stat. 2246) amended and restated subsec. (c). The report to be submitted under subsec. (c) was formerly required annually.

<sup>8</sup> 22 U.S.C. 2057. The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2324), provided the following:

“EAST-WEST CENTER

“To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$19,240,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.”

### 13. Japan-United States Friendship Act

Public Law 94-118 [S. 824], 89 Stat. 603, approved October 20, 1975; as amended by Public Law 94-350 [Foreign Relations Authorization Act, Fiscal Year 1977; S. 3168], 90 Stat. 823, approved July 12, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; Public Law 97-241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 298, approved August 24, 1982; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and Public Law 105-277 [Department of State and Related Agencies Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681 at 2681-92, approved October 21, 1998

AN ACT To provide for the use of certain funds to promote scholarly, cultural, and artistic activities between Japan and the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the “Japan-United States Friendship Act”.

#### STATEMENT OF FINDINGS AND PURPOSE

SEC. 2.<sup>1</sup> (a) The Congress hereby finds that—

(1) the post-World War II evolution of the relationship between Japan and the United States to peacetime friendship and partnership is one of the most significant developments of the postwar period;

(2) the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 17, 1971,<sup>2</sup> is a major achievement and symbol of the new relationship between the United States and Japan; and

(3) the continuation of close United States-Japan friendship and cooperation will make a vital contribution to the prospects for peace, prosperity, and security in Asia and the world.

(b) It is therefore the purpose of this Act to provide for the use of an amount equal to a part of the total sum payable by Japan to the United States in connection with the reversion of Okinawa to Japanese administration and the remaining funds of the amount set aside in 1962 for educational and cultural exchange with Japan (known as the G.A.R.I.O.A. Account) to aid education and culture at the highest level in order to enhance reciprocal people-to-people understanding and to support the close friendship and mutuality of interests between the United States and Japan.

<sup>1</sup>22 U.S.C. 2901.

<sup>2</sup>23 U.S.T. 446.

## ESTABLISHMENT OF THE FUND; EXPENDITURES

SEC. 3.<sup>3</sup> (a) There is established in the Treasury of the United States a trust fund to be known as the Japan-United States Friendship Trust Fund (hereafter referred to as the "Fund").

(b) Amounts in the Fund shall be used for the promotion of scholarly, cultural, and artistic activities between Japan and the United States, including—

(1) support for studies, including language studies, in institutions of higher education or scholarly research in Japan and the United States, designed to foster mutual understanding between Japan and the United States;

(2) support for major collections of Japanese books and publications in appropriate libraries located throughout the United States and similar support for collections of American books and publications in appropriate libraries located throughout Japan;

(3) support for programs in the arts in association with appropriate institutions in Japan and the United States;

(4) support for fellowships and scholarships at the graduate and faculty levels in Japan and the United States in accord with the purposes of this Act;

(5) support for visiting professors and lecturers at colleges and universities in Japan and the United States; and

(6) support for other Japan-United States cultural and educational activities consistent with the purposes of this Act.

(c) Amounts in the Fund may also be used to pay administrative expenses of the Japan-United States Friendship Commission, established by section 4 of this Act, as directed by that Commission.

(d) There is authorized to be appropriated to the Fund, for fiscal year 1976, an amount equal to 7.5 per centum of the total fund payable to the United States pursuant to the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971, including interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.<sup>4</sup>

(e)(1) There is authorized to be appropriated to the Fund, for fiscal year 1976, in addition to the amount authorized to be appropriated by subsection (d) of this section, those funds available in United States accounts in Japan and transferred by the Government of Japan to the United States pursuant to the United States request made under article V of the agreement between the United States of America and Japan regarding the settlement of Postwar Economic Assistance to Japan, signed in Tokyo, January 9, 1962, and the exchange of notes of the same date (13 U.S.T. 1957; T.I.A.S. 5154) (the G.A.R.I.O.A. Account), including interest accruing to the G.A.R.I.O.A. Account and interest and proceeds accruing

<sup>3</sup>22 U.S.C. 2902.

<sup>4</sup>Sec. 401(2) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350) inserted "including interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act".

to the Fund from such funds in accordance with sections 6(4) and 7 of this Act.<sup>5</sup>

(2) The amount authorized to be appropriated by paragraph (1) of this subsection shall not include any amount required by law to be applied to United States participation in the International Ocean Exposition to be held in Okinawa, Japan.

(3) Any unappropriated portion of the amount authorized to be appropriated by subsection (d) of this section and paragraph (1) of this subsection for fiscal year 1976 may be appropriated in any subsequent fiscal year.

#### THE JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 4.<sup>6</sup> (a) There is established a commission to be known as the Japan-United States Friendship Commission (hereafter referred to as the "Commission"). The Commission shall be composed of—

(1) the members of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation;

(2) two Members of the House of Representatives, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the Speaker of the House of Representatives;

(3) two Members of the Senate, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the President pro tempore of the Senate;

(4) the Chairman of the National Endowment for the Arts; and

(5) the Chairman of the National Endowment for the Humanities.

(b) Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Chairman of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation shall be the Chairman of the Commission. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least twice in each year.

<sup>5</sup>Sec. 401(3) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350) inserted "and interest and proceeds accruing to the Fund from such funds in accordance with sections 6(4) and 7 of this Act".

<sup>6</sup>22 U.S.C. 2903.

## FUNCTIONS OF THE COMMISSION

SEC. 5.<sup>7</sup> (a) The Commission is authorized to—

(1) develop and carry out programs at public or private institutions for the promotion of scholarly, cultural, and artistic activities in Japan and the United States consistent with the provisions of section 3(b) of this Act; and

(2) make grants to carry out such programs.

(b) The Commission shall submit to the President and to the Congress an annual report of its activities under this Act together with such recommendations as the Commission determines appropriate.

## ADMINISTRATIVE PROVISIONS

SEC. 6.<sup>8</sup> In order to carry out its functions under this Act, the Commission is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property (including transfer to the Fund) for the purpose of carrying out the purposes of this Act, and any such donation shall be exempt from any Federal income, State, or gift tax;

(3) in the discretion of the Commission, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction, including a condition that the Commission use other funds of the Commission for the purposes of the gift, and any such donation shall be exempt from any Federal income, State, or gift tax;

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund<sup>9</sup> to carry out the purposes of this Act, including the payment of Commission expenses if needed;<sup>10</sup>

(5) appoint an Executive Director, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, who shall be compensated at the

<sup>7</sup>22 U.S.C. 2904.

<sup>8</sup>22 U.S.C. 2905.

<sup>9</sup>Sec. 503(a) of Public Law 97-241 (96 Stat. 298) struck out “and not to exceed 5 per centum annually of the principal of the Fund” and inserted in lieu thereof “, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund”.

<sup>10</sup>Sec. 404(a) of the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-101), struck out “needed, except that any amounts expended from amounts appropriated to the Fund under section 3(e)(1) of this Act shall be expended in Japan or for not more than 50 percent of administrative expenses in the United States”, and inserted in lieu thereof “needed”.

Previously, sec. 167 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 676), inserted “or for not more than 50 percent of administrative expenses in the United States” after “Japan”.



rate provided for a GS-18 of the General Schedule of such title;

(6) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code;

(7) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) enter into contracts, grants, or other arrangements, or modifications thereof;

(9) make advances, progress, and other payments which the Commission deems necessary under this Act;

(10) obtain<sup>11</sup> such administrative support services and personnel as the Commission deems necessary and appropriate to its needs; and

(11)<sup>12</sup> transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39 of the United States Code.

#### MANAGEMENT OF THE FUND

SEC. 7.<sup>13</sup> (a) The Fund shall consist of—

(1) amounts appropriated under section 3(d) and (e)(1) of this Act;

(2) any other amounts received by the Fund by way of gifts and donations; and

(3) interest and proceeds credited to it under subsection (b) of this section.

(b) It shall be the duty of the Secretary of the Treasury (hereafter referred to as the “Secretary”) to invest such portion of the Fund as is not, in the judgment of the Commission, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.<sup>14</sup> For such purposes, the obligations may be acquired (1) on original issue at the

<sup>11</sup> Sec. 401(1) of the Foreign Relations Authorization Act, Fiscal Year 1977, struck out “from the Secretary of State, on a reimbursable basis,” following “obtain”.

<sup>12</sup> Sec. 703 of Public Law 95-426 (92 Stat. 992) added para. (11).

<sup>13</sup> 22 U.S.C. 2906.

<sup>14</sup> Sec. 404(b) of the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105-277; 112 Stat. 2681-101), struck out “Such investment of amounts authorized to be appropriated under section 3(d) of this Act may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.” and inserted in lieu thereof “Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan.”.

Previously, sec. 401(3)(B) of the Foreign Relations Authorization Act, Fiscal Year 1977, inserted “of amounts authorized to be appropriated under sec. 3(d) of this Act” in the now-stricken language.

issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act,<sup>15</sup> as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States issued during the preceding two years then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) In accordance with section 6(4) of this Act, the Secretary shall pay out of the Fund such amounts, including expenses of the Commission, as the Commission considers necessary to carry out the provisions of this Act; except that amounts in the Fund, other than amounts which have been appropriated and amounts received (including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)<sup>16</sup> by the Commission pursuant to sections 6(2) and 6(3), shall be subject to the appropriation process.

NOTE.—Conferees of the Omnibus Consolidated Appropriations Act, 1997, provided the following in the Conference Report [House Report 104-863, September 28, 1996, star print] to accompany H.R. 3610:

“JAPAN-UNITED STATES FRIENDSHIP COMMISSION  
“JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

<sup>15</sup> 31 U.S.C. 774.

<sup>16</sup> Sec. 503(b) of Public Law 97-241 (96 Stat. 298) inserted the parenthetical phrase.

“The conference agreement does not provide an appropriation for the Japan-United States Friendship Commission, as proposed in the House bill, instead of \$1,250,000 from interest earned on the Japan-United States Friendship Trust Fund and an amount of Japanese currency not to exceed the equivalent of \$1,420,000 for the expenses of the Japan-United States Friendship Commission, as provided in the Senate-reported bill.

“Under terms of Public Law 94-118, which established the Commission, it was authorized to spend up to five percent of the principal of the Japan-United States Friendship Trust Fund. Since 1990, however, the Commission has operated under a policy of not spending funds out of the principal and relying on appropriations of interest earned on the Fund to finance its operations, supplemented by gifts from outside sources.

“The conferees believe that, in this time of fiscal restraint, it makes better sense for the Commission to operate on a self-financing basis, as was apparently envisioned in the original legislation, by spending five percent of its Fund capital per year. The Fund currently contains approximately \$15,000,000. These funds, together with funds obtained from outside sources, would allow the Commission to maintain its highest priority activities without the need for annual appropriations. Any interest earnings of the fund that accrue in the Commission’s account will be considered to be original principal.”

## 14. Exchange of Materials and Objects

### a. Implementation of the Beirut Agreement of 1949 Relating to Audio-Visual Materials

Partial text of Public Law 89-634 [H.J. Res. 688], 80 Stat. 879, approved October 8, 1966; as amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991

JOINT RESOLUTION To give effect to the Agreement for facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character, approved at Beirut in 1948.

Whereas the Congress and the President have repeatedly declared it to be a national policy to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries; and

Whereas the General Conference of the United Nations Educational, Scientific, and Cultural Organization of its third session at Beirut, Lebanon, in 1948, approved and recommended to member states for signature, an Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character, which Agreement has been signed by twenty-one nations, including the United States; and

Whereas the Senate has given its advice and consent to the ratification of the Agreement; and

Whereas the Congress does hereby determine that mutual understanding between peoples will be augmented by the measures provided for in said Agreement: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

The<sup>1</sup> President of the United States is authorized to designate a Federal agency or agencies which shall be responsible for carrying out the provisions of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character and a related protocol of signature, opened for signature at Lake Success on July 15, 1949 (hereinafter in this Act referred to as the "Agreement"). It shall be the duty of the Federal agency or agencies so designated to take appropriate measures for the carrying out the provisions of the Agreement including the issuance of regulations.<sup>2</sup> In carrying out

<sup>1</sup> 19 U.S.C. 2051.

<sup>2</sup> Sec. 207 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 693), added text from this point to the end of sec. 1.

this section, such Federal agency or agencies may not consider visual or auditory material to fail to qualify as being of international educational character—

(1) because it advocates a particular position or viewpoint, whether or not it presents or acknowledges opposing viewpoints;

(2) because it might lend itself to misinterpretation, or to misrepresentation of the United States or other countries, or their people or institutions;

(3) because it is not representative, authentic, or accurate or does not represent the current state of factual knowledge of a subject or aspect of a subject unless the material contains widespread and gross misstatements of fact;

(4) because it does not augment international understanding and goodwill, unless its primary purpose or effect is not to instruct or inform through the development of a subject or an aspect of a subject and its content is not such as to maintain, increase, or diffuse knowledge; or

(5) because in the opinion of the agency the material is propaganda.

Such Federal agency or agencies may not label as propaganda any material that receives a certificate of international educational character under this section and the Agreement.

**Sec. 2.**<sup>3</sup> Agencies of the Federal Government are authorized to furnish facilities and personnel for the purpose of assisting the agency or agencies designated by the President in carrying out the provisions of the Agreement.

**Sec. 3.**<sup>4</sup> \* \* \*

<sup>3</sup> 19 U.S.C. 2052.

<sup>4</sup> Sec. 3 amended the Tariff Schedules of the United States.

**b. Carrying Out Provisions of the Beirut Agreement of 1949  
Relating to Audio-Visual Materials**

**Executive Order 11311, October 14, 1966, 31 F.R. 13413, 3 CFR, 1966-70  
Comp., p. 593, 19 U.S.C. 2051 note**

By virtue of the authority vested in me as President of the United States, including the provisions of the Joint Resolution of October 8, 1966, Public Law 89-634, and section 301 of Title 3 of the United States Code, I hereby order and proclaim that—

1. Pursuant to section 3(b) of the Joint Resolution, the amendments to the Tariff Schedules of the United States made by section 3(a) of the Joint Resolution shall apply with respect to articles entered, or withdrawn from warehouse, for consumption, on and after January 1, 1967.

2. Pursuant to the “Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character”, made at Beirut in 1948, the Joint Resolution, and headnote 1 to schedule 8, part 6 of the Tariff Schedules of the United States, the United States Information Agency is hereby designated as the agency to carry out the provisions of the Agreement and related protocol, and to make any determinations and to prescribe any regulations required by headnote 1.

**c. Exemption From Judicial Seizure of Cultural Objects  
Imported for Temporary Exhibition**

(1) **Public Law 89-259 [S. 2273], 79 Stat. 985, approved October 19, 1965**<sup>1</sup>

AN ACT To render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) whenever any work of art or other object of cultural significance is imported into the United States from any foreign country, pursuant to an agreement entered into between the foreign owner or custodian thereof and the United States or one or more cultural or educational institutions within the United States providing for the temporary exhibition or display thereof within the United States at any cultural exhibition, assembly, activity, or festival administered, operated, or sponsored, without profit, by any such cultural or educational institution, no court of the United States, any State, the District of Columbia, or any territory or possession of the United States may issue or enforce any judicial process, or enter any judgment, decree, or order, for the purpose or having the effect of depriving such institution, or any carrier engaged in transporting such work or object within the United States of custody or control of such object if before the importation of such object the President or his designee has determined that such object is of cultural significance and that the temporary exhibition or display thereof within the United States is in the national interest, and a notice to that effect has been published in the Federal Register.

(b) If in any judicial proceeding in any such court any such process, judgment, decree, or order is sought, issued, or entered, the United States attorney for the judicial district within which such proceeding is pending shall be entitled as of right to intervene as a party to that proceeding, and upon request made by either the institution adversely affected, or upon direction by the Attorney General if the United States is adversely affected, shall apply to such court for the denial, quashing, or vacating thereof.

(c) Nothing contained in this Act shall preclude (1) any judicial action for or in aid of the enforcement of the terms of any such agreement or the enforcement of the obligation of any carrier under any contract for the transportation of any such object of cultural significance; or (2) the institution or prosecution by or on behalf of any such institution or the United States of any action for or in aid of the fulfillment of any obligation assumed by such institution or the United States pursuant to any such agreement.

<sup>1</sup> 22 U.S.C. 2459.

## (2) Imported Objects of Cultural Significance

**Executive Order 12047, March 27, 1978, 43 F.R. 13359, 22 U.S.C. 2459 note; as amended by Executive Order 12388, October 14, 1982, 47 F.R. 46245**

By virtue of the authority vested in me by the Act of October 19, 1965, entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes" (79 Stat. 985, 22 U.S.C. 2459), and as President of the United States of America, it is hereby ordered as follows:

**Section 1.** The Director of the United States Information Agency<sup>1</sup> is designated and empowered to perform the functions conferred upon the President by the above-mentioned Act and shall be deemed to be authorized, without the approval, ratification, or other action of the President, (1) to determine that any work of art or other object to be imported into the United States within the meaning of the Act is of cultural significance, (2) to determine that the temporary exhibition or display of any such work of art or other object in the United States is in the national interest, and (3) to cause public notices of the determinations referred to above to be published in the Federal Register.

**Sec. 2.** The Director of the United States Information Agency,<sup>1</sup> in carrying out this Order, shall consult with the Secretary of State with respect to the determination of national interest, and may consult with the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, and with such other officers and agencies of the Government as may be appropriate, with respect to the determination of cultural significance.

**Sec. 3.** The Director of the United States Information Agency<sup>1</sup> is authorized to delegate within the Agency the functions conferred upon him by this Order.

**Sec. 4.** Executive Order No. 11312 of October 14, 1966 is revoked.<sup>2</sup>

**Sec. 5.** Any order, regulation, determination or other action which was in effect pursuant to the provisions of Executive Order No. 11312 shall remain in effect until changed pursuant to the authority provided in this Order.

<sup>1</sup>The references to the United States Information Agency were inserted in lieu of references to the International Communication Agency by sec. 1 of Executive Order 12388.

<sup>2</sup>Executive Order 11312, effective October 14, 1966, had delegated the authorities under this executive order to the Secretary of State. With the establishment of the International Communication Agency (since redesignated as the United States Information Agency) on April 1, 1978, these functions were redelegated to the Director of the Agency.

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act "transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.". See also secs. 1301 and 1601 of that Act to determine date of effectiveness.



**Sec. 6.** This Order shall be effective on April 1, 1978.

## 15. Convention on Cultural Property Implementation Act

Partial text of Public Law 97-446 [H.R. 4566], 96 Stat. 2329, approved January 12, 1983; as amended by Public Law 100-204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1536, approved November 29, 1999

AN ACT To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes.

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

\* \* \* \* \*

### TITLE III—IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

#### SEC. 301. SHORT TITLE.

This title may be cited as the “Convention on Cultural Property Implementation Act”.<sup>1</sup>

#### SEC. 302. DEFINITIONS.

For purposes of this title—

(1) The term “agreement” includes any amendment to, or extension of, any agreement under this title that enters into force with respect to the United States.

(2) The term “archaeological or ethnological material of the State Party” means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State Party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance;

(II) is at least two hundred and fifty years old; and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or nonindustrial society, and

<sup>1</sup> 19 U.S.C. 2601.

(II) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 206.<sup>2</sup>

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State Party for the purposes of such article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State Party which—

(A) is—

(i) covered by an agreement under this title that enters into force with respect to the United States, or

(ii) subject to emergency action under section 304, and

(B) is listed by regulation under section 305.

(8) The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) The term "State Party" means any nation which has ratified, accepted, or acceded to the Convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of the United States or any State; or

(C) any department, agency, or entity of the Federal Government or of any government of any State.

**SEC. 303.<sup>3</sup> AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.**

(a) AGREEMENT AUTHORITY.—

(1)<sup>4</sup> IN GENERAL.—If the President determines, after request is made to the United States under article 9 of the Convention by any State Party—

<sup>2</sup>This reference to sec. 206 should probably be a reference to sec. 306.

<sup>3</sup>19 U.S.C. 2602.

<sup>4</sup>The functions conferred upon the President by sec. 303(a)(1) concerning determinations to be made prior to initiation of negotiations of bilateral or multilateral agreements were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475).

(A) that the cultural patrimony of the State Party is in jeopardy from the pillage of archaeological or ethnological materials of the State Party;

(B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony;

(C) that—

(i) the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations (whether or not State Parties) individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and

(ii) remedies less drastic than the application of the restrictions set forth in such section are not available; and

(D) that the application of the import restrictions set forth in section 307 in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes; the President may, subject to the provisions of this title, take the actions described in paragraph (2).

(2)<sup>5</sup> AUTHORITY OF PRESIDENT.—For purposes of paragraph (1), the President may enter into—

(A) a bilateral agreement with the State Party to apply the import restrictions set forth in section 307 to the archaeological or ethnological material of the State Party the pillage of which is creating the jeopardy to the cultural patrimony of the State Party found to exist under paragraph (1)(A); or

(B) a multilateral agreement with the State Party and with one or more other nations (whether or not a State Party) under which the United States will apply such restrictions, and the other nations will apply similar restrictions, with respect to such material.

(3) REQUESTS.—A request made to the United States under article 9 of the Convention by a State Party must be accompanied by a written statement of the facts known to the State Party that relate to those matters with respect to which determinations must be made under subparagraphs (A) through (D) of paragraph (1).

Subsequently, sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.” See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

<sup>5</sup>The functions conferred upon the President by secs. 303(a)(2) and 303(a)(4) were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency, and in consultation with the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

(4)<sup>5</sup> IMPLEMENTATION.—In implementing this subsection, the President should endeavor to obtain the commitment of the State Party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States.

(c) RESTRICTIONS ON ENTERING INTO AGREEMENTS.—

(1) IN GENERAL.—The President may not enter into a bilateral or multilateral agreement authorized by subsection (a) unless the application of the import restrictions set forth in section 307 with respect to archaeological or ethnological material of the State Party making a request to the United States under article 9 of the Convention will be applied in concert with similar restrictions implemented, or to be implemented, by those nations (whether or not State Parties) individually having a significant import trade in such material.

(2) EXCEPTION TO RESTRICTIONS.—Notwithstanding paragraph (1), the President may enter into an agreement if he determines that a nation individually having a significant import trade in such material is not implementing, or is not likely to implement, similar restrictions, but—

(A) such restrictions are not essential to deter a serious situation of pillage, and

(B) the application of the import restrictions set forth in section 307 in concert with similar restrictions implemented, or to be implemented, by other nations (whether or not State Parties) individually having a significant import trade in such material would be of substantial benefit in deterring a serious situation of pillage.

(d)<sup>6</sup> SUSPENSION OF IMPORT RESTRICTIONS UNDER AGREEMENTS.—If, after an agreement enters into force with respect to the United States, the President determines that a number of parties to the agreement (other than parties described in subsection (c)(2) having significant import trade in the archaeological and ethnological material covered by the agreement—

(1) have not implemented within a reasonable period of time import restrictions that are similar to those set forth in section 307, or

(2) are not implementing such restrictions satisfactorily with the result that no substantial benefit in deterring a serious situation of pillage in the State Party concerned is being obtained,

<sup>6</sup>The functions conferred upon the President by sec. 303(d) with respect to the determinations concerning the failure of other parties to an agreement to take any, or satisfactory, implementation action on their agreement were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). The Order required, however, that the Secretary of State remain responsible for interpretation of the agreement. To the extent they involve suspension of import restrictions, functions were delegated to the Secretary of the Treasury. See, however, note 4.

the President shall suspend the implementation of the import restrictions under section 307 until such time as the nations take appropriate corrective action.

(e)<sup>7</sup> EXTENSION OF AGREEMENTS.—The President may extend any agreement that enters into force with respect to the United States for additional periods of not more than five years each if the President determines that—

- (1) the factors referred to in subsection (a)(1) which justified the entering into of the agreement still pertain, and
- (2) no cause for suspension under subsection (d) exists.

(f)<sup>8</sup> PROCEDURES.—If any request described in subsection (a) is made by a State Party, or if the President proposes to extend any agreement under subsection (e), the President shall—

- (1) publish notification of the request or proposal in the Federal Register;
- (2) submit to the Committee such information regarding the request or proposal (including, if applicable, information from the State Party with respect to the implementation of emergency action under section 304) as is appropriate to enable the Committee to carry out its duties under section 306(f); and
- (3) consider, in taking action on the request or proposal, the views and recommendations contained in any Committee report—

- (A) required under section 306(f) (1) or (2), and
- (B) submitted to the President before the close of the one-hundred-and-fifty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(g)<sup>9</sup> INFORMATION ON PRESIDENTIAL ACTION.—

(1) IN GENERAL.—In any case in which the President—

- (A) enters into or extends an agreement pursuant to subsection (a) or (e), or
  - (B)<sup>10</sup> applies import restrictions under section 204,
- the President shall, promptly after taking such action, submit a report to the Congress.

(2) REPORT.—The report under paragraph (1) shall contain—

<sup>7</sup>The functions conferred upon the President by sec. 303(e) relating to the determinations to be made prior to the initiation of negotiations for the extension of any agreement were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). Functions relating only to negotiation and conclusion of extensions of agreements under this Act were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency, and in consultation with the Secretary of the Treasury. See, however, note 4.

<sup>8</sup>The functions conferred upon the President by sec. 303(f) relating to actions to be taken upon receipt of a request made by a State Party were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>9</sup>Except with respect to sec. 303(g)(1)(B), the functions conferred upon the President by sec. 303(g) were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>10</sup>The functions conferred upon the President by sec. 303(g)(1)(B) relating to the notification of Presidential action and furnishing of reports to Congress were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

(A) a description of such action (including the text of any agreement entered into),

(B) the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and

(C) the reasons for any such difference.

(3) INFORMATION RELATING TO COMMITTEE RECOMMENDATIONS.—If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a report which contains the reasons why such agreement was not entered into.

**SEC. 304.<sup>11</sup> EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.**

(a) EMERGENCY CONDITION DEFINED.—For purposes of this section, the term “emergency condition” means, with respect to any archaeological or ethnological material of any State Party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, dispersal, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular culture or civilization, the record of which is in jeopardy from pillage, dismantling, dispersal, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 307 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, dispersal or fragmentation.

(b)<sup>12</sup> PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State Party, the President may apply the import restrictions set forth in section 307 with respect to such material.

(c) LIMITATIONS.—

(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State Party unless the State Party has made a request described in section 303(a) to the United States and has supplied

<sup>11</sup> 19 U.S.C. 2603. The functions conferred upon the President by this section to the extent that they involve the application of import restrictions set forth in sec. 307 and the extension of such import restrictions pursuant to sec. 304(c)(3), were delegated to the Secretary of the Treasury, acting in consultation with the Director of the United States Information Agency and the Secretary of State, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>12</sup> The functions conferred upon the President by sec. 304(b) to the extent that they involve determinations by the President that an emergency condition applies with respect to any archaeological or ethnological material of any State Party to the Convention, subject to the limitations of secs. 304(c)(1), 304(c)(2) and 304(c)(3), were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

information which supports a determination that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State Party, the President shall consider the views and recommendations contained in the Committee report required under section 306(f)(3) if the report is submitted to the President before the close of the ninety-day period beginning on the day on which the President submitted information to the Committee under section 303(f)(2) on the request of the State Party under section 303(a).

(3)<sup>13</sup> No import restrictions set forth in section 307 may be applied under this section to the archaeological or ethnological materials of any State Party for more than five years after the date on which the request of a State Party under section 303(a) is made to the United States. This period may be extended by the President for three more years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material. However, before taking such action, the President shall request and consider, if received within ninety days, a report of the Committee setting forth its recommendations, together with the reasons therefor, as to whether such import restrictions shall be extended.

(4)<sup>14</sup> The import restrictions under this section may continue to apply in whole or in part, if before their expiration under paragraph (3), there has entered into force with respect to the archaeological or ethnological materials an agreement under section 203<sup>15</sup> or an agreement with a State Party to which the Senate has given its advice and consent to ratification. Such import restrictions may continue to apply for the duration of the agreement.

**SEC. 305.<sup>16</sup> DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.**

After any agreement enters into force under section 303, or emergency action is taken under section 304, the Secretary, in consultation with the Secretary of State,<sup>17</sup> shall by regulation promulgate (and when appropriate shall revise) a list of the archaeological or ethnological material of the State Party covered by the agreement or by such action. The Secretary may list such material by type or

<sup>13</sup>The functions conferred upon the President by sec. 304(c)(3) to the extent that they involve determinations to be made and the receipt and consideration of an advisory report from the Cultural Property Advisory Committee by the President prior to extensions of emergency import restrictions were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>14</sup>The functions conferred upon the President by sec. 303(c)(4) to the extent that they involve the negotiation and conclusion of agreements subject to the advice and consent to ratification by the Senate were delegated to the Secretary of State, acting in consultation with and with the participation of the Director of the United States Information Agency and in consultation with the Secretary of the Treasury by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>15</sup>This reference to sec. 203 probably should be a reference to sec. 303.

<sup>16</sup>19 U.S.C. 2604.

<sup>17</sup>Sec. 802(d) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-468), struck out "Secretary" and inserted in lieu thereof "Secretary, in consultation with the Secretary of State."

Previously, sec. 1335(d) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-788) struck out ", after consultation with the Director of the United States Information Agency," following "Secretary".



other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 307 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

**SEC. 306.<sup>18</sup> CULTURAL PROPERTY ADVISORY COMMITTEE.**

(a) **ESTABLISHMENT.**—There is established the Cultural Property Advisory Committee.

(b) **MEMBERSHIP.**—

(1) The Committee shall be composed of eleven members appointed by the President as follows:

(A) Two members representing the interests of museums.

(B) Three members who shall be experts in the fields of archaeology, anthropology, ethnology, or related areas.

(C) Three members who shall be experts in the international sale of archaeological, ethnological, and other cultural property.

(D) Three members who shall represent the interest of the general public.

(2) Appointments made under paragraph (1) shall be made in such a manner so as to insure—

(A) fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and

(B) that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A)<sup>19</sup> Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three-year terms, four members to serve two-year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.

(B)(i)<sup>20</sup> A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

(ii) The President shall designate a Chairman of the Committee from the members of the Committee.

<sup>18</sup> 19 U.S.C. 2605.

<sup>19</sup> Sec. 307(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1380), amended and restated para. (3)(A). Sec. 307(c) of the same Act made para. (3)(A) apply to those members of the Cultural Property Advisory Committee first appointed after enactment of Public Law 100-204.

<sup>20</sup> Sec. 307(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204; 101 Stat. 1380), amended and restated para. (3)(B).

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—Six of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(e) STAFF AND ADMINISTRATION.—

(1) The Director of the United States Information Agency shall make available to the Committee such administrative and technical support services and assistance as it may reasonably require to carry out its activities. Upon the request of the Committee, the head of any other Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions, and provide such information and assistance as the Committee may reasonably require to carry out its activities.

(2) The Committee shall meet at the call of the Director of the United States Information Agency, or when a majority of its members request a meeting in writing.

(f) REPORTS BY COMMITTEE.—

(1) The Committee shall, with respect to each request of a State Party referred to in section 303(a), undertake an investigation and review with respect to matters referred to in section 303(a)(1) as they relate to the State Party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review;

(B) its findings as to the nations individually having a significant import trade in the relevant material; and

(C) its recommendation, together with the reasons therefor, as to whether an agreement should be entered into under section 303(a) with respect to the State Party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 303(e), prepare a report setting forth its recommendations together with the reasons therefor, as to whether or not the agreement should be extended.

(3) The Committee shall in each case in which the Committee finds that an emergency condition under section 304 exists prepare a report setting forth its recommendations, together with the reasons therefor, as to whether emergency action under section 304 should be implemented. If any State Party indicates in its request under section 303(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 303 or the implementation of emergency action under section 304 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State Party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6)<sup>21</sup> The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g)<sup>22</sup> COMMITTEE REVIEW.—

(1) IN GENERAL.—The Committee shall undertake a continuing review of the effectiveness of agreements under section 303 that have entered into force with respect to the United States, and of emergency action implemented under section 304.

(2) ACTION BY COMMITTEE.—If the Committee finds, as a result of such review, that—

(A) cause exists for suspending, under section 303(d), the import restrictions imposed under an agreement;

(B) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(C) changes are required to this title in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for suspending such import restrictions or for improving the effectiveness of any such agreement or emergency action or this title.

(h)<sup>23</sup> FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. Appendix I) shall apply to the Committee except that the requirements of subsections (a) and (b) of section 10 and section 11 of such Act (relating to open meetings, public notice, public participation, and public availability of documents) shall not apply to the Committee, whenever and to the extent it is determined by the President or his designee that the disclosure of matters involved in the Committee's proceedings would compromise the Government's negotiating objectives or bargaining positions on the negotiations of any agreement authorized by this title.

(i) CONFIDENTIAL INFORMATION.—

<sup>21</sup>The functions conferred upon the President by sec. 306(f)(6) were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>22</sup>The functions conferred upon the President by this subsec. relating to the receipt of reports were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

<sup>23</sup>The functions conferred upon the President by this section relating to the determinations to be made about the disclosure of matters involved in the Committee's proceedings were delegated to the Director of the United States Information Agency, acting in consultation with the Secretary of State and the Secretary of the Treasury, by Executive Order 12555 (March 10, 1986; 51 F.R. 8475). See, however, note 4.

(1) IN GENERAL.—Any information (including trade secrets and commercial or financial information which is privileged or confidential) submitted in confidence by the private sector to officers or employees of the United States or to the Committee in connection with the responsibilities of the Committee shall not be disclosed to any person other than to—

(A) officers and employees of the United States designated by the Director of the United States Information Agency;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated by the chairman of either such Committee and members of the staff of either such Committee designated by the chairman for use in connection with negotiation of agreements or other activities authorized by this title; and

(C) the Committee established under this title.

(2) GOVERNMENTAL INFORMATION.—Information submitted in confidence by officers or employees of the United States to the Committee shall not be disclosed other than in accordance with rules issued by the Director of the United States Information Agency, after consultation with the Committee. Such rules shall define the categories of information which require restricted or confidential handling by such Committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the interests of the United States. Such rules shall, to the maximum extent feasible, permit meaningful consultations by Committee members with persons affected by proposed agreements authorized by this title.

(j) NO AUTHORITY TO NEGOTIATE.—Nothing contained in this section shall be construed to authorize or to permit any individual (not otherwise authorized or permitted) to participate directly in any negotiation of any agreement authorized by this title.

**SEC. 307.<sup>24</sup> IMPORT RESTRICTIONS.**

(a) DOCUMENTATION OF LAWFUL EXPORTATION.—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State Party after the designation of such material under section 305 may be imported into the United States unless the State Party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State Party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State Party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State Party—

(A) not less than ten years before the date of such entry and that neither the person for whose account the material

<sup>24</sup> 19 U.S.C. 2606.

is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before that date of entry, or

(B) on or before the date on which such material was designated under section 305, the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and forfeiture. The presentation of such documentation or evidence shall not bar subsequent action under section 310.

(c) DEFINITION OF SATISFACTORY EVIDENCE.—The term “satisfactory evidence” means—

(1) for purposes of subsection (b)(2)(A)—

(A) one or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(i) the material was exported from the State Party not less than ten years before the date of entry into the United States, and

(ii) neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than one year before the date of entry of the material; and

(B) a statement provided by the consignor, or person who sold the material to the importer, which states the date, or, if not known, his belief, that the material was exported from the State Party not less than ten years before the date of entry into the United States, and the reasons on which the statement is based; and

(2) for purposes of subsection (b)(2)(B)—

(A) one or more declarations under oath by the importer or the person for whose account the material is to be imported, stating that, to the best of his knowledge, the material was exported from the State Party on or before the date such material was designated under section 305, and

(B) a statement by the consignor or person who sold the material to the importer which states the date, or if not known, his belief, that the material was exported from the State Party on or before the date such material was designated under section 305, and the reasons on which the statement is based.

(d) RELATED PERSONS.—For purposes of subsections (b) and (c), a person shall be treated as a related person to an importer, or to a person for whose account material is imported, if such person—

(1) is a member of the same family as the importer or person of account, including, but not limited to, membership as a brother or sister (whether by whole or half blood), spouse, ancestor, or lineal descendant;

(2) is a partner or associate with the importer or person of account in any partnership, association, or other venture; or

(3) is a corporation or other legal entity in which the importer or person of account directly or indirectly owns, controls, or holds power to vote 20 percent or more of the outstanding voting stock or shares in the entity.

**SEC. 308.<sup>25</sup> STOLEN CULTURAL PROPERTY.**

No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which is stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the United States.

**SEC. 309.<sup>26</sup> TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO TITLE.**

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property has been imported into the United States in violation of section 307 or section 308, the Secretary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if he finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

**SEC. 310.<sup>27</sup> SEIZURE AND FORFEITURE.**

(a) **IN GENERAL.**—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 307 or section 308 shall be subject to seizure and forfeiture. All provisions of law relating to seizure, forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this title, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this title.

(b) **ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.**—Any designated archaeological and ethnological material which is imported into the United States in violation of section 307 and which is forfeited to the United States under this title shall—

(1) first be offered for return to the State Party;

(2) if not returned to the State Party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material,

(B) that the claimant is a bona fide purchaser for value of the material; or

<sup>25</sup> 19 U.S.C. 2607.

<sup>26</sup> 19 U.S.C. 2608.

<sup>27</sup> 19 U.S.C. 2609.

(3) if not returned to the State Party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and deliver, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) ARTICLES OF CULTURAL PROPERTY.—

(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 208, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State Party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State Party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State Party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 308 and which is forfeited to the United States under this title shall—

(A) first be offered for return to the State Party in whose territory is situated the institution referred to in section 308 and shall be returned if that State Party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State Party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

**SEC. 311.<sup>28</sup> EVIDENTIARY REQUIREMENTS.**

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this title in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 307, that the material has been listed by the Secretary in accordance with section 305; and

(2) in the case of any article subject to section 308, that the article—

<sup>28</sup> 19 U.S.C. 2610.

(A) is documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in a State Party, and

(B) was stolen from such institution after the effective date of this title, or after the date of entry into force of the Convention for the State Party concerned, whichever date is later.

**SEC. 312.<sup>29</sup> CERTAIN MATERIAL AND ARTICLES EXEMPT FROM TITLE.**

The provisions of this title shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled “An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes”, approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been held in the United States for a period of not less than three consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of this title, but only if—

(i) the acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least fifty thousand, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from this title,

(ii) such material or article has been exhibited to the public for a period or periods aggregating at least one year during such three-year period, or

(iii) such article or material has been cataloged and the catalog material made available upon request to the public for at least two years during such three-year period;

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(C) if subparagraphs (A) and (B) do not apply, has been within the United States for a period of not less than ten consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or

<sup>29</sup> 19 U.S.C. 2611.



other means, as the Secretary shall by regulation prescribe) of its location within the United States; and

(D) if none of the preceding subparagraphs apply, has been within the United States for a period of not less than twenty consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

**SEC. 313.<sup>30</sup> REGULATIONS.**

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this title.

**SEC. 314.<sup>31</sup> ENFORCEMENT.**

In the customs territory of the United States, and in the Virgin Islands, the provisions of this title shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

**SEC. 315. EFFECTIVE DATE.**

(a) **IN GENERAL.**—This title shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such ninetieth day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) **EXCEPTION.**—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 306 at any time after the date of the enactment of this Act.

<sup>30</sup> 19 U.S.C. 2612.

<sup>31</sup> 19 U.S.C. 2613.

## 16. United States Recognition and Participation in International Expositions

Public Law 91-269 [S. 856], 84 Stat. 271, 22 U.S.C. 2801-2807, approved May 27, 1970; as amended by Public Law 97-254 [H.R. 6409], 96 Stat. 808, approved September 8, 1982

AN ACT To provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*<sup>1</sup> the Congress finds that—

(a) international expositions, when properly organized, financed, and executed, have a significant impact on the economic growth of the region surrounding the exposition and, under appropriate international sanction, are important instruments of national policy, particularly in the exchange of ideas and the demonstration of cultural achievements between peoples;

(b) in view of the widely varying circumstances under which international expositions have developed in the United States, the different degrees to which the Federal Government has assisted and participated in such expositions, and the increasing number of proposals for future expositions, the national interest requires that Federal action concerning such expositions be given orderly consideration; and

(c) such orderly consideration is best achieved by the development of uniform standards, criteria, and procedures to establish the conditions under which the Government hereafter will (A) recognize international expositions proposed to be held in the United States, and (B) take part in such expositions.

### FEDERAL RECOGNITION

SEC. 2.<sup>2</sup> (a) Any international exposition proposed to be held in the United States shall be eligible on application from its sponsors to receive the recognition of the Federal Government upon a finding of the President that recognition will be in the national interest. In making such a finding the President shall consider—

(1) a report by the Secretary of Commerce which shall include (A) an evaluation of purposes and reasons for the exposition, and (B) a determination that guaranteed financial and other support has been secured by the exposition from affected State and local governments and from business and civic leadership of the region and others, in amounts sufficient in his

<sup>1</sup>22 U.S.C. 2801.

<sup>2</sup>22 U.S.C. 2802.

judgment to assure the successful development and progress of the exposition;

(2) a report by the Secretary of State that the proposed exposition qualifies for consideration of registration by the Bureau of International Expositions (hereafter referred to as BIE); and

(3) such other evidence as the President may consider to be appropriate.

(b) Upon a finding by the President that an international exposition is eligible for Federal recognition, the President may take such measures recognizing the exposition as he deems proper, including, but not limited to—

(1) presenting of an official request by the United States for registration of the exposition by the BIE;

(2) providing for fulfillment of the requirements of the Convention of November 22, 1928, as amended, relating to international expositions; and

(3) extending invitations, by proclamation or by such other manner he deems proper, to the several States of the Union and to foreign governments to take part in the exposition, provided that he shall not extend such an invitation until he has been notified officially of BIE registration for the exposition.

(c) The President shall report his actions under this section promptly to the Congress.

#### FEDERAL PARTICIPATION

SEC. 3.<sup>3</sup> (a)<sup>4</sup> The Federal Government may participate in an international exposition proposed to be held in the United States only upon the authorization of the Congress. If the President finds that Federal participation is in the national interest, he shall transmit to the Congress his proposal for such participation, which proposal shall include—

(1)<sup>4</sup> evidence that the international exposition has met the criteria for Federal recognition and, pursuant to section 2 of this Act, it has been so recognized;

(2)<sup>4</sup> a statement that the international exposition has been registered by the BIE; and

(3)<sup>4</sup> a plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies of the Federal Government for Federal participation in the exposition. The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section.<sup>5</sup>

(b)<sup>4</sup> (1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be

<sup>3</sup>22 U.S.C. 2803.

<sup>4</sup>Sec. 16 of Public Law 97-254 (96 Stat. 812) inserted the subsec. designation "(a)", struck out subsec. designations "(a)", "(b)", and "(c)", and inserted in lieu thereof para. designations "(1)", "(2)", and "(3)", respectively, and added a new subsec. (b).

<sup>5</sup>Sec. 16 of Public Law 97-254 (96 Stat. 812) inserted this sentence in lieu of the final three sentences of para. (3).

constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the "Administrator") to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

(i) participation in the exposition; and

(ii) permanent use of such pavilion after the termination of participation in the exposition; and

(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

(c) The enactment of a specific authorization of appropriations shall be required—

(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

(d) For the purposes of this section—

(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.

## ESTABLISHMENT AND PUBLICATION OF STANDARDS AND CRITERIA

SEC. 4.<sup>6</sup> (a) The Secretary of Commerce is hereby authorized and directed to establish and maintain standards, definitions, and criteria which are adequate to carry out the purposes of section 2(a)(1) and section 3(a) of this Act; and

(b) Standards, definitions, and criteria established by the Secretary and such revisions in them as he may make from time to time shall be published in the Federal Register.

SEC. 5.<sup>7</sup> The President may withdraw Federal recognition or participation whenever he finds that continuing recognition or participation would be inconsistent with the national interest and with the purposes of this Act.

SEC. 6.<sup>8</sup> Nothing in this Act shall affect or limit the authority of Federal departments and agencies to participate in international expositions or events otherwise authorized by law.

SEC. 7. Section 8 of Public Law 89-685 is hereby repealed.

SEC. 8.<sup>9</sup> There are authorized to be appropriated such sums, not to exceed \$200,000 in any fiscal year, as may be necessary to carry out the purposes of this Act.

<sup>6</sup>22 U.S.C. 2804.

<sup>7</sup>22 U.S.C. 2805.

<sup>8</sup>22 U.S.C. 2806.

<sup>9</sup>22 U.S.C. 2807.

## 17. International Broadcasting

### a. United States International Broadcasting Act of 1994

Title III of Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 432, approved April 30, 1994; as amended by Public Law 103-415 [H.R. 5034], 108 Stat. 4299, approved October 25, 1994; Public Law 105-277 [Foreign Affairs Agencies Consolidation Act of 1998; H.R. 4328], 112 Stat. 2681 at 2681-765, approved October 21, 1998; Public Law 105-292 [International Religious Freedom Act of 1998; H.R. 2431], 112 Stat. 2787, approved October 27, 1998; Public Law 106-113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501 at 1536, approved November 29, 1999; Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003 [H.R. 1646], 116 Stat. 1350, approved September 30, 2002; and Public Law 109-140 [H.R. 4436], 119 Stat. 2650, approved December 22, 2005

AN ACT To authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

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

\* \* \* \* \*

### TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT

#### SEC. 301.<sup>1</sup> SHORT TITLE.

This title may be cited as the “United States International Broadcasting Act of 1994”.

#### SEC. 302.<sup>2</sup> CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

The Congress makes the following findings and declarations:

(1) It is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers,” in accordance with Article 19 of the Universal Declaration of Human Rights.

(2) Open communication of information and ideas among the peoples of the world contributes to international peace and stability and the promotion of such communication is in the interests of the United States.

(3) It is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this title.

(4) The continuation of existing United States international broadcasting, and the creation of a new broadcasting service to

<sup>1</sup>22 U.S.C. 6201 note.

<sup>2</sup>22 U.S.C. 6201.

the people of the People's Republic of China and other countries of Asia which lack adequate sources of free information, would enhance the promotion of information and ideas, while advancing the goals of United States foreign policy.

(5) The reorganization and consolidation of United States international broadcasting will achieve important economies and strengthen the capability of the United States to use broadcasting to support freedom and democracy in a rapidly changing international environment.

**SEC. 303.<sup>3</sup> STANDARDS AND PRINCIPLES.**

(a) BROADCASTING STANDARDS.—United States international broadcasting shall—

(1) be consistent with the broad foreign policy objectives of the United States;

(2) be consistent with the international telecommunications policies and treaty obligations of the United States;

(3) not duplicate the activities of private United States broadcasters;

(4) not duplicate the activities of government supported broadcasting entities of other democratic nations;

(5) be conducted in accordance with the highest professional standards of broadcast journalism;

(6) be based on reliable information about its potential audience;<sup>4</sup>

(7) be designed so as to effectively reach a significant audience; and<sup>4</sup>

(8)<sup>4</sup> promote respect for human rights, including freedom of religion.

(b) BROADCASTING PRINCIPLES.—United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies, including editorials, broadcast by the Voice of America, which present the views of the United States Government<sup>5</sup> of the United States Government and responsible discussion and opinion on those policies;

(4)<sup>6</sup> the capability to provide a surge capacity to support United States foreign policy objectives during crises abroad;

(5)<sup>6</sup> programming to meet needs which remain unserved by the totality of media voices available to the people of certain nations;

<sup>3</sup>22 U.S.C. 6202.

<sup>4</sup>Sec. 502 of the International Religious Freedom Act of 1998 (Public Law 105-292; 112 Stat. 2811) struck out "and" at the end of para. (6); replaced a period with "; and" at the end of para. (7); and added a new para. (8).

<sup>5</sup>Sec. 1323(d)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) inserted ", including editorials, broadcast by the Voice of America, which present the views of the United States Government" after "policies".

<sup>6</sup>Sec. 1323(d)(2) and (3) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) redesignated paras. (4) through (9) as paras. (5) through (10) and added a new para. (4).

(6)<sup>6</sup> information about developments in each significant region of the world;

(7)<sup>6</sup> a variety of opinions and voices from within particular nations and regions prevented by censorship or repression from speaking to their fellow countrymen;

(8)<sup>6</sup> reliable research capacity to meet the criteria under this section;

(9)<sup>6</sup> adequate transmitter and relay capacity to support the activities described in this section; and

(10)<sup>6</sup> training and technical support for independent indigenous media through government agencies or private United States entities.

(c)<sup>7</sup> **VOICE OF AMERICA BROADCASTS.**—The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussions and opinion on these policies.

**SEC. 304.<sup>8</sup> ESTABLISHMENT OF BROADCASTING BOARD OF GOVERNORS.**

(a)<sup>9</sup> **CONTINUED EXISTENCE WITHIN EXECUTIVE BRANCH.**—

(1) **IN GENERAL.**—The Broadcasting Board of Governors shall continue to exist within the Executive branch of Government as an entity described in section 104 of title 5, United States Code.

(2) **RETENTION OF EXISTING BOARD MEMBERS.**—The members of the Broadcasting Board of Governors appointed by the President pursuant to subsection (b)(1)(A) before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998 and holding office as of that date may serve the remainder of their terms of office without reappointment.

(3) **INSPECTOR GENERAL AUTHORITIES.**—

(A) **IN GENERAL.**—The Inspector General of the Department of State and the Foreign Service shall exercise the same authorities with respect to the Broadcasting Board of Governors and the International Broadcasting Bureau as the Inspector General exercises under the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 with respect to the Department of State.

<sup>7</sup> Sec. 1(p) of Public Law 103-415 (108 Stat. 4301) added subsec. (c).

<sup>8</sup> 22 U.S.C. 6203.

<sup>9</sup> Sec. 1322 of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-777) amended and restated subsec. (a). It formerly read as follows:

“(a) **ESTABLISHMENT.**—There is hereby established within the United States Information Agency a Broadcasting Board of Governors (hereafter in this title referred to as the ‘Board’).”.



- (B) RESPECT FOR JOURNALISTIC INTEGRITY OF BROADCASTERS.—The Inspector General shall respect the journalistic integrity of all the broadcasters covered by this title and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts.
- (b) COMPOSITION OF THE BOARD.—
- (1) The Board shall consist of 9 members, as follows:
- (A) 8 voting members who shall be appointed by the President, by and with the advice and consent of the Senate.
- (B) The Secretary of State<sup>10</sup> who shall also be a voting member.
- (2) The President shall appoint<sup>11</sup> one member (other than the Secretary of State)<sup>10</sup> as Chairman of the Board, subject to the advice and consent of the Senate.<sup>11</sup>
- (3) Exclusive of the Secretary of State,<sup>10</sup> not more than 4 of the members of the Board appointed by the President shall be of the same political party.
- (c) TERM OF OFFICE.—The term of office of each member of the Board shall be three years, except that the Secretary of State<sup>10</sup> shall remain a member of the Board during the Director's term of service. Of the other 8 voting members, the initial terms of office of two members shall be one year, and the initial terms of office of 3 other members shall be two years, as determined by the President. The President shall appoint, by and with the advice and consent of the Senate, Board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no Secretary of State,<sup>10</sup> the Acting Secretary of State<sup>12</sup> shall serve as a member of the Board until a Director is appointed.
- (d) SELECTION OF BOARD.—Members of the Board appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.
- (e) COMPENSATION.—Members of the Board, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places

<sup>10</sup>Sec. 1323(b) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "Director of the United States Information Agency" and inserted in lieu thereof "Secretary of State".

<sup>11</sup>Sec. 502 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-451), struck out "designate" and inserted in lieu thereof "appoint", and inserted ", subject to the advice and consent of the Senate" at the end of the sentence.

<sup>12</sup>Sec. 1323(c) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "acting Director of the agency" and inserted in lieu thereof "Acting Secretary of State".

of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The Secretary of State<sup>10</sup> shall not be entitled to any compensation under this title, but may be allowed travel expenses as provided under this subsection.

(f) DECISIONS.—Decisions of the Board shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

(g)<sup>13</sup> IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any other provision of law, any and all limitations on liability that apply to the members of the Broadcasting Board of Governors also shall apply to such members when acting in their capacities as members of the boards of directors of RFE/RL, Incorporated and Radio Free Asia.

**SEC. 305.<sup>14</sup> AUTHORITIES OF THE BOARD.**

(a) AUTHORITIES.—The Board shall have the following authorities:

(1) To<sup>15</sup> supervise all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b).<sup>16</sup>

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.

(4) To review, evaluate, and determine, at least annually, after consultation with the Secretary of State,<sup>17</sup> the addition or deletion of language services.

(5) To make and supervise grants for broadcasting and related activities in accordance with sections 308 and 309.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting Bureau and grantees, subject to the limitations in sections 308 and 309 and subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

<sup>13</sup> Sec. 504 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-451), added subsec. (g).

<sup>14</sup> 22 U.S.C. 6204.

<sup>15</sup> Sec. 1323(e)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out “direct and” at this point.

<sup>16</sup> Sec. 1323(e)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out “and the Television Broadcasting to Cuba Act” and inserted in lieu thereof “, the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b)”.

<sup>17</sup> Sec. 1323(e)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) inserted “, after consultation with the Secretary of State,” after “annually,” (resulting in a double comma after “annually”). Subsequently, sec. 507(1) of Public Law 107-228 (116 Stat. 1394) struck out “annually,” and inserted in lieu thereof “annually.”

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

(9) To submit to the President and the Congress,<sup>18</sup> an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act. Each annual report shall place special emphasis on the assessment described in paragraph (2).<sup>19</sup>

(10) To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.

(11) To appoint such staff personnel for the Board as the Board may determine to be necessary, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1998 and 1999<sup>20</sup> may not exceed the amount made available to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997).<sup>21</sup>

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Bureau and by grantees and the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Board may provide for the use of United States Government transmitter capacity for relay of<sup>22</sup> Radio Free Asia.

(15)<sup>23</sup> (A) To procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS-15 of the General Schedule under section 5108 of title 5, United States Code.

(B) To allow those providing such services, while away from their homes or their regular places of business, travel expenses

<sup>18</sup> Sec. 1323(e)(3)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "through the Director of the United States Information Agency."

<sup>19</sup> Sec. 1323(e)(3)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) added the sentence beginning "Each annual report".

<sup>20</sup> Sec. 1323(e)(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "1994 and 1995" and inserted in lieu thereof "1998 and 1999".

<sup>21</sup> Sec. 1323(e)(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out "to the Board for International Broadcasting for such purposes for fiscal year 1993" and inserted in lieu thereof "to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997".

<sup>22</sup> Sec. 1(s)(1) of Public Law 103-415 (108 Stat. 4302) struck out "to" and inserted in lieu thereof "of".

<sup>23</sup> Sec. 1323(e)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) added paras. (15) through (18).

(including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(16)<sup>23</sup> To procure, pursuant to section 1535 of title 31, United States Code (commonly known as the "Economy Act"), such goods and services from other departments or agencies for the Board and the International Broadcasting Bureau as the Board determines are appropriate.

(17)<sup>23</sup> To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948, and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, to the extent the Board considers necessary in carrying out the provisions and purposes of this title.

(18)<sup>23</sup> To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Bureau, or the Board before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1998 for carrying out the broadcasting activities covered by this title.

(19)<sup>24</sup> (A) To provide for the payment of primary and secondary school expenses for dependents of personnel stationed in the Commonwealth of the Northern Mariana Islands (CNMI) at a cost not to exceed expenses authorized by the Department of Defense for such schooling for dependents of members of the Armed Forces stationed in the Commonwealth, if the Board determines that schools available in the Commonwealth are unable to provide adequately for the education of the dependents of such personnel.

(B) To provide transportation for dependents of such personnel between their places of residence and those schools for which expenses are provided under subparagraph (A), if the Board determines that such schools are not accessible by public means of transportation.

(b)<sup>25</sup> DELEGATION OF AUTHORITY.—The Board may delegate to the Director of the International Broadcasting Bureau, or any other officer or employee of the United States, to the extent the Board determines to be appropriate, the authorities provided in this section, except those authorities provided in paragraph (1), (2), (3), (4), (5), (6), (9), or (11) of subsection (a).

(c)<sup>25, 26</sup> BROADCASTING BUDGETS.—

<sup>24</sup> Sec. 8 of Public Law 109-140 (119 Stat. 2652) added para. (19).

<sup>25</sup> Sec. 1323(f) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-779) redesignated subsecs. (b), (c), and (d) as subsecs. (c), (d), and (e), and added a new subsec. (b).

<sup>26</sup> Sec. 1323(g) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out para. designation (1) before "The Director" and struck out "the Director of the United States Information Agency for the consideration of the Director as a part of the Agency's budget submission to" after "Television Broadcasting to Cuba Act to". Sec. 1323(h) of that Act repealed para. (2) of this subsection, which had required that the USIA Director include in the Agency's submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget.

The Director of the Bureau and the grantees identified in sections 308 and 309 shall submit proposed budgets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act to the Office of Management and Budget.

(d)<sup>25, 27</sup> PROFESSIONAL INDEPENDENCE OF BROADCASTERS.—The Secretary of State and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and the grantees of the Board.

(e)<sup>25</sup> TECHNICAL AMENDMENT.—

(1) Section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b) is amended by striking “and the Associate Director for Broadcasting of the United States Information Agency” and inserting “of the Voice of America”.

(2) Section 5(b) of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465c(b)) is amended by striking “Director and Associate Director for Broadcasting of the United States Information Agency” and inserting “Broadcasting Board of Governors”.

**SEC. 306.<sup>28</sup> ROLE OF THE SECRETARY OF STATE.**

(a) FOREIGN POLICY GUIDANCE.—To assist the Board in carrying out its functions, the Secretary of State shall provide information and guidance on foreign policy issues to the Board, as the Secretary may deem appropriate.

(b)<sup>28</sup> CERTAIN WORLDNET PROGRAMMING.—The Secretary of State is authorized to use Worldnet broadcasts for the purposes of continuing interactive dialogues with foreign media and other similar overseas public diplomacy programs sponsored by the Department of State. The Chairman of the Broadcasting Board of Governors shall provide access to Worldnet for this purpose on a non-reimbursable basis.

<sup>27</sup> Sec. 1323(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) amended and restated subsec. (d), as redesignated. It previously read as follows:

“(d) IMPLEMENTATION.—The Director of the United States Information Agency and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and grantees.”

<sup>28</sup> 22 U.S.C. 6205. Sec. 1323(j) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-778) struck out “FOREIGN POLICY GUIDANCE” in the section catchline, inserting instead “ROLE OF THE SECRETARY OF STATE”; inserted “(a) FOREIGN POLICY GUIDANCE.—”; struck out “State, acting through the Director of the United States Information Agency,” and inserted in lieu thereof “State”; inserted at the end of newly designated subsec. (a) “, as the Secretary may deem appropriate”; and added a new subsec. (b).

**SEC. 307.<sup>29</sup> INTERNATIONAL BROADCASTING BUREAU.**

(a) **ESTABLISHMENT.**—There is hereby established an International Broadcasting Bureau under the Board<sup>30</sup> (hereafter in this title referred to as the “Bureau”), to carry out all nonmilitary international broadcasting activities supported by the United States Government other than those described in sections 308 and 309.

(b)<sup>31</sup> **SELECTION OF THE DIRECTOR OF THE BUREAU.**—The Director of the Bureau shall be appointed by the President, by and with the advice and consent of the Senate.<sup>32</sup> The Director of the Bureau shall be entitled to receive compensation at the rate prescribed by law for level IV of the Executive Schedule.

(c)<sup>33</sup> **RESPONSIBILITIES OF THE DIRECTOR.**—The Director shall organize and chair a coordinating committee to examine and make recommendations to the Board on long-term strategies for the future of international broadcasting, including the use of new technologies, further consolidation of broadcast services, and consolidation of currently existing public affairs and legislative relations functions in the various international broadcasting entities. The coordinating committee shall include representatives of Radio Free Asia, RFE/RL, Incorporated, the Broadcasting Board of Governors, and, as appropriate, the Office of Cuba Broadcasting, the Voice of America, and Worldnet.

**SEC. 308.<sup>34</sup> LIMITS ON GRANTS FOR RADIO FREE EUROPE AND RADIO LIBERTY.**

(a) **BOARD OF RFE/RL, INCORPORATED.**—The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of

<sup>29</sup> 22 U.S.C. 6206. Sec. 504 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1393; 22 U.S.C. 6206 note), as amended, provided the following:

**“SEC. 504. PERSONAL SERVICES CONTRACTING PILOT PROGRAM.**

“(a) **IN GENERAL.**—The Director of the International Broadcasting Bureau (in this section referred to as the ‘Director’) may establish a pilot program (in this section referred to as the ‘program’) for the purpose of hiring United States citizens or aliens as personal services contractors, without regard to Civil Service and classification laws, for service in the United States as broadcasters, producers, and writers in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services.

“(b) **CONDITIONS.**—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

“(1) The Director determines that existing personnel resources are insufficient and the need is not of permanent duration.

“(2) The Director approves each employment of a personal services contractor.

“(3) The contract length, including options, may not exceed 2 years, unless the Director makes a finding that exceptional circumstances justify an extension of up to one additional year.

“(4) Not more than a total of 60 United States citizens or aliens are employed at any one time as personal services contractors under the program.

“(c) **TERMINATION OF AUTHORITY.**—The authority to award personal services contracts under the pilot program authorized by this section shall terminate on December 31, 2006. A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date.”

<sup>30</sup> Sec. 1323(k)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) struck out “within the United States Information Agency” and inserted in lieu thereof “under the Board”.

<sup>31</sup> Sec. 1323(k)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) struck out para. designation (1) and struck out text of para. (2) in subsec. (b). Para. (2) had amended 5 U.S.C. 5315 to include “Director of the International Broadcasting Bureau, the United States Information Agency.”

<sup>32</sup> Sec. 1323(k)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) struck out “Director of the United States Information Agency and with the concurrence of a majority of the Board” and inserted in lieu thereof “President, by and with the advice and consent of the Senate”.

<sup>33</sup> Sec. 1323(k)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) added subsec. (c).

<sup>34</sup> 22 U.S.C. 6207.

incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Broadcasting Board of Governors established under section 304 and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the grant provided under this title.

(b) LOCATION OF PRINCIPAL PLACE OF BUSINESS.—

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL, Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(c)<sup>35</sup> The total amount of grants made for the operating costs of RFE/RL, Incorporated, may not exceed \$85,000,000 in fiscal year 2003.

(d) ALTERNATIVE GRANTEE.—If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 309 in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require.

(e) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) AUTHORITY.—Grants authorized under section 305 for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before the date of enactment of this Act with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973, as in effect on such date.

(g) GRANT AGREEMENT.—Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement. The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

<sup>35</sup> Sec. 501 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1392), amended and restated subsec. (c). It previously read as follows:

“(c) LIMITATION ON GRANT AMOUNTS.—The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed \$75,000,000 for any fiscal year after fiscal year 1995.”

(1) that a grant be used only for activities which the Board determines are consistent with the purposes of subsection (f);

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the International Broadcasting Bureau be reduced to the extent appropriate, as determined by the Board; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) PROHIBITED USES OF GRANT FUNDS.—No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B) or (C),<sup>36</sup> to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 of the United States Code or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(C)<sup>37</sup> Notwithstanding the limitations under subparagraph (A), grant funds provided under this section may be used by RFE/RL, Incorporated, to pay up to three employees employed in Washington, D.C., salary or other compensation not to exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

(i) REPORT ON MANAGEMENT PRACTICES.—(1)<sup>38</sup> Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the Department of State and the Foreign

<sup>36</sup> Sec. 502(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1392), struck out "(B)," and inserted in lieu thereof "(B) or (C)."

<sup>37</sup> Sec. 502(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1392), added subpara. (C).

<sup>38</sup> As enrolled; no para. (2).



Service<sup>39</sup> shall submit to the Board<sup>40</sup> and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the Department of State and the Foreign Service<sup>39</sup> shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) AUDIT AUTHORITY.—

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section may be audited by the General Accounting Office<sup>41</sup> in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of RFE/RL, Incorporated, are normally kept.

(2) Representatives of the General Accounting Office<sup>41</sup> shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act, the Inspector General of the Department of State and the Foreign Service<sup>39</sup> is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(k)<sup>42</sup> \* \* \* [Repealed—1998]

<sup>39</sup>Sec. 1314(d)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-777) struck out "Inspector General of the United States Information Agency" and inserted in lieu thereof "Inspector General of the Department of State and the Foreign Service". Subsec. (e) of that section, furthermore, provided the following:

"(e) TRANSFER OF FUNCTIONS.—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency)."

<sup>40</sup>Sec. 1314(d)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-777) struck out "the Director of the United States Information Agency".

<sup>41</sup>Sec. 8 of the GAO Human Capital Reform Act of 2004 (Public Law 108-271; 118 Stat. 814) redesignated the "General Accounting Office" as the "Government Accountability Office" and provided that "Any reference to the General Accounting Office in any law, rule, regulations, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be considered to refer and apply to the Government Accountability Office."

<sup>42</sup>Sec. 1323(l)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780) repealed subsecs. (k) and (l). The subsections had provided as follows:

"(k) PLAN FOR RELOCATION.—None of the funds authorized to be appropriated for the fiscal years 1994 or 1995 may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany, unless—

"(1) such relocation is specifically provided for in an appropriation Act or pursuant to a reprogramming notification; and

(1)<sup>42</sup> \* \* \* [Repealed—1998]

**SEC. 309.<sup>43</sup> RADIO FREE ASIA.**

(a) **AUTHORITY.**—

(1) Grants authorized under section 305 shall be available to make annual grants for the purpose of carrying out radio broadcasting to the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam.

(2) Such broadcasting service shall be referred to as "Radio Free Asia".

(b) **FUNCTIONS.**—Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c)<sup>44</sup> **GRANT AGREEMENT.**—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

"(2)(A) such relocation is authorized by the Board and the Board submits to the Comptroller General of the United States and the appropriate Congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation; or

"(B) prior to the confirmation of all members of the Board, such relocation is authorized by the President, the President certifies that a significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation.

"(1) **REPORTS ON PERSONNEL CLASSIFICATION.**—Not later than 90 days after the date of confirmation of all members of the Board, the Board shall submit a report to the Congress containing a justification, in terms of the types of duties performed at specific rates of salary and other compensation, of the classification of personnel employed by RFE/RL, Incorporated. The report shall include a comparison of the rates of salary or other compensation and classifications provided to employees of RFE/RL, Incorporated, with the rates of salary or other compensation and classifications of employees of the Voice of America stationed overseas in comparable positions and shall identify any disparities and steps which should be taken to eliminate such disparities."

The certification required in subsec. (k) to move RFE/RL from Munich, Germany, to Prague, Czech Republic, had been made by the President on July 12, 1994 (Presidential Determination No. 94-32; 59 F.R. 37649).

<sup>43</sup> 22 U.S.C. 6208.

<sup>44</sup> Sec. 501 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-450), struck out subsec. (c) and redesignated subsecs. (d) through (i) as subsecs. (c) through (h), respectively. Former subsec. (c) read as follows:

"(c) **SUBMISSION OF DETAILED PLAN FOR RADIO FREE ASIA.**—

"(1) No grant may be awarded to carry out this section unless the Board, through the Director of the United States Information Agency, has submitted to Congress a detailed plan for the establishment and operation of Radio Free Asia, including—

"(A) a description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4);

"(B) a description of the numbers and qualifications of employees it proposes to hire; and

"(C) how it proposes to meet the technical requirements for carrying out its responsibilities under this section.

"(2) The plan required by paragraph (1) shall be submitted not later than 90 days after the date on which all members of the Board are confirmed.

"(3) No grant may be awarded to carry out the provisions of this section unless the plan submitted by the Board includes a certification by the Board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and subsection (d)(5).

"(4) If the Board determines that a Radio Free Asia cannot be established or operated effectively within the funding limitations provided for in this section, the Board may submit,

(1)<sup>45</sup> The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 2009.<sup>46</sup>

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed \$30,000,000 in each of the fiscal years 2000 and 2001.<sup>47</sup>

(5)<sup>48</sup> Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(d)<sup>44</sup> LIMITATIONS ON ADMINISTRATIVE AND MANAGERIAL COSTS.—It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(e)<sup>44</sup> ASSESSMENT OF THE EFFECTIVENESS OF RADIO FREE ASIA.—Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

through the Director of the United States Information Agency, an alternative plan and such proposed changes in legislation as may be necessary to the appropriate congressional committees.”

<sup>45</sup> Sec. 501(3)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-450), struck subpara. designation “(A)” and struck out subpara. (B) from para. (1). Subpara. (B) previously stated:

“(B) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.”

<sup>46</sup> Sec. 501(3)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-450), struck out “September 30, 1999” and inserted in lieu thereof “September 30, 2009”.

<sup>47</sup> Sec. 501(3)(C) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-450), struck out “\$22,000,000 in any fiscal year” and inserted in lieu thereof “\$30,000,000 in each of the fiscal years 2000 and 2001”.

<sup>48</sup> Sec. 501(3)(D) and (E) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-450), struck out para. (5) and redesignated para. (6) as para. (5). Former para. (5) provided:

“(5) The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed \$8,000,000.”

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this title,

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(f)<sup>49</sup> SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 2009.

(g)<sup>44</sup> NOTIFICATION AND CONSULTATION REGARDING DISPLACEMENT OF VOICE OF AMERICA BROADCASTING.—The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia. The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities.

(h)<sup>44</sup> NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make Radio Free Asia a Federal agency or instrumentality.

**SEC. 310.**<sup>50</sup> \* \* \* [Repealed—1998]

**SEC. 311.**<sup>51</sup> **PRESERVATION OF AMERICAN JOBS.**

It is the sense of the Congress that the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

<sup>49</sup>Sec. 501(2) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-450), redesignated subsec. (g) as subsec. (f). Sec. 501(4) of that Act amended and restated redesignated subsec. (f), which previously provided as follows:

“(f) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the President’s fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States.”

<sup>50</sup>Formerly at 22 U.S.C. 6209. Repealed by sec. 1323(1)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (division B, subdivision A of Public Law 105-277; 112 Stat. 2681-780). Sec. 310 had authorized the President “to direct the transfer of all functions and authorities from the Board for International Broadcasting to the United States Information Agency, the Board, or the Bureau”, and otherwise provided for such a transition.

<sup>51</sup>22 U.S.C. 6210.

**SEC. 312.<sup>52</sup> THE CONTINUING MISSION OF RADIO FREE EUROPE AND RADIO LIBERTY BROADCASTS.**

It is the sense of Congress that Radio Free Europe and Radio Liberty should continue to broadcast to the peoples of Central Europe, Eurasia, and the Persian Gulf until such time as—

- (1) a particular nation has clearly demonstrated the successful establishment and consolidation of democratic rule; and
- (2) its domestic media which provide balanced, accurate, and comprehensive news and information, is firmly established and widely accessible to the national audience, thus making redundant broadcasts by Radio Free Europe or Radio Liberty.

At such time as a particular nation meets both of these conditions, RFE/RL should phase out broadcasting to that nation.

**SEC. 313.<sup>53</sup> REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.**

(a) **LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.**—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent fiscal year, any funds appropriated for the purposes of broadcasting subject to<sup>54</sup> supervision of the Board shall not be available for obligation or expenditure—

- (1) unless such funds are appropriated pursuant to an authorization of appropriations; or
- (2) in excess of the authorized level of appropriations.

(b) **SUBSEQUENT AUTHORIZATION.**—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) **APPLICATION.**—The provisions of this section—

- (1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

<sup>52</sup>22 U.S.C. 6211. Amended and restated by sec. 503 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-451). Sec. 312 previously read as follows:

**“SEC. 312. PRIVATIZATION OF RADIO FREE EUROPE AND RADIO LIBERTY.**

“(a) **DECLARATION OF POLICY.**—It is the sense of the Congress that, in furtherance of the objectives of section 302 of this Act, the funding of Radio Free Europe and Radio Liberty should be assumed by the private sector not later than December 31, 1999, and that the funding of Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time.

“(b) **PRESIDENTIAL SUBMISSION.**—The President shall submit with his annual budget submission as provided for in section 307 an analysis and recommendations for achieving the objectives of subsection (a).

“(c) **REPORTS ON TRANSFER OF RFE/RL RESEARCH INSTITUTE.**—Not later than 120 days after the date of enactment of this Act, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report on the steps being taken to transfer RFE/RL Research Institute pursuant to subsection (a) and shall provide periodic progress reports on such efforts until such transfer has been achieved.”

<sup>53</sup>22 U.S.C. 6212. The Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103-317; 108 Stat. 1771), in part, provided under “International Broadcasting Operations”: “\* \* \* *Provided further,* That on the date upon which the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed, as provided for by section 310(e) of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 (Public Law 103-236; 108 Stat. 442), funds made available for expenses of the Board for International Broadcasting shall be made available until expended only for expenses necessary to enable the Broadcasting Board of Governors to carry out the authorities provided in section 305(a) of Public Law 103-236, including the appointment of staff personnel as authorized by section 305(a)(11) of Public Law 103-236: \* \* \*”

<sup>54</sup>Sec. 507(2) of Public Law 107-228 (116 Stat. 1394) struck out “the direction and” after “broadcasting subject to”.

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered under or pursuant to this title.

**SEC. 314.<sup>55</sup> DEFINITIONS.**

For the purposes of this title—

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs<sup>56</sup> and the Committee on Appropriations of the House of Representatives;

(2) the term “RFE/RL, Incorporated” includes—

(A) the corporation having the corporate title described in section 307(b)(3); and

(B) any alternative grantee described in section 307(e); and

(3) the term “salary or other compensation” includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

**SEC. 315. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) VOICE OF AMERICA BROADCASTS.—Section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463) is repealed.

(b) ISRAEL RELAY STATION.—Section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is repealed.

(c) BOARD FOR INTERNATIONAL BROADCASTING ACT.—Section 4(a)(1) of the Board for International Broadcasting Act of 1973 is amended to read as follows:

“(1) to make grants to RFE/RL, Incorporated and, until September 30, 1995, to make grants to entities established in the privatization of certain functions of RFE/RL, Incorporated in order to carry out the purposes set forth in section 2 of this Act;”

(d)<sup>57</sup> RELOCATION COSTS.—Notwithstanding any other provision of law, funds derived from the sale of real property assets of RFE/RL in Munich, Germany, may be retained, obligated, and expended to meet one-time costs associated with the consolidation of United States Government broadcasting activities in accordance with this title, including the costs of relocating RFE/RL offices and operations.

<sup>55</sup> 22 U.S.C. 6213.

<sup>56</sup> Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>57</sup> 22 U.S.C. 6214. Added by sec. 1(l) of Public Law 103-415 (108 Stat. 4303).

**b. Bureau of Broadcasting, Board for International  
Broadcasting Authorization, Fiscal Year 2003**

**Partial text of Public Law 107-228 [Foreign Relations Authorization Act,  
Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002;  
as amended by Public Law 109-140 [H.R. 4436], 119 Stat. 2650, approved  
December 22, 2005**

AN ACT To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

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

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF STATE AUTHORIZATION,  
FISCAL YEAR 2003**

\* \* \* \* \*

**TITLE V—UNITED STATES INTERNATIONAL  
BROADCASTING ACTIVITIES**

**SEC. 501. MODIFICATION OF LIMITATION ON GRANT AMOUNTS TO  
RFE/RL, INCORPORATED.**

Section 308(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(c)) is amended to read as follows: \* \* \*

**SEC. 502. PAY PARITY FOR SENIOR EXECUTIVES OF RFE/RL, INCORPORATED.**

Section 308(h)(1) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(h)(1)) is amended—\* \* \*

**SEC. 503. AUTHORITY TO CONTRACT FOR LOCAL BROADCASTING  
SERVICES OUTSIDE THE UNITED STATES.**

Section 802(b)(4) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1472(b)(4)) is amended—\* \* \*

**SEC. 504.<sup>1</sup> PERSONAL SERVICES CONTRACTING PILOT PROGRAM.**

(a) IN GENERAL.—The Director of the International Broadcasting Bureau (in this section referred to as the “Director”) may establish a pilot program (in this section referred to as the “program”) for the purpose of hiring United States citizens or aliens as personal services contractors, without regard to Civil Service and classification laws, for service in the United States as broadcasters, producers, and writers in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services.

<sup>1</sup> 22 U.S.C. 6206 note.

(b) **CONDITIONS.**—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

(1) The Director determines that existing personnel resources are insufficient and the need is not of permanent duration.

(2) The Director approves each employment of a personal services contractor.

(3) The contract length, including options, may not exceed 2 years, unless the Director makes a finding that exceptional circumstances justify an extension of up to one additional year.

(4) Not more than a total of 60 United States citizens or aliens are employed at any one time as personal services contractors under the program.

(c) **TERMINATION OF AUTHORITY.**—The authority to award personal services contracts under the pilot program authorized by this section shall terminate on December 31, 2006.<sup>2</sup> A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date.

**SEC. 505. TRAVEL BY VOICE OF AMERICA CORRESPONDENTS.**

(a) **EXEMPTION FROM RESPONSIBILITIES OF THE SECRETARY.**—Section 103(a)(1)(A) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802(a)(1)(A)) is amended \* \* \*

(b) **EXEMPTION FROM CHIEF OF MISSION RESPONSIBILITIES.**—Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—\* \* \*

**SEC. 506. REPORT ON BROADCASTING PERSONNEL.**

Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report regarding senior personnel of the United States Broadcasting Board of Governors and efforts to diversify the workforce. The report shall include the following information, reported separately, for the International Broadcasting Bureau, RFE/RL, Incorporated, and Radio Free Asia:

(1) A list of all personnel positions at or above the GS-13 pay level.

(2) The number and percentage of women and members of minority groups in positions under paragraph (1).

(3) The increase or decrease in the representation of women and members of minority groups in positions under paragraph (1) from previous years.

(4) The recruitment budget for each broadcasting entity and the aggregate budget.

(5) Information concerning the recruitment efforts of the Broadcasting Board of Governors relating to women and members of minority groups, including the percentage of the recruitment budget utilized for such efforts.

<sup>2</sup>Sec. 6 of Public Law 109-140 (119 Stat. 2652) struck out “December 31, 2005” and inserted in lieu thereof “December 31, 2006”.



**SEC. 507. CONFORMING AMENDMENTS.**

The United States International Broadcasting Act of 1994 (22 U.S.C.6201 et seq.) is amended—\* \* \*

**c. Bureau of Broadcasting, Board for International  
Broadcasting Authorization, Fiscal Years 2000 and 2001**

**Partial text of Public Law 106-113 [Admiral James W. Nance and Meg  
Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and  
2001; H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, ap-  
proved November 29, 1999**

AN ACT To authorize appropriations for the Department of State for fiscal years  
2000 and 2001; to provide for enhanced security at United States diplomatic facili-  
ties; to provide for certain arms control, nonproliferation, and other national secu-  
rity measures; to provide for reform of the United Nations; and for other purposes.

\* \* \* \* \*

**DIVISION A—DEPARTMENT OF STATE PROVISIONS**

**TITLE I—AUTHORIZATION OF APPROPRIATIONS**

\* \* \* \* \*

**Subtitle B—United States International Broadcasting  
Activities**

**SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) IN GENERAL.—The following amounts are authorized to be ap-  
propriated to carry out the United States International Broad-  
casting Act of 1994, the Radio Broadcasting to Cuba Act, and the  
Television Broadcasting to Cuba Act, and to carry out other au-  
thorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING ACTIVITIES.—For “Inter-  
national Broadcasting Activities”, \$385,900,000 for the fiscal  
year 2000, and \$393,618,000 for the fiscal year 2001.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For “Broad-  
casting Capital Improvements”, \$20,868,000 for the fiscal year  
2000, and \$20,868,000 for the fiscal year 2001.

(3) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”,  
\$22,743,000 for the fiscal year 2000 and \$22,743,000 for the  
fiscal year 2001.

(4) RADIO FREE ASIA.—For “Radio Free Asia”, \$24,000,000 for  
the fiscal year 2000, and \$30,000,000 for the fiscal year 2001.

\* \* \* \* \*

**TITLE V—UNITED STATES INTERNATIONAL  
BROADCASTING ACTIVITIES**

**SEC. 501. REAUTHORIZATION OF RADIO FREE ASIA. \* \* \*<sup>1</sup>**

<sup>1</sup>Sec. 501 amended sec. 309 of the United States International Broadcasting Act of 1994 (22  
U.S.C. 6208).

**SEC. 502. NOMINATION REQUIREMENTS FOR THE CHAIRMAN OF THE BROADCASTING BOARD OF GOVERNORS. \* \* \*<sup>2</sup>**

**SEC. 503. PRESERVATION OF RFE/RL (RADIO FREE EUROPE/RADIO LIBERTY). \* \* \*<sup>3</sup>**

**SEC. 504. IMMUNITY FROM CIVIL LIABILITY FOR BROADCASTING BOARD OF GOVERNORS. \* \* \*<sup>4</sup>**

\* \* \* \* \*

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<sup>2</sup>Sec. 502 amended sec. 304(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6203 (b)(2)).

<sup>3</sup>Sec. 503 amended and restated sec. 312 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6211)

<sup>4</sup>Sec. 504 added subsec. (g) to sec. 304 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203).

**d. Bureau of Broadcasting, Board for International Broadcasting, Restructuring and Authorization, Fiscal Years 1998 and 1999**

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

\* \* \* \* \*

**DIVISION G—FOREIGN AFFAIRS REFORM AND  
RESTRUCTURING ACT OF 1998**

**SEC. 1001.<sup>1</sup> SHORT TITLE.**

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

\* \* \* \* \*

**TITLE XIII—UNITED STATES INFORMATION AGENCY**

\* \* \* \* \*

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS**

**SEC. 1311.<sup>2</sup> ABOLITION OF UNITED STATES INFORMATION AGENCY.**

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

\* \* \* \* \*

**SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

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

\* \* \* \* \*

<sup>1</sup>22 U.S.C. 6501 note.  
<sup>2</sup>22 U.S.C. 6531.

### CHAPTER 3—INTERNATIONAL BROADCASTING

#### SEC. 1321.<sup>3</sup> CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers”, in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

#### SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:  
\* \* \*<sup>4</sup>

#### SEC. 1323.<sup>5</sup> CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.).

(b)–(1) \* \* \*

#### SEC. 1324.<sup>5</sup> AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT. \* \* \*

#### SEC. 1325.<sup>5</sup> AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT. \* \* \*

#### SEC. 1326.<sup>6</sup> TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.

(a) TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.—

(1) IN GENERAL.—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property,

<sup>3</sup>22 U.S.C. 6541.

<sup>4</sup>The amended sec. 304(a) continues the Broadcasting Board of Governors within the Executive Branch, retains the current Board of Governors, authorizes the State Department’s Inspector General’s authority to extend to include the Broadcasting Board of Governors, and requires the Inspector General to respect the journalistic integrity of all the broadcasters covered by title III of the U.S. International Broadcasting Act of 1994.

<sup>5</sup>Secs. 1323 through 1325 made amendments to the law referred to in the section catchline to reflect the reorganization and consolidation of foreign affairs agencies.

<sup>6</sup>22 U.S.C. 6542.

records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) **ADDITIONAL TRANSFERS.**—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

(b) **TRANSFER OF PERSONNEL.**—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.**—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

**SEC. 1327.<sup>7</sup> SAVINGS PROVISIONS.**

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PENDING PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) **ORDERS, APPEALS, AND PAYMENTS.**—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) **NONABATEMENT OF PROCEEDINGS.**—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) **CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.**—

<sup>7</sup> 22 U.S.C. 6543.

(1) **SUBSTITUTION OF PARTIES.**—If, before the effective date of this title, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) **LIABILITY OF THE BOARD.**—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) **REFERENCES.**—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

**SEC. 1328.<sup>8</sup> REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.**

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. The report under this subsection shall include the following:

(1) Efforts by RFE/RL, Incorporated, to terminate individual language services.

(2) A detailed description of steps taken with regard to section 312(a) of that Act.

(3) An analysis of prospects for privatization over the coming year.

(4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic

<sup>8</sup> 22 U.S.C. 6544.



legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

\* \* \* \* \*

**SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION**

**TITLE XX—GENERAL PROVISIONS**

**SEC. 2001.<sup>9</sup> SHORT TITLE.**

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

\* \* \* \* \*

**TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS**

**CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

\* \* \* \* \*

(4) **INTERNATIONAL BROADCASTING ACTIVITIES.—**

(A) **AUTHORIZATION OF APPROPRIATIONS.—**For “International Broadcasting Activities”, \$340,315,000 for the fiscal year 1998, and \$340,365,000 for the fiscal year 1999.

(B) **ALLOCATION.—**Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) **RADIO CONSTRUCTION.—**For “Radio Construction”, \$40,000,000 for the fiscal year 1998, and \$13,245,000 for the fiscal year 1999.

(6) **RADIO FREE ASIA.—**For “Radio Free Asia”, \$24,100,000 for the fiscal year 1998 and \$22,000,000 for the fiscal year 1999, and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

<sup>9</sup> 22 U.S.C. 2651 note.

(7) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$22,095,000 for the fiscal year 1998 and \$22,095,000 for the fiscal year 1999.

\* \* \* \* \*

**CHAPTER 2—AUTHORITIES AND ACTIVITIES**

\* \* \* \* \*

**SEC. 2416. SURROGATE BROADCASTING STUDY.**

Not later than 6 months after the date of enactment of this Act, the Broadcasting Board of Governors, acting through the International Broadcasting Bureau, should conduct and complete a study of the appropriateness, feasibility, and projected costs of providing surrogate broadcasting service to Africa and transmit the results of the study to the appropriate congressional committees.

**SEC. 2417. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.**

(a) RADIO FREE IRAN.—Not more than \$2,000,000 of the funds made available under section 2401(a)(4) of this division for each of the fiscal years 1998 and 1999 for grants to RFE/RL, Incorporated, shall be available only for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iranian people in the Farsi language, such broadcasts to be designated as “Radio Free Iran”.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing the costs, implementation, and plans for creation of the surrogate broadcasting service described in subsection (a).

(c) AVAILABILITY OF FUNDS.—None of the funds made available under subsection (a) may be made available until submission of the report required under subsection (b).

\* \* \* \* \*

**SEC. 2420.<sup>10</sup> VOICE OF AMERICA BROADCASTS.**

(a) IN GENERAL.—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

- (1) information on the products, tourism, and cultural and educational facilities of each State;
- (2) information on the potential for trade with each State; and
- (3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Congress detailing the actions that have been taken to carry out subsection (a).

(c) STATE DEFINED.—In this section, the term “State” means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

\* \* \* \* \*

<sup>10</sup>22 U.S.C. 6202 note.

**TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS**

\* \* \* \* \*

**SEC. 2812. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ.**

(a) ASSISTANCE FOR JUSTICE IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$3,000,000 for assistance to an international commission to establish an international record for the criminal culpability of Saddam Hussein and other Iraqi officials and for an international criminal tribunal established for the purpose of indicting, prosecuting, and punishing Saddam Hussein and other Iraqi officials responsible for crimes against humanity, genocide, and other violations of international law.

(b) ASSISTANCE TO THE DEMOCRATIC OPPOSITION IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$15,000,000 to provide support for democratic opposition forces in Iraq, of which—

(1) not more than \$10,000,000 shall be for assistance to the democratic opposition, including leadership organization, training political cadre, maintaining offices, disseminating information, and developing and implementing agreements among opposition elements; and

(2) not more than \$5,000,000 of the funds made available under this subsection shall be available only for grants to RFE/RL, Incorporated, for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iraqi people in the Arabic language, such broadcasts to be designated as “Radio Free Iraq”.

(c) ASSISTANCE FOR HUMANITARIAN RELIEF AND RECONSTRUCTION.—There are authorized to be appropriated for fiscal year 1998 \$20,000,000 for the relief, rehabilitation, and reconstruction of people living in Iraq, and communities located in Iraq, who are not under the control of the Saddam Hussein regime.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section shall be provided in addition to amounts otherwise made available and shall remain available until expended.

(e) NOTIFICATION.—All assistance provided pursuant to this section shall be notified to Congress in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(f) RELATION TO OTHER LAWS.—Funds made available to carry out the provisions of this section may be made available notwithstanding any other provision of law.

(g) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State and the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing—

(1) the costs, implementation, and plans for the establishment of an international war crimes tribunal described in subsection (a);

(2) the establishment of a political assistance program, and the surrogate broadcasting service, as described in subsection (b); and

(3) the humanitarian assistance program described in subsection (c).

\* \* \* \* \*

**e. Bureau of Broadcasting, Board for International  
Broadcasting Authorization, Fiscal Years 1992 and 1993**

Partial text of Public Law 102-138 [Foreign Relations Authorization Act,  
Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28,  
1991

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and the Television Broadcasting to Cuba Act, and have been incorporated into those Acts at the appropriate places.

The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes.

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

\* \* \* \* \*

**TITLE II—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

\* \* \* \* \*

**PART C—BUREAU OF BROADCASTING**

**SEC. 231. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the United States Information Agency for the Bureau of Broadcasting for carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act the following amounts:

(1) SALARIES AND EXPENSES.—For “Salaries and Expenses”, \$196,942,000 for the fiscal year 1992 and \$216,815,000 for the fiscal year 1993.

(2) TELEVISION AND FILM SERVICE.—For “Television and Film Service”, \$33,185,000 for the fiscal year 1992 and \$34,476,000 for the fiscal year 1993.

(3) ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES.—For “Acquisition and Construction of Radio Facilities”, \$98,043,000 for the fiscal year 1992 and \$103,000,000 for the fiscal year 1993.

(4) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$38,988,000 for the fiscal year 1992 and \$34,525,000 for the fiscal year 1993.

**SEC. 232.<sup>1</sup> TELEVISION BROADCASTING TO CUBA ACT. \* \* \***

**SEC. 233. YUGOSLAVIAN PROGRAMMING WITHIN THE VOICE OF AMERICA.**

The Director of the United States Information Agency shall establish distinct Croatian and Serbian programs within the Yugoslavian section of the Voice of America.

**SEC. 234. VOICE OF AMERICA BROADCASTS IN KURDISH.**

(a) FINDINGS.—The Congress finds that—

(1) more than 20 million Kurds have no source of reliable and accurate news and information in their own language;

(2) the Kurdish people have been subject to extreme repression, including the denial of fundamental cultural and human rights, the extensive destruction of villages, and the mass killing of Kurds by the Iraqi regime; and

(3) the Voice of America provides an effective means by which the Kurdish people may be informed of events in the free world and pertaining to their own situation.

(b) BROADCASTS IN KURDISH.—As soon as practicable, but not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency shall establish, through the Voice of America, a service to provide Kurdish language programming to the Kurdish people. Consistent with the mission and practice of the Voice of America, these broadcasts in Kurdish shall include news and information on events that affect the Kurdish people.

(c) AMOUNT OF PROGRAMMING.—As soon as practicable but not later than one year after enactment, the Voice of America Kurdish language programming pursuant to this section shall be broadcast for not less than 1 hour each day.

(d) PLAN FOR A KURDISH LANGUAGE SERVICE.—Not later than 90 days after enactment of this Act, the Director of the United States Information Agency shall submit to the Chairman of the Senate Committee on Foreign Relations and to the Speaker of the House of Representatives a report on progress made toward implementation of this section.

(e) HIRE OF KURDISH LANGUAGE SPEAKERS.—In order to expedite the commencement of Kurdish language broadcasts, the Director of the United States Information Agency is authorized to hire, subject to the availability of appropriations, Kurdish language speakers on a contract not to exceed one year without regard to competitive and other procedures that might delay such hiring.

(f) SURROGATE HOME SERVICE.—Not later than 1 year after the date of enactment of this Act, the Chairman of the Board for International Broadcasting shall submit to the Chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives a plan, together with a detailed budget, for the establishment of a surrogate home service under the auspices of Radio Free Europe/Radio Liberty for the Kurdish people. Such sur-

<sup>1</sup>Sec. 232 amended sec. 247 of the Television Broadcasting to Cuba Act.

rogate home service for the Kurdish people shall broadcast not less than 2 hours a day.

**SEC. 235. REPORTS ON THE FUTURE OF INTERNATIONAL BROADCASTING.**

(a) **REPORT ON INTERNATIONAL BROADCASTING.**—Not later than 15 days after the date of the enactment of this Act, the President shall submit to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs<sup>2</sup> of the House of Representatives the report of the Policy Coordinating Committee on International Broadcasting.

(b) **REPORT ON UNITED STATES GOVERNMENT BROADCASTING.**—The President's Task Force on United States Government International Broadcasting shall submit to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs<sup>2</sup> of the House of Representatives a complete text of its report to the President on United States Government Broadcasting.

**PART D—BOARD FOR INTERNATIONAL BROADCASTING**

**SEC. 241.<sup>3</sup> AUTHORIZATION OF APPROPRIATIONS. \* \* \***

**SEC. 242.<sup>3</sup> BOARD FOR INTERNATIONAL BROADCASTING ACT. \* \* \***

**SEC. 243. BROADCASTING TO CHINA.**

(a) **COMMISSION ON BROADCASTING TO THE PEOPLE'S REPUBLIC OF CHINA.**—

(1) **ESTABLISHMENT.**—There is established a Commission on Broadcasting to the People's Republic of China (hereafter in this title referred to as the "Commission") which shall be an independent commission in the executive branch.

(2) **MEMBERSHIP.**—The Commission shall be composed of 11 members from among citizens of the United States who shall, within 45 days of the enactment of this Act, be appointed in the following manner:

(A) The President shall appoint 3 members of the Commission.

(B) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(C) The Majority Leader of the Senate shall appoint 2 members of the Commission.

(D) The Minority Leader of the House of Representatives shall appoint 2 members of the Commission.

(E) The Minority Leader of the Senate shall appoint 2 members of the Commission.

(3) **CHAIRPERSON.**—The President, in consultation with the congressional leaders referred to in subsection (b), shall designate 1 of the members to be the Chairperson.

(4) **QUORUM.**—A quorum, consisting of at least half of the members who have been appointed, shall be required for the transaction of business.

<sup>2</sup>Sec. 1(a)(5) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

<sup>3</sup>Secs. 241 and 242 amended sec. 8 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877).

(5) VACANCIES.—Any vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

(b) FUNCTIONS.—

(1) PURPOSE.—The Commission shall examine the feasibility, effect, and implications for United States foreign policy of instituting a radio broadcasting service to the People's Republic of China, as well as to other communist countries in Asia, to promote the dissemination of information and ideas, with particular emphasis on developments within each of those nations.

(2) SPECIFIC ISSUES TO BE EXAMINED.—The Commission shall examine all issues related to instituting such a service, including—

(A) program content;

(B) staffing and legal structure;

(C) transmitter and headquarters requirements;

(D) costs;

(E) expected effect on developments within China and on Sino-American relations; and

(F) expected effect on developments within other communist countries in Asia and on their relations with the United States.

(3) METHODOLOGY.—The Commission shall conduct such studies, inquire, hearings, and meetings as it considers necessary.

(4) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President of the Senate a report describing its activities in carrying out the purpose of paragraph (1) and including recommendations regarding the issues of paragraph (2).

(c) ADMINISTRATION.—

(1) COMPENSATION AND TRAVEL EXPENSES.—

(A) GENERAL PROVISION.—

(i) Except as provided in subparagraph (B), members shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(ii) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(B) LIMITATION.—Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(2) SUPPORT FROM EXECUTIVE AND LEGISLATIVE BRANCHES.—

(A) EXECUTIVE AGENCIES.—Executive agencies shall, to the extent the President considers appropriate and as per-



mitted by law, provide the Commission with appropriate information, advice, and assistance.

(B) CONGRESSIONAL COMMITTEES.—As may be considered appropriate by the chairpersons, committees of Congress may provide appropriate information, advice, and assistance to the Commission.

(3) EXPENSES.—Expenses of the Commission shall be paid from funds available to the Department of State.

(d) TERMINATION.—The Commission shall terminate upon submission of the report under subsection (b).

**SEC. 244. POLICY ON RADIO FREE EUROPE.**

It is the sense of the Congress that Radio Free Europe should continue to broadcast to nations throughout Eastern Europe and should maintain its broadcasts to any nation until—

(1) new sources of timely and accurate domestic and international information have supplanted and rendered redundant the broadcasts of Radio Free Europe to that nation; and

(2) that nation has clearly demonstrated the successful establishment and consolidation of democratic rule.

\* \* \* \* \*

**f. Board for International Broadcasting Authorization,  
Fiscal Years 1990 and 1991**

Partial text of Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15 at 63, approved February 16, 1990; as amended by Public Law 101-302 [Dire Emergency Supplemental Appropriations; H.R. 4404], 104 Stat. 213, approved May 25, 1990; Public Law 102-511 [FREEDOM Support Act; S. 2532], 106 Stat. 3320, approved October 24, 1992; and Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and the State Department Basic Authorities Act of 1956, and have been incorporated into those Acts at the appropriate places.

The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

\* \* \* \* \*

**TITLE III—BOARD FOR INTERNATIONAL BROADCASTING**

**SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.**

(a)<sup>1</sup> \* \* \*

(b) **RADIO TRANSMITTER CONSTRUCTION AND MODERNIZATION.**—There are authorized to be appropriated to the Board for International Broadcasting for radio transmitter construction and modernization \$15,845,000 for the fiscal year 1990 and \$12,000,000 for the fiscal year 1991. Amounts appropriated under this subsection are authorized to remain available until expended.

(c)<sup>2</sup> \* \* \* [Repealed—1994]

<sup>1</sup>Sec. 301(a) amended sec. 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to authorize \$180,330,000 for fiscal year 1990 and \$187,543,000 for fiscal year 1991 for the Board for International Broadcasting.

<sup>2</sup>Sec. 315(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 445), repealed sec. (c), which had authorized appropriations for construction of a broadcasting relay station in Israel.

Chapter II of the Supplemental Appropriations Act of 1993 (Public Law 103-50; 107 Stat. 247) rescinded \$180,000,000 from obligated and unobligated balances available for such a project. Title III, Chapter 2 of Public Law 103-211 (108 Stat. 26) rescinded \$1,700,000.

**Sec. 302**                      **Broadcasting Auth., FYs 90-91 (P.L. 101-246)**                      **1721**

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**SEC. 302.<sup>3</sup> REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.**  
\* \* \* [Repealed—1990]

\*                      \*                      \*                      \*                      \*                      \*

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<sup>3</sup>Sec. 320(a)(2) of Public Law 101-302 (104 Stat. 247) repealed sec. 302.

**g. Board for International Broadcasting Authorization,  
Fiscal Years 1988 and 1989**

**Partial text of Public Law 100-204 [Foreign Relations Authorization Act,  
Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December  
22, 1987**

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.  
The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

\* \* \* \* \*

**TITLE V—THE BOARD FOR INTERNATIONAL  
BROADCASTING**

**SEC. 501. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.**

(a)<sup>1</sup> \* \* \*

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, \$12,000,000 for the fiscal year 1988 and \$12,000,000 for the fiscal year 1989 shall be available only for radio transmitter construction and modernization.

\* \* \* \* \*

**SEC. 503.<sup>2</sup> CERTIFICATION OF CERTAIN CREDITABLE SERVICE.** \* \* \*

\* \* \* \* \*

<sup>1</sup> Sec. 501(a) amended sec. 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 to authorize \$186,000,000 for fiscal year 1988 and \$207,424,000 for fiscal year 1989 for the Board for International Broadcasting.

<sup>2</sup> Sec. 503 transferred authority for making certification to OPM regarding service creditable toward annuity to the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe. Prior to this amendment, the Director of the Board for International Broadcasting was responsible for such certification.

**h. Board for International Broadcasting Authorization,  
Fiscal Years 1986 and 1987**

**Partial text of Public Law 99-93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 434, approved August 16, 1985**

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.  
The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

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

\* \* \* \* \*

**TITLE III—BOARD FOR INTERNATIONAL BROADCASTING**

\* \* \* \* \*

**SEC. 304. MANAGEMENT OF RFE/RL, INCORPORATED.**

(a) FINDINGS.—The Congress finds that—

(1) RFE/RL, Incorporated, is essential to the continued and effective furtherance of the open flow of information and ideas throughout Eastern Europe and the Soviet Union;

(2) effective communication of information and ideas can only be accomplished if the long-term credibility of RFE/RL, Incorporated, operating in accordance with the highest standards of professionalism, is maintained;

(3) the performance of RFE/RL, Incorporated, is dependent on proper management, an objective approach to news, quality programming, and effective oversight;

(4) the Board for International Broadcasting, in addition to making grants, is responsible for overseeing broadcast quality and effectiveness and for overseeing effective utilization of Federal funds;

(5) RFE/RL, Incorporated, is responsible for its own management and for daily broadcasts into Eastern Europe and the Soviet Union;

(6) the Board for International Broadcasting and RFE/RL, Incorporated, must remain very distinct and different institutions if they adhere to the Joint Explanatory Statement of the Committee on Conference relating to the Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983;

(7) the President of RFE/RL, Incorporated, who is responsible for the proper management and supervision of the daily operations of the radios, should devote the necessary resources and personnel to strengthen both the oversight and the quality of programming;

(8) the Board for International Broadcasting, in an effort to preserve or enhance its ability to properly oversee the operations of RFE/RL, Incorporated, must avoid even the appearance of involvement in daily operational decisions and management of RFE/RL, Incorporated; and

(9) the absence of satisfactory pre-broadcast review and the lack of sufficient records of actions taken to explain or remedy program problems identified through post-broadcast review, may endanger the long-term credibility of RFE/RL, Incorporated.

(b) ACTIONS TO BE TAKEN BY RFE/RL.—It is the sense of the Congress that RFE/RL, Incorporated, should—

(1) strengthen existing broadcast control procedures and post-broadcast program analysis; and

(2) improve its personnel management system to include such things as better documentation of internal decision-making and communication, personnel review, and job description.

(c) ACTIONS TO BE TAKEN BY BIB.—It is the sense of the Congress that the Board for International Broadcasting should—

(1) periodically review and update the Program Policy Guidelines of RFE/RL, Incorporated, with the goal of maintaining their clarity and responsiveness; and

(2) ensure that the distinctions between the Board for International Broadcasting and RFE/RL, Incorporated, remain clear and that these two entities continue to operate within the framework established by law.

\* \* \* \* \*

#### SEC. 305. ROLE OF THE SECRETARY OF STATE

(a) \* \* \*

(b)<sup>1</sup> LIAISON WITH RFE/RL, INCORPORATED; REPRESENTATION AT BOARD MEETINGS.—The Secretary of State shall—

(1) establish an office within the United States Consulate in Munich, Federal Republic of Germany, which shall be responsible for the daily liaison operations of the Department of State with RFE/RL, Incorporated; and

(2) be represented by an observer at each meeting of the Board for International Broadcasting and of the Board of Directors of RFE/RL, Incorporated.

<sup>1</sup> 22 USC 2875 note.

**SEC. 306. TASK FORCE WITH RESPECT TO BROADCASTS TO SOVIET JEWRY.**

(a) **ESTABLISH TASK FORCE.**—There shall be established by the Board for International Broadcasting a task force to conduct a study of the advisability and feasibility of increasing broadcasts to the Jewish population within the Soviet Union.

(b) **STUDY.**—The Task Force shall—

(1) investigate the needs of Jewish audiences in the Soviet Union;

(2) study the practicality and desirability of establishing a special program, in accordance with the Program Policy Guidelines of RFE/RL, Inc., of Russian language broadcasting to the Jewish population of the Soviet Union;

(3) study the advisability of incorporating such a special program in a special unit of its Radio Liberty division entitled the “Radio Maccabee Program of Radio Liberty”;

(4) make recommendations with respect to the desirable content of broadcast programming; and

(5) identify the needs and concerns of the activist as well as the refusenik population in the Soviet Union.

(c) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Board for International Broadcasting shall submit a report to the Congress. Such report shall include the following:

(1) Whether expansion of original programming scheduled (“Jewish Cultural and Social Life”) or planned (“Judaism”) is fulfilling the needs of the audience, and whether expanded Soviet-Jewish programming should include broadcasts on Jewish history, culture, religion, or other matters of general cultural, intellectual, political, and religious interest to the Soviet Jewish population, as well as Hebrew education courses.

(2) The extent to which such programming is broadcast in Russian, Hebrew, and Yiddish.

(3) Recommendations for implementing expanded programming within the structure of RFE/RL, Inc., including specific personnel required and providing for a Soviet Jewry administrative unit within Radio Liberty.

(4) The findings of, and the recommendations from, the study required under subsection (b).

(d) **MACCABEE PROGRAMMING.**—RFE/RL, Incorporated, shall strengthen existing programming dealing with issues of concern to Jewish audiences in the Soviet Union, to be known as Maccabee programming.

(e) **EXISTING PERSONNEL TO CONDUCT STUDY AND MAKE REPORT.**—The study and the report required by this section shall be carried out by existing personnel of RFE, Inc., or the Board of International Broadcasting.

**i. Board for International Broadcasting Authorization Act,  
Fiscal Years 1984 and 1985**

Partial text of Public Law 98-164 [H.R. 2915], 97 Stat. 1017, at 1036, approved November 22, 1983; as amended by Public Law 103-199 [FRIENDSHIP Act, H.R. 3000], 107 Stat. 2317, approved December 17, 1993

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.  
The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the United States Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes.

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

\* \* \* \* \*

**TITLE III—BOARD FOR INTERNATIONAL BROADCASTING**

**SHORT TITLE**

SEC. 301. This title may be cited as the “Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985”.

\* \* \* \* \*

**SALARY OF THE RFE/RL PRESIDENT**

SEC. 305. (a)<sup>1</sup> \* \* \*

(b) The amendment made by this section applies with respect to funds used for the salary of any President of RFE/RL, Incorporated, who is appointed after the date of enactment of this Act.

**POLICY ON BROADCASTS OF RFE/RL AND THE VOICE OF AMERICA  
CONCERNING SOVIET RELIGIOUS PERSECUTION**

SEC. 306. It is the sense of the Congress that RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty) and the Voice of America (VOA) are to be commended for

<sup>1</sup>Sec. 305(a) added a new sec. 13 to the Board for International Broadcasting Act of 1973 regarding the salary of the RFE/RL President.



their news and editorial coverage of the increasing religious persecution in the Soviet Union, including the declining levels of Jewish emigration, and are encouraged to intensify their efforts in this regard.

SEC. 307.<sup>2</sup> \* \* \* [Repealed—1993]

POLICY ON THE JAMMING BY THE SOVIET UNION OF BROADCASTS OF  
THE VOICE OF AMERICA AND RFE/RL

SEC. 308.<sup>3</sup> It is the sense of the Congress that the President should urge the government of any country engaging in such activities to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated.

\* \* \* \* \*

<sup>2</sup>Sec. 304 of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) repealed sec. 307, relating to establishment of a Baltic Division under RFE/RL, Incorporated.

<sup>3</sup>Sec. 304(b) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2323) substantially amended and restated sec. 308. It formerly read as follows:

“POLICY ON THE JAMMING BY THE SOVIET UNION OF BROADCASTS OF THE VOICE OF AMERICA AND  
RFE/RL

“SEC. 308. (a) The Congress finds that—

“(1) the permanent unrestrained flow of accurate information would greatly facilitate mutual understanding and world peace;

“(2) the Soviet Union and its allies are at present electronically jamming the broadcasts of the Voice of America and RFE/RL, Incorporated (commonly known as Radio Free Europe and Radio Liberty); and

“(3) electronic jamming of international broadcasts violates at least four international agreements: Article 35(1) of the International Telecommunications Union Convention, Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Cooperation in Europe (commonly known as the Helsinki Accords).

“(b) it is the sense of the Congress that the President should urge the Government of the Soviet Union to terminate its jamming of the broadcasts of the Voice of America and RFE/RL, Incorporated.”

**j. Board for International Broadcasting Authorization Act,  
Fiscal Years 1982 and 1983**

**Partial text of Public Law 97-241 [S. 1193], 96 Stat. 273, at 295, approved  
August 24, 1982**

NOTE.—Sections of this Act amend the Board for International Broadcasting Act of 1973 and have been incorporated into that Act at the appropriate places.  
The Board for International Broadcasting Act of 1973 was repealed effective 1995.

AN ACT To authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency, the Board for International Broadcasting, and for other purposes.

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

\* \* \* \* \*

**TITLE IV—BOARD FOR INTERNATIONAL BROADCASTING**

**SHORT TITLE**

SEC. 401. This title may be cited as the “Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983”.

\* \* \* \* \*

**RADIO BROADCASTING TO CUBA**

SEC. 404. Any program of the United States Government involving radio broadcast directed principally to Cuba, for which funds are authorized to be appropriated by this Act or any other Act, shall be designated as “Radio Marti”.

\* \* \* \* \*

**k. International Broadcasting Operations Appropriations**

**(1) International Broadcasting Operations Appropriations,  
2006**

Partial text of Public Law 109-108 [Science, State, Justice, Commerce, and  
Related Agencies Appropriations Act, 2006; H.R. 2862], 119 Stat. 2290 at  
2319, approved November 22, 2005

\* \* \* \* \*

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

\* \* \* \* \*

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase, lease, and installation of necessary equipment for radio and television and reception to Cuba, and to make and supervise grants for radio and television broadcasting to the Middle East, \$641,450,000: *Provided*, That of the total amount in this heading, not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

BROADCASTING CAPITAL IMPROVEMENTS

For the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$10,893,000, to remain available until expended, as authorized.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED  
AGENCY

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this title may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Broadcasting Board of Governors in this title may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. None of the funds made available in this title may be used by the Department of State or the Broadcasting Board of Governors to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

\* \* \* \* \*

SEC. 407. Funds appropriated under this title for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 408. (a) Funds provided in this title for the following accounts shall be made available for programs in the amounts contained in the respective tables included in the report accompanying this Act:<sup>1</sup>

“Educational and Cultural Exchange Programs”.

“National Endowment for Democracy”.

“International Broadcasting Operations”.

“Broadcasting Capital Improvements”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the accompanying report shall be subject to the regular notification procedures in section 605 of this Act.

\* \* \* \* \*

This title may be cited as the “Department of State and Related Agency Appropriations Act, 20016”.

<sup>1</sup>See House Conference Report 109-272, November 7, 2005: Educational and Cultural Exchange Programs, p. 188; National Endowment for Democracy, p. 194; International Broadcasting Operations, p. 195; and Broadcasting Capital Improvements, p. 197.

**(2) International Broadcasting Operations, Emergency Supplemental Appropriations, 2005**

**Partial text of Public Law 109–13 [Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Tsunami Relief, 2005; H.R. 1268], 119 Stat. 231 at 262, approved May 11, 2005**

AN ACT Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005”.

\* \* \* \* \*

**DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005**

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

\* \* \* \* \*

**TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR**

\* \* \* \* \*

**CHAPTER 2**

**DEPARTMENT OF STATE AND RELATED AGENCY**

\* \* \* \* \*

**RELATED AGENCY**

**BROADCASTING BOARD OF GOVERNORS**

**INTERNATIONAL BROADCASTING OPERATIONS**

For an additional amount for “International Broadcasting Operations” for activities related to broadcasting to the broader Middle East, \$4,800,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

## BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for “Broadcasting Capital Improvements”, \$2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

\* \* \* \* \*

## 18. Radio Free Afghanistan Act

Public Law 107-148 [H.R. 2998], 116 Stat. 64, approved March 11, 2002

AN ACT To authorize the establishment of Radio Free Afghanistan.

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

### SECTION 1.<sup>1</sup> SHORT TITLE.

This Act may be cited as the “Radio Free Afghanistan Act”.

### SEC. 2.<sup>2</sup> ESTABLISHMENT OF RADIO FREE AFGHANISTAN.

(a) REQUIREMENT OF A DETAILED PLAN.—Not later than 15 days after the date of enactment of this Act, RFE/RL, Incorporated, shall submit to the Broadcasting Board of Governors a report setting forth a detailed plan for the provision by RFE/RL, Incorporated, of surrogate broadcasting services in the Dari and Pashto languages to Afghanistan. Such broadcasting services shall be known as “Radio Free Afghanistan”.

(b) GRANT AUTHORITY.—

(1) IN GENERAL.—Effective 15 days after the date of enactment of this Act, or the date on which the report required in subsection (a) is submitted, whichever is later, the Broadcasting Board of Governors is authorized to make grants to support Radio Free Afghanistan.

(2) SUPERSEDES EXISTING LIMITATION ON TOTAL ANNUAL GRANT AMOUNTS.—Grants made to RFE/RL, Incorporated, during the fiscal year 2002 for support of Radio free Afghanistan may be made without regard to section 308(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(c)).

(c) AVAILABLE AUTHORITIES.—In addition to the authorities in this Act, the authorities applicable to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Foreign Affairs Reform and Restructuring Act of 1998, and other provisions of law consistent with such purpose may be used to carry out the grant authority of subsection (b).

(d) STANDARDS; OVERSIGHT.—Radio Free Afghanistan shall adhere to the same standards of professionalism and accountability, and shall be subject to the same oversight mechanisms, as other services of RFE/RL, Incorporated.

### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to such amounts as are otherwise available for such purposes, the following amounts are authorized

<sup>1</sup>22 U.S.C. 6201 note.

<sup>2</sup>22 U.S.C. 6215.

to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Foreign Affairs Reform and Restructuring Act of 1998, and this Act, and to carry out other authorities in law consistent with such purposes:

(1) For “International Broadcasting Operations”, \$8,000,000 for the fiscal year 2002.

(2) For “Broadcasting Capital Improvements”, \$9,000,000 for the fiscal year 2002.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

**SEC. 4. REPEAL OF BAN ON UNITED STATES TRANSMITTER IN KUWAIT.**

Section 226 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), is repealed.



## 19. Radio Free Asia Act of 1998<sup>1</sup>

**Partial text of Public Law 105-261 [National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998**

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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

\* \* \* \* \*

### TITLE XXXIX—RADIO FREE ASIA

#### SEC. 3901. SHORT TITLE.

This title may be cited as the “Radio Free Asia Act of 1998”.

#### SEC. 3902. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

##### (a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Radio Free Asia” \$22,000,000 for fiscal year 1999.

(2) SENSE OF CONGRESS.—It is the sense of Congress that a significant amount of the funds under paragraph (1) should be directed toward broadcasting to China and Tibet in the appropriate languages and dialects.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA.—In addition to such sums as are otherwise authorized to be appropriated to the United States Information Agency for “International Broadcasting Activities” for fiscal year 1999, there are authorized to be appropriated for “International Broadcasting Activities” \$3,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—In addition to such sums as are otherwise authorized to be appropriated for “Radio Construction” for fiscal year 1999, there are authorized to be appropriated for “Radio Construction” \$2,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China, including the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

<sup>1</sup> For the establishment of Radio Free Asia, see sec. 309 of Public Law 103-236. For the establishment of the Commission on Broadcasting to the People’s Republic of China, see sec. 243 of Public Law 102-138.

**SEC. 3903. REPORTING REQUIREMENT.**

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall prepare and submit to the appropriate congressional committees an assessment of the board's efforts to increase broadcasting by Radio Free Asia and Voice of America to China and Tibet. This report shall include an analysis of Chinese government control of the media, the ability of independent journalists and news organizations to operate in China, and the results of any research conducted to quantify listenership.

(b) **DEFINITION.**—As used in this section, the term “appropriate congressional committees” means—

- (1) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and
- (2) the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

## 20. Broadcasting to Cuba <sup>1</sup>

### a. Television Broadcasting to Cuba Act

Partial text of Public Law 101-246 [H.R. 3793], 104 Stat. 15 at 58, approved February 16, 1990; as amended by Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; and Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114; 110 Stat. 798 and 809), as amended, provides the following:

“SEC. 107 [22 U.S.C. 6037]. TELEVISION BROADCASTING TO CUBA.

“(a) CONVERSION TO UHF.—The Director of the International Broadcasting Bureau shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

“(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the International Broadcasting Bureau shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

“(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.”.

\* \* \* \* \*

“SEC. 203 [22 U.S.C. 6063]. COORDINATION OF ASSISTANCE PROGRAM: IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING. \* \* \*

“(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—\* \* \*

<sup>1</sup>See also Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983.

“(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 202(b).”

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

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

\* \* \* \* \*

#### PART D—TELEVISION BROADCASTING TO CUBA

##### SEC. 241.<sup>2</sup> SHORT TITLE.

This part may be cited as the “Television Broadcasting to Cuba Act”.

##### SEC. 242.<sup>3</sup> FINDINGS AND PURPOSES.

The Congress finds and declares that—

(1) it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of the Universal Declaration of Human Rights;

(2) consonant with this policy, television broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba and, in particular, information about Cuba;

(3) television broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest;

(4) facilities broadcasting television programming to Cuba must be operated in a manner consistent with applicable regulations of the Federal Communications Commission, and must not affect the quality of domestic broadcast transmission or reception; and

(5) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions, but that there is a need for television broadcasts to Cuba which provide news, commentary, and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

<sup>2</sup> 22 U.S.C. 1465aa note.

<sup>3</sup> 22 U.S.C. 1465aa.

**SEC. 243.<sup>4</sup> TELEVISION BROADCASTING TO CUBA.**

(a) **TELEVISION BROADCASTING TO CUBA.**—In order to carry out the purposes set forth in section 242 and notwithstanding the limitation of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) with respect to the dissemination in the United States of information prepared for dissemination abroad to the extent such dissemination is inadvertent, the Broadcasting Board of Governors<sup>5</sup> (hereafter in this part referred to as the “Agency”) shall provide for the open communication of information and ideas through the use of television broadcasting to Cuba. Television broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) **VOICE OF AMERICA STANDARDS.**—Television broadcasting to Cuba under this part shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c)<sup>6</sup> **TELEVISION MARTI.**—Any program of United States Government television broadcasts to Cuba authorized by this section shall be designated the “Television Marti Program”.

(d) **FREQUENCY ASSIGNMENT.**—

(1) Subject to the Communications Act of 1934, the Federal Communications Commission shall assign by order a suitable frequency to further the national interests expressed in this part, except that no such assignment shall result in objectionable interference with the broadcasts of any domestic licensee.

(2) No Federal branch or agency shall compel an incumbent domestic licensee to change its frequency in order to eliminate objectionable interference caused by broadcasting of the Service.

(3) For purposes of section 305 of the Communications Act of 1934, a television broadcast station established for purposes of this part shall be treated as a government station, but the Federal Communications Commission shall exercise the authority of the President under such section to assign a frequency to such station.

(e) **INTERFERENCE WITH DOMESTIC BROADCASTING.**—

(1) Broadcasting by the Television Marti Service shall be conducted in accordance with such parameters as shall be prescribed by the Federal Communications Commission to preclude objectionable interference with the broadcasts of any domestic licensee. The Television Marti Service shall be governed by the same standards regarding objectionable interference as any domestic licensee. The Federal Communications Commission shall monitor the operations of television broadcasting to Cuba pursuant to subsection (f). If, on the basis of such monitoring or a complaint from any person, the Federal Commu-

<sup>4</sup> 22 U.S.C. 1465bb.

<sup>5</sup> Sec. 1325(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

<sup>6</sup> Sec. 1325(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “USIA” in the subsec. catchline, and, in the body of the subsec., struck out “USIA Television” and inserted in lieu thereof “the Television”.

nications Commission determines, in its discretion, that broadcasting by the Television Marti Service is causing objectionable interference with the transmission or reception of the broadcasts of a domestic licensee, the Federal Communications Commission shall direct the Television Marti Service to cease broadcasting and to eliminate the objectionable interference. Broadcasts by the Service shall not be resumed until the Federal Communications Commission finds that the objectionable interference has been eliminated and should not recur.

(2) The Federal Communications Commission shall take such actions as are necessary and appropriate to assist domestic licensees in overcoming the adverse effects of objectionable interference caused by broadcasting by the Television Marti Service. Such assistance may include the authorization of non-directional increases in the effective radiated power of a domestic television station so that its coverage is equivalent to the maximum allowable for such facilities, to avoid any adverse effect on such stations of the broadcasts of the Television Marti Service.

(3) If the Federal Communications Commission directs the Television Marti Service to cease broadcasting pursuant to paragraph (1), the Commission shall, as soon as practicable, notify the appropriate committees of Congress of such action and the reasons therefor. The Federal Communications Commission shall continue to notify the appropriate committees of Congress of progress in eliminating the objectionable interference and shall assure that Congress is fully informed about the operation of the Television Marti Service.

(f) **MONITORING OF INTERFERENCE.**—The Federal Communications Commission shall continually monitor and periodically report to the appropriate committees of the Congress interference to domestic broadcast licensees—

(1) from the operation of Cuban television and radio stations; and

(2) from the operations of the television broadcasting to Cuba.

(g) **TASK FORCE.**—It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban television and radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

**SEC. 244.<sup>7</sup> TELEVISION MARTI SERVICE.**

(a) **TELEVISION MARTI SERVICE.**—There is<sup>8</sup> within the Voice of America a Television Marti Service. The Service shall be responsible for all television broadcasts to Cuba authorized by this part. The Broadcasting Board of Governors<sup>9</sup> shall appoint a head of the

<sup>7</sup>22 U.S.C. 1465cc. Sec. 1325(4)(A) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “OF THE UNITED STATES INFORMATION AGENCY” from the section catchline.

<sup>8</sup>Sec. 1325(4)(B)(i) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Director of the United States Information Agency shall establish” and inserted in lieu thereof “There is”.

<sup>9</sup>Sec. 1325(4)(B)(ii)(I) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Director of the United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”. The

Service who shall report directly to the International Broadcasting Bureau.<sup>10</sup> The head of the Service shall employ such staff as the head of the Service may need to carry out the duties of the Service.

(b) **USE OF EXISTING FACILITIES OF THE USIA.**—To assure consistency of presentation and efficiency of operations in conducting the activities authorized under this part, the Television Marti Service shall make maximum feasible utilization of Board facilities<sup>11</sup> and management support, including Voice of America: Cuba Service, Voice of America, and the United States International<sup>12</sup> Television Service.

(c)<sup>13</sup> **AUTHORITY.**—The Board<sup>14</sup> may carry out the purposes of this part by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Board<sup>14</sup> determines will be most effective.

**SEC. 245. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.**

(a)<sup>15</sup> \* \* \*

(b)<sup>16</sup> **REFERENCES.**—A reference in any provision of law to the “Advisory Board for Radio Broadcasting to Cuba” shall be considered to be a reference to the “Advisory Board for Cuba Broadcasting”.

(c)<sup>16</sup> **CONTINUED SERVICE OF MEMBERS OF BOARD.**—Each member of the Advisory Board for Radio Broadcasting to Cuba as in existence on the day before the effective date of the amendment made by subsection (a) shall continue to serve for the remainder of the term to which such member was appointed as a member of the Advisory Board for Cuba Broadcasting.

(d)<sup>16</sup> **STAFF DIRECTOR.**—The Advisory Board<sup>17</sup> shall have a staff director who shall be appointed by the Chairperson of the Advisory Board for Cuba Broadcasting.

**SEC. 246.<sup>18</sup> ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.**

In order to assist the Broadcasting Board of Governors<sup>19</sup> in carrying out the provisions of this part, any agency or instrumentality of the United States may sell, loan, lease, or grant property (includ-

amendment was to be applied to the second sentence in subsec. (a); it is interpreted to be applicable to the third sentence.

<sup>10</sup>Sec. 1325(4)(B)(ii)(II) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “the Director of the Voice of America” and inserted in lieu thereof “the International Broadcasting Bureau”.

<sup>11</sup>Sec. 1325(4)(C)(i) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency facilities” and inserted in lieu thereof “Board facilities”.

<sup>12</sup>Sec. 1325(4)(C)(ii) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Information Agency” and inserted in lieu thereof “International”.

<sup>13</sup>Sec. 1325(4)(D) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “USIA” in the subsection heading.

<sup>14</sup>Sec. 1325(3) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency” and inserted in lieu thereof “Board”.

<sup>15</sup>Sec. 245(a) amended sec. 5 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465c).

<sup>16</sup>22 U.S.C. 1465c note.

<sup>17</sup>Sec. 1325(5) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-782) struck out “Board” and inserted in lieu thereof “Advisory Board”.

<sup>18</sup>22 U.S.C. 1465dd.

<sup>19</sup>Sec. 1325(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

ing interests therein) and may perform administrative and technical support and services at the request of the Board.<sup>20</sup>

**SEC. 247.<sup>21</sup> AUTHORIZATION OF APPROPRIATIONS.**

(a)<sup>22</sup> AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise made available under section 201 for such purposes,<sup>23</sup> there are authorized to be appropriated to the United States Information Agency, \$16,000,000 for the fiscal year 1990 and \$16,000,000 for the fiscal year 1991 for television broadcasting to Cuba in accordance with the provisions of this part.

(b) LIMITATION.—

(1) Subject to paragraph (2), no funds authorized to be appropriated under subsection (a) may be obligated or expended unless the President determines and notifies the appropriate committees of Congress that the test of television broadcasting to Cuba (as authorized by title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459))<sup>24</sup> has dem-

<sup>20</sup>Sec. 1325(3) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

<sup>21</sup>22 U.S.C. 1465ee.

<sup>22</sup>Sec. 121(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1361), provided the following:

"(3) BROADCASTING TO CUBA.—For 'Broadcasting to Cuba', \$25,923,000 for the fiscal year 2003."

Previous years' authorizations include: fiscal year 1992—\$38,988,000; fiscal year 1993—\$34,525,000; fiscal year 1994—\$21,000,000; and fiscal year 1995—\$27,609,000.

The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2325), provided the following:

"BROADCASTING BOARD OF GOVERNORS

"INTERNATIONAL BROADCASTING OPERATIONS

"For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase, lease, and installation of necessary equipment for radio and television transmission and reception to Cuba, and to make and supervise grants for radio and television broadcasting to the Middle East, \$641,450,000: *Provided*, That of the total amount in this heading, not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

"BROADCASTING CAPITAL IMPROVEMENTS

"For the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$10,893,000, to remain available until expended, as authorized."

Recent previous years' appropriations include: fiscal year 1990—\$85,000,000 for radio construction, "of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba". Subsequent years included funding for both radio and television: fiscal year 1991—\$31,069,000; fiscal year 1992—\$36,888,000; fiscal year 1993—\$28,531,000; fiscal year 1994—\$7,000,000; fiscal year 1005—\$24,809,000; fiscal year 1996—\$24,809,000; fiscal year 1997—\$25,000,000; fiscal year 1998—\$22,095,000; fiscal year 1999—\$22,095,000; and fiscal year 2000—\$22,095,000; fiscal year 2001—\$22,095,000; fiscal year 2002—\$24,872,000; fiscal year 2003—\$24,996,000; fiscal year 2004—provided one aggregated budget allotment for all of international broadcasting; and fiscal year 2005—\$27,629,000.

<sup>23</sup>For sec. 201, Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, see page 1208.

<sup>24</sup>Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2220) provided the following:



onstrated television broadcasting to Cuba is feasible and will not cause objectionable interference with the broadcasts of incumbent domestic licensees.<sup>25</sup> The Federal Communications Commission shall furnish to the appropriate committees of Congress all interim and final reports and other appropriate documentation concerning objectionable interference from television broadcasting to Cuba to incumbent domestic licensees.

(2) Not less than 30 days before the President makes the determination under paragraph (1), the President shall submit a report to the appropriate committees of the Congress which includes the findings of the test of television broadcasting to Cuba. The period for the test of television broadcasting may be extended until—

(A) the date of the determination and notification by the President under paragraph (1), or

(B) 30 days,

whichever comes first.

(c)<sup>26</sup> AVAILABILITY OF FUNDS.—Amounts appropriated to carry out the purposes of this part are authorized to be available until expended.

**SEC. 248.<sup>27</sup> DEFINITIONS.**

As used in this part—

(1) the term “licensee” has the meaning provided in section 3(c) of the Communications Act of 1934;

(2) the term “incumbent domestic licensee” means a licensee as provided in section 3(c) of the Communications Act of 1934 that was broadcasting a television signal as of January 1, 1989;

(3) the term “objectionable interference” shall be applied in the same manner as such term is applied under regulations of the Federal Communications Commission to other domestic broadcasters; and

(4) the term “appropriate committees of Congress” includes the Committee on Foreign Affairs and the Committee on En-

“RADIO CONSTRUCTION

“For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, \$65,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That not to exceed \$7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for and startup operations including a test of television broadcasting to Cuba: *Provided further*, That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service’s drug interdiction efforts and the United States Information Agency’s test of television broadcasting to Cuba: *Provided further*, That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further*, That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the Radio Broadcasting to Cuba Act: *Provided further*, That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licenses.”.

<sup>25</sup>The President determined in a memorandum to the Secretary of State that the test of television broadcasting to Cuba as authorized by Public Law 100-459 demonstrated that such broadcasting was feasible and would not cause objectionable interference with the broadcasts of incumbent domestic licenses (Presidential Determination No. 90-35 of August 26, 1990; 55 F.R. 38659).

<sup>26</sup>Sec. 232 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138; 105 Stat. 703), added subsec. (c).

<sup>27</sup>22 U.S.C. 1465ff.

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ergy and Commerce of the House of Representatives<sup>28</sup> and the  
Committee on Foreign Relations of the Senate.

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<sup>28</sup> Sec. 1(a)(4) of Public Law 104-14 (109 Stat. 186) provided that references to the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

## b. Radio Broadcasting to Cuba Act

Public Law 98-111 [S. 602], 97 Stat. 749, approved October 4, 1983; as amended by Public Law 98-411 [Department of State Appropriations, 1985; H.R. 5712], 98 Stat. 1545 at 1574, approved August 30, 1984; Public Law 101-246 [Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; H.R. 3792], 104 Stat. 15, approved February 16, 1990; Public Law 103-236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; and Public Law 105-277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998

NOTE.—The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104-114; 110 Stat. 798 and 809), as amended, provides the following:

“SEC. 107 [22 U.S.C. 6037]. TELEVISION BROADCASTING TO CUBA.

“(a) CONVERSION TO UHF.—The Director of the International Broadcasting Bureau shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

“(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the International Broadcasting Bureau shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

“(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 203(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.”.

\* \* \* \* \*

“SEC. 203 [22 U.S.C. 6063]. COORDINATION OF ASSISTANCE PROGRAM: IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING. \* \* \*

“(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—\* \* \*

“(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 202(b).”

AN ACT To provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the “Radio Broadcasting to Cuba Act”.

#### FINDINGS; PURPOSES

SEC. 2.<sup>1</sup> The Congress finds and declares—

(1) that it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of the Universal Declaration of Human Rights;

(2) that, consonant with this policy, radio broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba, in particular information about Cuba;

(3) that such broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest; and

(4) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions but that there is a need for broadcasts to Cuba which provide news, commentary and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

#### ADDITIONAL FUNCTIONS OF THE BROADCASTING BOARD OF GOVERNORS<sup>2</sup>

SEC. 3.<sup>3</sup> (a) In order to carry out the objectives set forth in section 2, the Broadcasting Board of Governors<sup>2</sup> (hereafter in this Act referred to as the “Board”)<sup>4</sup> shall provide for the open communication of information and ideas through the use of radio broadcasting

<sup>1</sup> 22 U.S.C. 1465.

<sup>2</sup> Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “United States Information Agency” and inserted in lieu thereof “Broadcasting Board of Governors”.

<sup>3</sup> 22 U.S.C. 1465a.

<sup>4</sup> Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Agency” and inserted in lieu thereof “Board”.

to Cuba. Radio broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) Radio broadcasting in accordance with subsection (a) shall be part of the Voice of America radio broadcasting to Cuba and shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c) Radio broadcasting to Cuba authorized by this Act shall utilize the broadcasting facilities located at Marathon, Florida, and the 1180 AM frequency that were used by the Voice of America prior to the date of enactment of this Act. Other frequencies, not on the commercial Amplitude Modulation (AM) Band (535 kHz to 1605 kHz), may also be simultaneously utilized: *Provided*, That no frequency shall be used for radio broadcasts to Cuba in accordance with this Act which is not also used for all other Voice of America broadcasts to Cuba. Time leased from nongovernmental shortwave radio stations may be used to carry all or part of the Service programs and to rebroadcast Service programs: *Provided*, That not less than 30 per centum of the programs broadcast or rebroadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 503(2) of Public Law 80-402.

(d) Notwithstanding subsection (c), in the event that broadcasts to Cuba on the 1180 AM frequency are subject to jamming or interference greater by 25 per centum or more than the average daily jamming or interference in the twelve months preceding September 1, 1983, the Broadcasting Board of Governors<sup>5</sup> may lease time on commercial or noncommercial educational AM band radio broadcasting stations. The Federal Communications Commission shall determine levels of jamming and interference by conducting regular monitoring of the 1180 AM frequency. In the event that more than two hours a day of time is leased, not less than 30 per centum of the programing broadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 503(2) of Public Law 80-402.

(e) Any program of United States Government radio broadcasts to Cuba authorized by this section shall be designated "Voice of America: Cuba Service" or "Voice of America: Radio Marti program".

(f) In the event broadcasting facilities located at Marathon, Florida, are rendered inoperable by natural disaster or by unlawful destruction, the Broadcasting Board of Governors<sup>5</sup> may, for the period in which the facilities are inoperable but not to exceed one hundred and fifty days, use other United States Government-owned transmission facilities for Voice of America broadcasts to Cuba authorized by this Act.

<sup>5</sup>Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors". Sec. 1324(3) of that Act, however, struck out "the Director of the United States Information Agency" and inserted in lieu thereof "the Broadcasting Board of Governors" throughout this Act. This second amendment is not executable because each reference to USIA is amended by the first amendment. It is interpreted, however, that each instance where there is reference to the USIA Director, that the second amendment applies.

CUBA SERVICE OF THE INTERNATIONAL BROADCASTING BUREAU<sup>6</sup>

SEC. 4.<sup>7</sup> The Broadcasting Board of Governors<sup>5</sup> shall establish within the International Broadcasting Bureau<sup>6</sup> a Cuba Service (hereafter in this section referred to as the “Service”). The Service shall be responsible for all radio broadcasts to Cuba authorized by section 3. The Broadcasting Board of Governors<sup>5</sup> shall appoint a head of the Service and shall employ such staff as the head of the Service may need to carry out his duties. The Cuba Service shall be administered separately from other International Broadcasting Bureau<sup>6</sup> functions and the head of the Cuba Service shall report directly to the Board<sup>8</sup> of the International Broadcasting Bureau.<sup>9</sup>

ADVISORY BOARD FOR CUBA BROADCASTING<sup>10</sup>

SEC. 5.<sup>11</sup> (a)<sup>12</sup> There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the “Advisory Board”).<sup>13</sup> The Advisory Board<sup>14</sup> shall consist of nine members, appointed by the President by and with the advice and consent of the Senate, of whom not more than five shall be members of the same political party. The President shall designate one member of the Advisory Board<sup>14</sup> to serve as chairperson.

(b)<sup>12</sup> The Advisory Board<sup>14</sup> shall review the effectiveness of the activities carried out under this Act and the Television Broadcasting to Cuba Act shall make such recommendations to the Presi-

<sup>6</sup>Sec. 1324(4) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “the Voice of America” and inserted in lieu thereof “the International Broadcasting Bureau”.

<sup>7</sup>22 U.S.C. 1465b.

<sup>8</sup>Sec. 1324(6) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Director” and inserted in lieu thereof “Board”.

<sup>9</sup>Sec. 1324(4) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “the Voice of America” and inserted in lieu thereof “the International Broadcasting Bureau”. Previously, sec. 305(d)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 436), struck out “and the Associate Director for Broadcasting of the United States Information Agency”, and inserted in lieu thereof “of the Voice of America”.

<sup>10</sup>Sec. 245(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 61), amended this section heading. It formerly read: “BOARD FOR RADIO BROADCASTING TO CUBA”.

Sec. 245(b) of that Act provided that “reference in any provision of law to the ‘Advisory Board for Radio Broadcasting to Cuba’ shall be considered to be a reference to the ‘Advisory Board for Cuba Broadcasting’.”

Sec. 245(c) of that Act provided that any member of the Advisory Board for Radio Broadcasting to Cuba shall serve out the remainder of his/her term of appointment as a member of the Advisory Board for Cuba Broadcasting.

<sup>11</sup>22 U.S.C. 1465c.

<sup>12</sup>Sec. 245(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 61), restated subsecs. (a) and (b).

<sup>13</sup>Sec. 1324(5)(B) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “There is established within the Office of the President the Advisory Board for Cuba Broadcasting (hereafter in this Act referred to as the ‘Advisory Board’).” and inserted in lieu thereof “There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the ‘Advisory Board’).”

<sup>14</sup>Sec. 1324(5)(A) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out “Board” and inserted in lieu thereof “Advisory Board” throughout sec. 5. It is interpreted that this amendment is applicable only where “Board” stands alone and is not in the larger context of “Board of Governors” or “Board” as previously amended by sec. 1324(1), (2), or (3).

dent and the Broadcasting Board of Governors<sup>15</sup> as it may consider necessary.

(c) In appointing the initial voting members of the Advisory Board,<sup>14</sup> the President shall designate three members to serve for a term of three years, three members to serve for a term of two years, and three members to serve for a term of one year. Thereafter, the term of each member of the Advisory Board<sup>14</sup> shall be three years. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his successor has been appointed and qualified.

(d)<sup>16</sup> The head of the Cuba Service and the head of the Television Marti Service shall serve, ex officio, as members of the Advisory Board.<sup>14</sup>

(e) Members of the Advisory Board<sup>14</sup> appointed by the President shall, while attending meetings of the Advisory Board<sup>14</sup> or while engaged in duties relating to such meetings or in other activities of the Advisory Board<sup>14</sup> pursuant to this section, including travel-time, be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The ex officio members<sup>16</sup> of the Advisory Board<sup>14</sup> shall not be entitled to any compensation under this section, but may be allowed travel expenses as provided in the preceding sentence.

(f) The Advisory Board<sup>14</sup> may, to the extent it deems necessary to carry out its functions under this section, procure supplies, services, and other personal property, including specialized electronic equipment.

(g) Notwithstanding any other provision of law, the Board shall remain in effect indefinitely.

(h) There are authorized to be appropriated \$130,000 to carry out the provisions of this section.

#### ASSISTANCE FROM OTHER GOVERNMENT AGENCIES

SEC. 6.<sup>17</sup> (a) In order to assist the Broadcasting Board of Governors<sup>18</sup> in carrying out the purposes set forth in section 2, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the re-

<sup>15</sup> Sec. 305(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 436), struck out "Director and Associate Director for Broadcasting of the United States Information Agency", and inserted in lieu thereof "Broadcasting Board of Governors".

<sup>16</sup> Sec. 245(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 61), restated subsec. (d); and in subsec. (e) struck out "The ex officio member" and inserted in lieu thereof "The ex officio members".

<sup>17</sup> 22 U.S.C. 1465d.

<sup>18</sup> Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

quest of the Board.<sup>19</sup> Support and services shall be provided on a reimbursable basis. Any reimbursement shall be credited to the appropriation from which the property, support, or services was derived.

(b) The Board<sup>19</sup> may carry out the purposes of section 3 by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Board<sup>19</sup> determines will be most effective.

#### FACILITY COMPENSATION

SEC. 7.<sup>20</sup> (a) It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference.

(b) Accordingly, the Board<sup>21</sup> may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment replaced<sup>22</sup> (less depreciation) and associated technical and engineering costs.

(c) The Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate. Such regulations shall be issued no later than one hundred and eighty days after enactment of this Act.

(d) There are authorized to be appropriated to the Board,<sup>21</sup> \$5,000,000 for use in compensating United States radio broadcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

(e) Funds appropriated for implementation of this section shall be available for a period of no more than four years following the initial broadcast occurring as a result of programs described in this Act.

(f) It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

(g) This section shall enter into effect on October 1, 1984.

<sup>19</sup> Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

<sup>20</sup> 22 U.S.C. 1465e.

<sup>21</sup> Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

<sup>22</sup> Sec. 512 of Public Law 98-411 (98 Stat. 1574), moved the parenthetical bracket in subsec. (b) from before "replaced" to before "less".



## AUTHORIZATION OF APPROPRIATIONS

SEC. 8.<sup>23</sup> (a) There are authorized to be appropriated for the Broadcasting Board of Governors<sup>24</sup> \$14,000,000 for fiscal year 1984,<sup>25</sup> and \$11,000,000 for fiscal year 1985 to carry out sections 3 and 4 of this Act. The amount obligated by the Broadcasting Board of Governors<sup>24</sup> in ensuing fiscal years shall be sufficient to maintain broadcasts to Cuba under this Act at rates no less than the fiscal year 1985 level.

(b) In addition to amounts otherwise authorized to be appropriated to the Board<sup>26</sup> for the fiscal years 1984 and 1985, there are authorized to be appropriated to the Board<sup>26</sup> \$54,800,000 for the fiscal year 1984 and \$54,800,000 for the fiscal year 1985, which amounts shall be available only for expenses incurred by essential modernization of the facilities and operations of the Voice of America.

(c) Amounts appropriated under this section are authorized to be made available until expended.

<sup>23</sup> 22 U.S.C. 1465f.

<sup>24</sup> Sec. 1324(1) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "United States Information Agency" and inserted in lieu thereof "Broadcasting Board of Governors".

<sup>25</sup> Sec. 121(a)(3) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1361), provided the following:

"(3) BROADCASTING TO CUBA.—For 'Broadcasting to Cuba', \$25,923,000 for the fiscal year 2003."

Previous years' authorizations include: fiscal year 1992—\$38,988,000; fiscal year 1993—\$34,525,000; fiscal year 1994—\$21,000,000; and fiscal year 1995—\$27,609,000.

The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109-108; 119 Stat. 2325), provided the following:

## "BROADCASTING BOARD OF GOVERNORS

## "INTERNATIONAL BROADCASTING OPERATIONS

"For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase, lease, and installation of necessary equipment for radio and television transmission and reception to Cuba, and to make and supervise grants for radio and television broadcasting to the Middle East, \$641,450,000: *Provided*, That of the total amount in this heading, not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

## "BROADCASTING CAPITAL IMPROVEMENTS

"For the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$10,893,000, to remain available until expended, as authorized."

Recent previous years' appropriations include: fiscal year 1990—\$85,000,000 for radio construction, "of which not to exceed \$16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba". Subsequent years included funding for both radio and television: fiscal year 1991—\$31,069,000; fiscal year 1992—\$36,888,000; fiscal year 1993—\$28,531,000; fiscal year 1994—\$7,000,000; fiscal year 1005—\$24,809,000; fiscal year 1996—\$24,809,000; fiscal year 1997—\$25,000,000; fiscal year 1998—\$22,095,000; fiscal year 1999—\$22,095,000; and fiscal year 2000—\$22,095,000; fiscal year 2001—\$22,095,000; fiscal year 2002—\$24,872,000; fiscal year 2003—\$24,996,000; fiscal year 2004—provided one aggregated budget allotment for all of international broadcasting; and fiscal year 2005—\$27,629,000.

<sup>26</sup> Sec. 1324(2) of the Foreign Affairs Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-781) struck out "Agency" and inserted in lieu thereof "Board".

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SEC. 9.<sup>27</sup> \* \* \* [Repealed—1994]

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<sup>27</sup> Formerly at 22 U.S.C. 1465g, Sec. 139(9) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 398), repealed sec. 9, which had required an independent evaluation of Cuba Service programming.

**c. Establishing Advisory Panel on Radio Marti and TV Marti**

**Partial text of Public Law 103-121 [Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1994; H.R. 2519], 107 Stat. 1153 at 1192, approved October 27, 1993**

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes, namely:

\* \* \* \* \*

**TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES**

\* \* \* \* \*

**RELATED AGENCIES**

\* \* \* \* \*

**UNITED STATES INFORMATION AGENCY <sup>1</sup>**

\* \* \* \* \*

**ADMINISTRATIVE PROVISION ESTABLISHING THE ADVISORY PANEL ON RADIO MARTI AND TV MARTI**

(a) **ESTABLISHMENT.**—There is established an advisory panel to be known as the Advisory Panel on Radio Marti and TV Marti (in this section referred to as the “Panel”).

(b) **FUNCTIONS.**—The Panel shall study the purposes, policies, and practices of radio and television broadcasting to Cuba (commonly referred to as “Radio Marti” and “TV Marti”) by the Cuba Service of the Voice of America.

(c) **REPORT.**—Not later than 90 days after the date on which the members of the Panel have been appointed pursuant to subsection (d), the Panel shall submit to the Congress and the United States Information Agency (USIA) a report which shall contain—

<sup>1</sup>Sec. 1311 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105-277; 112 Stat. 2681-776) abolished the United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau), and sec. 1312(a) of that Act “transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, as of the day before the effective date of this title.”. See also secs. 1301 and 1601 of that Act to determine date of effectiveness.

(1) a statement of the findings and conclusions of the Panel on the matters described in subsection (b); and

(2) specific findings and recommendations with respect to whether—

(A) such broadcasting consistently meets the standards for quality and objectivity established by law or by the United States Information Agency;

(B) such broadcasting is cost-effective;

(C) the extent to which such broadcasting is already being received by the Cuban people on a daily basis from credible sources; and

(D) TV Marti broadcasting is technically sound and effective and is consistently being received by a sufficient Cuban audience to warrant its continuation.

(d) COMPOSITION.—(1) The Panel shall be composed of three members, who shall among them have expertise in government information and broadcasting programs, broadcast journalism, journalistic ethics, and the technical aspects of radio and television broadcasting.

(2) The Director of the United States Information Agency shall appoint the members of the Panel not later than 30 days after the date of the enactment of this Act. Individuals appointed to the Panel shall be noted for their integrity, expertise, and independence of judgment consistent with the purposes of the Panel.

(3) Each member of the Panel shall be appointed for the life of the Panel. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(4) Each member of the Panel shall serve without pay, except that such member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) TEMPORARY PERSONNEL.—(1) The Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code (relating to employment of experts and consultants), at rates for individuals not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) Upon request of the Panel, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Panel to assist it in carrying out its duties under this section.

(3) SUPPORT SERVICES.—The United States Information Agency shall provide facilities, supplies, and support services to the Panel upon request.

(f) TERMINATION.—The Panel shall terminate immediately upon submitting its report pursuant to subsection (c).

\* \* \* \* \*

## 21. Establishing a Commission on Security and Cooperation in Europe

Public Law 94-304 [S. 2679], 90 Stat. 661, approved June 3, 1976; as amended by Public Law 94-534 [H.R. 15813], 90 Stat. 2495, approved October 17, 1976; Public Law 95-426 [Foreign Relations Authorization Act, Fiscal Year 1979; H.R. 12598], 92 Stat. 963 at 992, approved October 7, 1978; Public Law 96-60 [Department of State Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 395 at 403, approved August 15, 1979; Public Law 99-7 [S. 592], 99 Stat. 19, approved March 27, 1985; Public Law 99-190 [Further Continuing Appropriations, Fiscal Year 1986; H.R. 465], 99 Stat. 1322, approved December 19, 1985; Public Law 102-138 [Foreign Relations Authorization Act, Fiscal Years 1992 and 1993; H.R. 1415], 105 Stat. 647, approved October 28, 1991; Public Law 104-186 [House of Representatives Administrative Reform Technical Corrections Act; H.R. 2739], 110 Stat. 1718, approved August 20, 1996; and Public Law 107-228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002

AN ACT To establish a Commission on Security and Cooperation in Europe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*<sup>1</sup> That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

SEC. 2.<sup>2</sup> The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to human rights and<sup>3</sup> Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

SEC. 3.<sup>4</sup> (a) The Commission shall be composed of twenty-one members as follows:

<sup>1</sup> 22 U.S.C. 3001. Sec. 422 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 457), provided the following:

**"SEC. 422. CONFERENCE ON SECURITY AND COOPERATION IN EUROPE.**

"The President is authorized to implement, for the United States, the provisions of Annex 1 of the Decision concerning Legal Capacity and Privileges and Immunities, issued by the Council of Ministers of the Conference on Security and Cooperation in Europe on December 1, 1993, in accordance with the terms of that Annex."

<sup>2</sup> 22 U.S.C. 3002.

<sup>3</sup> Sec. 2 of Public Law 99-7 (99 Stat. 18) inserted "human rights and".

<sup>4</sup> 22 U.S.C. 3003. Sec. 1 of Public Law 99-7 (99 Stat. 18) amended and restated sec. 3. It previously read as follows:

"SEC. 3. The Commission shall be composed of fifteen members as follows:

"(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

Continued

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five Members shall be selected from the majority party and four Members shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five Members shall be selected from the majority party of the Senate, after consultation with the majority leader, and four Members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Department of Defense appointed by the President of the United States.

(5) One member of the Department of Commerce appointed by the President of the United States.

(b) There shall be a Chairman and a Cochairman of the Commission.

(c)<sup>5</sup> At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

(d)<sup>5</sup> At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission.

SEC. 4.<sup>6</sup> In carrying out this Act, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

<sup>(2)</sup> Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

<sup>(3)</sup> One member of the Department of State appointed by the President of the United States.

<sup>(4)</sup> One member of the Defense Department appointed by the President of the United States.

<sup>(5)</sup> One member of the Commerce Department appointed by the President of the United States.”.

<sup>5</sup>Sec. 6(b)(1) of Public Law 99-7 (99 Stat. 14) provided that the provisions of sec. 3(c) and (d) shall take effect on the first day of the 100th Congress. Sec. 3(c) of Public Law 99-7 (99 Stat. 18) further stated:

“On the effective date of this subsection, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members to serve as Chairman of the Commission for the duration of the Ninety-ninth Congress, and the Speaker of the House of Representatives shall designate one of the House Members to serve as Cochairman of the Commission for the duration of the Ninety-ninth Congress.”.

<sup>6</sup>22 U.S.C. 3004.

SEC. 5.<sup>7</sup> In order to assist the Commission in carrying out its duties, the Secretary of State shall submit to the Commission an annual report discussing the overall United States policy objectives that are advanced through meetings of decision-making bodies of the Organization for Security and Cooperation in Europe (OSCE), the OSCE implementation review process, and other activities of the OSCE. The report shall also include a summary of specific United States policy objectives with respect to participating states where there is particular concern relating to the implementation of OSCE commitments or where an OSCE presence exists. Such summary shall address the role played by OSCE institutions, mechanisms, or field activities in achieving United States policy objectives. Each annual report shall cover the period from January 1 to December 31, shall be submitted not more than 90 days after the end of the reporting period, and shall be posted on the Internet website of the Department of State.

SEC. 6.<sup>8</sup> The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

SEC. 7.<sup>9</sup> (a)(1)<sup>10</sup> There are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Appropriations to the Commission are authorized to remain available until expended.

(2)<sup>10</sup> Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman, or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 8(a).

<sup>7</sup> 22 U.S.C. 3005. Sec. 226 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228; 116 Stat. 1369), amended and restated sec. 5. As previously amended by sec. 171(2) of Public Law 102-138 (105 Stat. 679), it had read as follows:

“SEC. 5. In order to assist the Commission in carrying out its duties, the President shall submit to the Commission an annual report, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.”

In a memorandum of February 10, 1992, for the Secretary of State, the President delegated functions in this section to the Secretary (57 F.R. 5367).

<sup>8</sup> 22 U.S.C. 3006.

<sup>9</sup> 22 U.S.C. 3007(a). See sec. 102 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 19), for current authorization and restrictions.

Title V of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2329), provided the following:

“COMMISSION ON SECURITY AND COOPERATION IN EUROPE

“SALARIES AND EXPENSES

“For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, \$2,030,000, to remain available until September 30, 2007.”

<sup>10</sup> Public Law 99-7 (99 Stat. 18) amended and restated sec. 7(a)(1) and (2). Previously, sec. 702 of Public Law 95-426 authorized \$550,000 to assist in meeting the expenses of the Commission. This latter authorization replaced a previous one of \$350,000.

(b)<sup>11</sup> For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such sections.

(c)<sup>12</sup> Not to exceed \$6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

(d)<sup>13</sup> Foreign travel for official purposes by Commission members and staff may be authorized by either the Chairman or the Cochairman.

SEC. 8.<sup>14</sup> (a) The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior Commission member from the minority party in the House of Representatives, and the senior Commission member from the minority party in the Senate.

(b) All decisions pertaining to the hiring, firing, and fixing of pay of Commission staff personnel shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of his senior staff person; and

(2) the Chairman and Cochairman each shall have the authority to appoint, with the approval of the personnel and administration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

The personnel and administration committee may appoint and fix the pay of such other staff personnel as it deems desirable.

(c) All staff appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(d)<sup>15</sup> (1) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(2) For purposes of section 3304(c)(1) of title 5, United States Code, staff personnel of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Chief Administrative Officer<sup>16</sup> of the House of Representatives.

<sup>11</sup> Public Law 94-534 added subsec. (b).

<sup>12</sup> Sec. 401 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96-60; 93 Stat. 403), added subsec. (c).

<sup>13</sup> Sec. 4 of Public Law 99-7 (99 Stat. 18) added subsec. (d).

<sup>14</sup> 22 U.S.C. 3008. Sec. 5 of Public Law 99-7 (99 Stat. 18) amended and restated sec. 8. It previously read as follows:

“SEC. 8. The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.”

<sup>15</sup> Sec. 6(b)(2) of Public Law 99-7 (99 Stat. 14) provided that subsec. (d) shall be effective as of June 3, 1976.

<sup>16</sup> Sec. 218(3) of Public Law 104-186 (110 Stat. 1747) struck out “Clerk” and inserted in lieu thereof “Chief Administrative Officer”.



(3) The provisions of paragraphs (1) and (2) of this subsection shall be effective as of June 3, 1976.

SEC. 9.<sup>17</sup> For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

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<sup>17</sup> 22 U.S.C. 3009. Sec. 134 of the Further Continuing Appropriations Act, Fiscal Year 1986 (Public Law 99-190; 99 Stat. 1322), added sec. 9.



## Appendix I

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 2005*, either as free-standing law or in amendments, arranged by Public Law number with corresponding short title or popular name.

Public Law No.	Short Title
109–169	United States-Bahrain Free Trade Agreement Implementation Act
109–167	Passport Services Enhancement Act of 2005
109–165	Torture Victims Relief Reauthorization Act of 2005
109–164	Trafficking Victims Protection Reauthorization Act of 2005
109–163	National Defense Authorization Act for Fiscal Year 2006
109–163	United States Policy in Iraq Act (section 1227)
109–163	Detainee Treatment Act of 2005 (title XIV)
109–159	Transfer of Items To War Reserves Stockpile for Allies, Korea
109–148	Department of Defense, Emergency Supplemental Appropriations To Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006
109–148	Department of Defense Appropriations Act, 2006 (division A)
109–148	Emergency Supplemental Appropriations To Address Hurricanes in the Gulf of Mexico and Pandemic Influenza Act, 2006 (division B)
109–140	To Provide Certain Authorities for the Department of State
109–134	Naval Vessels Transfer Act of 2005
109–121	Senator Paul Simon Water for the Poor Act of 2005
109–112	Iran Nonproliferation Amendments Act of 2005
109–108	Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006
109–108	Department of State and Related Agencies Appropriations Act, 2006 (title IV)
109–102	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006

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| 109–97  | Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 |
| 109–95  | Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005                    |
| 109–77  | Continuing Appropriations, Fiscal Year 2006   |
| 109–58  | Energy Policy Act of 2005   |
| 109–54  | Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006                      |
| 109–53  | Dominican Republic-Central America-United States Free Trade Agreement Implementation Act                    |
| 109–39  | Renewal of Import Restrictions—Burmese Freedom and Democracy Act of 2003                                    |
| 109–13  | Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005   |
| 108–497 | Comprehensive Peace in Sudan Act of 2004  |
| 108–484 | Microenterprise Results and Accountability Act of 2004  |
| 108–458 | Intelligence Reform and Terrorism Prevention Act of 2004  |
| 108–458 | 9/11 Commission Implementation Act of 2004 (title VII)  |
| 108–458 | Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104)  |
| 108–447 | Consolidated Appropriations Act, 2005   |
| 108–447 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D)            |
| 108–447 | Migratory Bird Treaty Reform Act of 2004 (division E, sec. 143)   |
| 108–447 | Miscellaneous Appropriations and Offsets Act, 2005 (division J, title I)                                    |
| 108–429 | Miscellaneous Trade and Technical Corrections Act of 2004   |
| 108–375 | Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005                                    |
| 108–370 | Prevention of Child Abduction Partnership Act   |
| 108–347 | Belarus Democracy Act of 2004   |
| 108–333 | North Korean Human Rights Act of 2004   |
| 108–332 | Global Anti-Semitism Review Act of 2004   |
| 108–323 | Tropical Forest Conservation Act Reauthorization  |
| 108–302 | United States-Morocco Free Trade Agreement Implementation Act   |
| 108–297 | Cape Town Treaty Implementation Act of 2004   |
| 108–286 | United States-Australia Free Trade Agreement Implementation Act   |
| 108–283 | Northern Uganda Crisis Response Act   |
| 108–274 | AGOA Acceleration Act of 2004   |
| 108–272 | Approving the Renewal of Import Restrictions—Burma  |
| 108–266 | Marine Turtle Conservation Act of 2004  |
| 108–235 | Taiwan’s Participation in the World Health Organization   |

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- 108–215 Amendments to U.S.–Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank
- 108–200 Congo Basin Forest Partnership Act of 2004
- 108–199 Consolidated Appropriations, 2004
- 108–199 Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D)
- 108–199 HELP Commission Act (division B, sec. 637)
- 108–199 Millennium Challenge Act of 2003 (division D, title VI)
- 108–175 Syria Accountability and Lebanese Sovereignty Restoration Act of 2003
- 108–136 National Defense Authorization Act for Fiscal Year 2004
- 108–136 Nuclear Security Initiative Act of 2003 (title XXXVI)
- 108–106 Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004
- 108–77 United States-Chile Free Trade Agreement Implementation Act
- 108–31 Microenterprise Report to Congress
- 108–28 Taiwan’s Participation in the World Health Organization
- 108–25 United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003
- 108–19 Clean Diamond Trade Act
- 108–11 Emergency Wartime Supplemental Appropriations Act, 2003
- 108–7 Consolidated Appropriations, 2003
- 107–365 Caribbean National Forest Wild and Scenic Rivers Act of 2002
- 107–327 Afghanistan Freedom Support Act of 2002
- 107–314 Bob Stump National Defense Authorization Act for Fiscal Year 2003
- 107–258 Persian Gulf POW/MIA Accountability Act of 2002
- 107–246 Russian Democracy Act of 2002
- 107–245 Sudan Peace Act
- 107–243 Authorization for Use of Military Force Against Iraq Resolution of 2002
- 107–228 Foreign Relations Authorization Act, Fiscal Year 2003
- 107–228 Department of State Authorization Act, Fiscal Year 2003 (division A)
- 107–228 Security Assistance Act of 2002 (division B)
- 107–228 Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A)
- 107–228 Tibetan Policy Act of 2002 (division A, title VI, subtitle B)
- 107–228 East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C)
- 107–228 Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D)
- 107–228 Freedom Investment Act of 2002 (division A, title VI, subtitle E)

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107-228	Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B)
107-228	Nonproliferation Assistance Coordination Act of 2002 (division B, title XIII, subtitle C)
107-228	Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D)
107-210	Trade Act of 2002
107-210	Andean Trade Promotion and Drug Eradication Act (title XXXI)
107-206	2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States
107-206	American Servicemembers Protection Act (title II)
107-197	Terrorist Bombings Convention Implementation Act of 2002
107-189	Export-Import Bank Reauthorization Act of 2002
107-187	Gerald B. H. Solomon Freedom Consolidation Act of 2002
107-173	Enhanced Border Security and Visa Entry Reform Act of 2002
107-148	Radio Free Afghanistan Act
107-141	Asian Elephant Conservation Reauthorization Act of 2002
107-117	Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002
107-115	Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002
107-112	Rhinoceros and Tiger Conservation Reauthorization Act of 2001
107-111	African Elephant Conservation Reauthorization Act of 2001
107-107	National Defense Authorization Act for Fiscal Year 2002
107-99	Zimbabwe Democracy and Economic Recovery Act of 2001
107-81	Afghan Women and Children Relief Act of 2001
107-56	Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001
107-56	International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III)
107-43	United States-Jordan Free Trade Area Implementation Act
107-40	Authorization for Use of Military Force [international terrorism]
107-39	Condemnation of Terrorist Attacks
107-24	ILSA [Iran and Libya Sanctions Act] Extension Act of 2001
106-570	Assistance for International Malaria Control Act
106-570	International Malaria Control Act (title I)
106-570	United States-Macau Policy Act of 2000 (title II)
106-570	Pacific Charter Commission Act of 2000 (title IV)

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106-570	Paul D. Coverdell World Wise Schools Act of 2000 (title VI)
106-567	Intelligence Authorization Act for Fiscal Year 2001
106-567	Japanese Imperial Government Disclosure Act of 2000 (title VIII)
106-557	Shark Finning Prohibition Act
106-555	Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000
106-554	Consolidated Appropriations Act, 2001
106-554	Vietnam Education Foundation Act of 2000 (title II)
106-553	Department of State and Related Agency Appropriations Act, 2001
106-531	Reports Consolidation Act of 2000
106-484	Bring Them Home Alive Act of 2000
106-476	Tariff Suspension and Trade Act of 2000
106-450	Yukon River Salmon Act of 2000
106-429	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001
106-411	Great Ape Conservation Act of 2000
106-398	Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001
106-387	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001
106-387	Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX)
106-386	Victims of Trafficking and Violence Protection Act of 2000
106-386	Trafficking Victims Protection Act of 2000 (division A)
106-373	Famine Prevention and Freedom From Hunger Improvement Act of 2000
106-346	National Terrorist Asset Trading Center
106-309	Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000
106-309	Microenterprise for Self-Reliance Act of 2000 (title I)
106-309	International Anti-Corruption and Good Governance Act of 2000 (title II)
106-309	International Academic Opportunities Act of 2000 (title III)
106-309	Support for Overseas Cooperative Development Act (sec. 401)
106-309	Paul D. Coverdell Fellows Program Act of 2000 (sec. 408)
106-286	U.S.-China Relations Act of 2000
106-280	Security Assistance Act of 2000
106-279	Intercountry Adoption Act of 2000
106-264	Global AIDS and Tuberculosis Relief Act of 2000
106-264	Global AIDS Research and Relief Act of 2000 (title I)
106-264	International Tuberculosis Control Act of 2000 (title II)
106-256	Oceans Act of 2000
106-247	Neotropical Migratory Bird Conservation Act

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106–212	American Institute in Taiwan Facilities Enhancement Act
106–200	Trade and Development Act of 2000
106–200	African Growth and Opportunity Act (title I)
106–200	U.S.-Caribbean Basin Trade Partnership Act (title II)
106–178	Iran Nonproliferation Act of 2000
106–158	Export Enhancement Act of 1999
106–120	Intelligence Authorization Act for Fiscal Year 2000
106–120	Foreign Narcotics Kingpin Designation Act (title VIII)
106–113	Consolidated Appropriations, Fiscal Year 2000
106–113	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference)
106–113	Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference)
106–113	Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference)
106–113	Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference)
106–113	North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference)
106–113	United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference)
106–113	Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference)
106–113	Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference)
106–113	National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference)
106–113	Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference)
106–113	Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference)
106–113	Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference)
106–113	International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference)
106–108	Arctic Tundra Habitat Emergency Conservation Act
106–87	Torture Victims Relief Reauthorization Act of 1999
106–79	Department of Defense Appropriations Act, 2000
106–65	National Defense Authorization Act for Fiscal Year 2000
106–65	Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV)
106–38	National Missile Defense Act of 1999



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106-36	Miscellaneous Trade and Technical Corrections Act of 1999
106-35	Western Hemisphere Drug Elimination Technical Corrections Act
106-30	Peace Corps Reauthorization
105-385	Africa: Seeds of Hope Act of 1998
105-384	Governing International Fisheries Agreement with Poland
105-382	Department of State Special Agents Retirement Act of 1998
105-366	International Anti-Bribery and Fair Competition Act of 1998
105-362	Federal Reports Elimination Act of 1998
105-338	Iraq Liberation Act of 1998
105-323	Extradition Treaties Interpretation Act of 1998
105-319	Irish Peace Process Cultural and Training Program Act of 1998
105-312	Rhinoceros and Tiger Conservation Act of 1998
105-303	Commercial Space Act of 1998
105-292	International Religious Freedom Act of 1998
105-277	Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999
105-277	Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX)
105-277	Trade Deficit Review Commission Act (division A, sec. 127)
105-277	Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII)
105-277	Western Hemisphere Drug Elimination Act (division C, title VIII)
105-277	Foreign Affairs Reform and Restructuring Act of 1998 (division G)
105-277	Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A)
105-277	Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B)
105-277	United Nations Reform Act of 1998 (division G, subdivision C)
105-277	European Security Act of 1998 (division G, title XXVII)
105-277	Chemical Weapons Convention Implementation Act of 1998 (division I)
105-262	Department of Defense Appropriations Act, 1999
105-261	Strom Thurmond National Defense Authorization Act for Fiscal Year 1999
105-261	Defense Against Weapons of Mass Destruction Act of 1998 (title XIV)
105-261	Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV)
105-261	Radio Free Asia Act of 1998 (title XXXIX)
105-246	Nazi War Crimes Disclosure Act
105-235	Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations

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105-217	African Elephant Conservation Reauthorization Act of 1998
105-194	Agriculture Export Relief Act of 1998
105-186	U.S. Holocaust Assets Commission Act of 1998
105-174	1998 Supplemental Appropriations and Rescissions Act
105-173	International Parental Kidnapping Crime Act
105-158	Holocaust Victims Redress Act
105-119	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998
105-107	Intelligence Authorization Act for Fiscal Year 1998
105-100	Nicaraguan Adjustment and Central American Relief Act (title II)
105-96	Asian Elephant Conservation Act of 1997
105-85	National Defense Authorization Act for Fiscal Year 1998
105-42	International Dolphin Conservation Program Act
104-319	Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996
104-309	Records Relating to Nazi War Crimes
104-297	Sustainable Fisheries Act
104-293	Intelligence Authorization Act for Fiscal Year 1997
104-293	Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII)
104-269	Release of USIA Materials: VOA, Radio Marti Recordings
104-264	Federal Aviation Reauthorization Act of 1996
104-227	Antarctic Science, Tourism, and Conservation Act of 1996
104-208	Omnibus Consolidated Appropriations for Fiscal Year 1997
104-208	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c))
104-203	Most-Favored-Nation Treatment for Cambodia
104-201	National Defense Authorization Act for Fiscal Year 1997
104-201	Defense Against Weapons of Mass Destruction Act of 1996 (title XIV)
104-201	Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A)
104-201	Panama Canal Act Amendments of 1996 (title XXXV, subtitle B)
104-172	Iran and Libya Sanctions Act of 1996
104-171	Most-Favored-Nation Treatment for Romania
104-164	Miscellaneous Amendments and Authorization—FYs 1996 and 1997
104-162	Most-Favored-Nation Treatment for People's Republic of Bulgaria
104-161	Release of USIA Materials: "Fragile Ring of Life"
104-132	Antiterrorism and Effective Death Penalty Act of 1996
104-127	Federal Agriculture Improvement and Reform Act of 1996

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104-114	Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996
104-106	National Defense Authorization Act for Fiscal Year 1996
104-106	Ballistic Missile Defense Act of 1995 (title II, subtitle C)
104-93	Intelligence Authorization Act for Fiscal Year 1996
104-72	Au Pair Extension
104-66	Federal Reports Elimination and Sunset Act of 1995
104-45	Jerusalem Embassy Act of 1995
104-43	Fisheries Act of 1995
104-43	High Seas Fishing Compliance Act of 1995 (title I)
104-43	Northwest Atlantic Fisheries Convention Act of 1995 (title II)
104-43	Atlantic Tunas Convention Act of 1995 (title III)
104-43	Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V)
104-43	High Seas Driftnet Fishing Moratorium Protection Act (title VI)
104-43	Yukon River Salmon Act of 1995 (title VII) Act for Fiscal Year 1997
104-6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995
104-6	Mexican Debt Disclosure Act of 1995 (title IV)
103-465	Uruguay Rounds Agreements Act
103-465	Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a))
103-447	International Narcotics Control Corrections Act of 1994
103-447	NATO Participation Act of 1994 (title II)
103-423	United States Policy Toward Haiti
103-416	Visa for Officials of Taiwan
103-392	Jobs Through Trade Expansion Act of 1994
103-391	Rhinoceros and Tiger Conservation Act of 1994
103-381	African Conflict Resolution Act
103-372	To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974
103-337	National Defense Authorization Act for Fiscal Year 1995
103-306	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995
103-294	Helsinki Human Rights Day
103-236	Foreign Relations Authorization Act, Fiscal Years 1994 and 1995
103-236	Mike Mansfield Fellowship Act (title II, part C)
103-236	United States International Broadcasting Act of 1994 (title III)
103-236	Spoils of War Act of 1994 (title V, part B)
103-236	Anti-Economic Discrimination Act of 1994 (title V, part C)
103-236	Cambodian Genocide Justice Act (title V, part D)
103-236	Middle East Peace Facilitation Act of 1994 (title V, part E)

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| 103-236 | Arms Control and Nonproliferation Act of 1994 (title VII, part A)  |
| 103-236 | Nuclear Proliferation Prevention Act of 1994 (title VIII)  |
| 103-236 | Protection and Reduction of Government Secrecy Act (title IX)  |
| 103-206 | Coast Guard Authorization Act of 1993  |
| 103-199 | Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act) |
| 103-182 | North American Free Trade Agreement Implementation Act   |
| 103-160 | National Defense Authorization Act for Fiscal Year 1994  |
| 103-160 | Cooperative Threat Reduction Act of 1993 (title XII)   |
| 103-160 | Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII)  |
| 103-160 | National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D)   |
| 103-160 | Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV)  |
| 103-158 | Act to Honor the Victims of the Bombing of Panam Flight 103  |
| 103-149 | South African Democratic Transition Support Act of 1993  |
| 103-133 | Nondiscriminatory Treatment Toward Products of Romania   |
| 103-125 | Middle East Peace Facilitation Act of 1993   |
| 102-588 | National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993  |
| 102-587 | Oceans Act of 1992   |
| 102-587 | North Pacific Anadromous Stocks Convention Act of 1992 (title VIII)  |
| 102-582 | High Seas Driftnet Fisheries Enforcement Act   |
| 102-582 | Central Bering Sea Fisheries Enforcement Act of 1992 (title III)   |
| 102-567 | North Pacific Anadromous Stocks Act of 1992 (title VIII)   |
| 102-565 | Peace Corps Authorization for Fiscal Year 1993   |
| 102-549 | Jobs Through Exports Act of 1992   |
| 102-549 | Aid, Trade, and Competitiveness Act of 1992 (title III)  |
| 102-549 | Enterprise for the Americas Act of 1992 (title VI)   |
| 102-532 | Enterprise for the Americas Initiative Act of 1992   |
| 102-523 | International Dolphin Conservation Act of 1992   |
| 102-511 | Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act)  |
| 102-509 | Soviet Scientists Immigration Act of 1992  |
| 102-486 | Energy Policy Act of 1992  |
| 102-484 | National Defense Authorization Act for Fiscal Year 1993  |
| 102-484 | Former Soviet Union Demilitarization Act of 1992 (title XIV)   |

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- 102-484 Weapons of Mass Destruction Control Act of 1992 (title XV)
- 102-484 Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI)
- 102-484 Cuban Democracy Act of 1992 (title XVII)
- 102-484 Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV)
- 102-454 Distribution of USIA Materials
- 102-450 Asian/Pacific American Heritage Month—Designation
- 102-429 Export Enhancement Act of 1992
- 102-420 Withdrawal of MFN From Serbia and Montenegro
- 102-404 Chinese Student Protection Act of 1992
- 102-396 Department of Defense Appropriations Act, 1993
- 102-391 Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993
- 102-383 United States-Hong Kong Policy Act of 1992
- 102-372 Tourism Policy and Export Promotion Act of 1992
- 102-363 Nondiscriminatory Treatment Toward Products of Albania
- 102-311 International Peacekeeping Act of 1992
- 102-274 Horn of Africa Recovery and Food Security Act
- 102-270 Peace Process in Liberia
- 102-256 Torture Victim Protection Act of 1991
- 102-247 Omnibus Insular Areas Act of 1992
- 102-237 Food, Agriculture, Conservation, and Trade Act Amendments of 1991
- 102-228 Conventional Forces in Europe Treaty Implementation Act of 1991
- 102-228 Soviet Nuclear Threat Reduction Act of 1991 (title II)
- 102-197 Most-Favored Nation Treatment for the Union of Soviet Socialist Republics
- 102-195 National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992
- 102-190 National Defense Authorization Act for Fiscal Years 1992 and 1993
- 102-190 Missile Defense Act of 1991 (title II, part C)
- 102-190 Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV)
- 102-183 David L. Boren National Security Education Act of 1991 (title VIII)
- 102-182 Termination of Trade Restrictions to Czechoslovakia and Hungary
- 102-182 Andean Trade Preference Act (title II)
- 102-182 Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III)
- 102-158 Most-Favored Nation Treatment for People's Republic of Bulgaria
- 102-157 Most-Favored Nation Treatment for Mongolian People's Republic
- 102-138 Foreign Relations Authorization Act, Fiscal Years 1992 and 1993
- 102-138 Dante B. Fascell North-South Center Act of 1991 (sec. 208)

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102-21	Emergency Supplemental Assistance for Israel Act of 1991
102-20	Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991
102-1	Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678
101-649	Immigration Act of 1990
101-647	Crime Control Act of 1990
101-646	Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990
101-627	Fishery Conservation Amendments of 1990
101-627	Dolphin Protection Consumer Information Act (title IX)
101-624	Food, Agriculture, Conservation, and Trade Act of 1990
101-624	Agricultural Development and Trade Act of 1990 (title XV)
101-624	Global Climate Change Prevention Act of 1990 (title XXIV)
101-623	International Narcotics Control Act of 1990
101-620	Protection of Antarctica
101-611	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991
101-610	National and Community Service Act of 1990
101-606	Global Change Research Act of 1990
101-606	International Cooperation in Global Change Research Act of 1990 (title II)
101-604	Aviation Security Improvement Act of 1990
101-594	Antarctic Protection Act of 1990
101-549	Clean Air Act Amendments
101-541	Most-Favored-Nation Treatment for Czechoslovakia
101-533	Foreign Direct Investment and International Financial Date Improvements Act of 1990
101-513	Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991
101-513	European Bank for Reconstruction and Development Act (sec. 562(c))
101-513	Iraq Sanctions Act of 1990 (secs. 586-586J)
101-513	International Forestry Cooperation Act of 1990 (title VI)
101-511	Department of Defense Appropriations Act, 1991
101-510	National Defense Authorization Act for Fiscal Year 1991
101-510	Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV)
101-454	Eisenhower Exchange Fellowship Act of 1990
101-454	Fascell Fellowship Amendments Act of 1990 (sec. 9)
101-438	Rio Grande American Canal Extension Act of 1990
101-382	Customs and Trade Act of 1990
101-382	Caribbean Basin Economic Recovery Expansion Act of 1990 (title II)
101-382	Forest Resources Conservation and Shortage Relief Act of 1990 (title IV)
101-380	Oil Pollution Act of 1990

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101-328	National Space Council Authorization Act of 1990
101-298	Biological Weapons Anti-Terrorism Act of 1989
101-246	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991
101-246	PLO Commitments Compliance Act of 1989 (title VIII)
101-243	Urgent Assistance for Democracy in Panama Act of 1990
101-240	International Development and Finance Act of 1989
101-240	Foreign Debt Reserving Act of 1989 (title IV)
101-240	Global Environmental Protection Assistance Act of 1989 (title VII)
101-231	International Narcotics Control Act of 1989
101-219	Implementation of Compact of Free Association With Palau
101-216	Arms Control and Disarmament Amendments Act of 1989
101-215	Survival Assistance for Victims of Civil Strife in Central America
101-189	National Defense Authorization Act for Fiscal Years 1990 and 1991
101-179	Support for East European Democracy (SEED) Act of 1989
101-167	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990
101-162	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990
101-62	Implementing Agreement for Vienna Convention on Diplomatic Relations
100-690	International Narcotics Control Act of 1988 (title IV)
100-685	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989
100-629	U.S.-U.S.S.R. Fishing Agreement
100-576	Bangladesh Disaster Assistance Act of 1988
100-530	International Cooperation to Protect Biological Diversity
100-478	African Elephant Conservation Act (title II)
100-465	Rio Grande Pollution Correction Act of 1987
100-463	Department of Defense Appropriations Act, 1989
100-461	Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference)
100-461	Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference)
100-460	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989
100-456	National Defense Authorization Act, Fiscal Year 1989
100-449	United States-Canada Free Trade Agreement Implementation Act of 1988
100-418	Omnibus Trade and Competitiveness Act of 1988
100-418	Telecommunications Trade Act of 1988 (title I, subtitle C, part 4)
100-418	Export Enhancement Act 1988 (title II)
100-418	Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II)

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- 100-418 American Aid to Poland Act of 1988 (title II, subtitle B, part II)
- 100-418 Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II)
- 100-418 Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A)
- 100-418 International Debt Management Act of 1988 (title III, subtitle B)
- 100-418 Multilateral Development Banks Procurement Act (title III, subtitle C)
- 100-418 Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D)
- 100-418 Primary Dealers Act of 1988 (title III, subtitle F)
- 100-418 Financial Reports Act of 1988 (title III, subtitle G)
- 100-418 Agricultural Competitiveness and Trade Act of 1988 (title IV)
- 100-418 Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G)
- 100-418 Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I)
- 100-418 Competitiveness Policy Council Act (title V, part I, subtitle C)
- 100-418 Small Business International Trade and Competitiveness Act (title VII)
- 100-418 Foreign Shipping Practices Act of 1988 (title X)
- 100-393 Dire Emergency Supplemental Appropriations Act, 1988
- 100-373 International Energy Emergency Authorities: Extension
- 100-350 German Democratic Republic Fishery Agreement
- 100-330 South Pacific Tuna Act of 1988
- 100-300 International Child Abduction Remedies Act
- 100-276 Central American Peace Assistance
- 100-220 United States-Japan Fishery Agreement Approval Act of 1987
- 100-220 Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV)
- 100-213 Arms Control and Disarmament Amendments Act of 1987
- 100-204 Foreign Relations Authorization Act, Fiscal Years 1988 and 1989
- 100-204 United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II)
- 100-204 Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V)
- 100-204 Anti-Terrorism Act of 1987 (title X)
- 100-204 Global Climate Protection Act of 1987 (title XI)
- 100-202 Continuing Appropriations, Fiscal Year 1988
- 100-202 Cuban Political Prisoners and Immigrants (sec. 101(a), title VII)
- 100-202 Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII)
- 100-202 Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e))



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- 100-202 Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV)
- 100-180 National Defense Authorization Act for Fiscal Years 1988 and 1989
- 100-147 National Aeronautics and Space Administration Authorization Act of 1988
- 100-113 Federal Triangle Development Act
- 100-66 United States-Korea Fishery Agreement
- 99-661 National Defense Authorization Act, Fiscal Year 1987
- 99-661 Department of Defense Authorization Act, 1987 (Division A)
- 99-658 Approval of the Compact of Free Association With the Government of Palau
- 99-630 Humpback Whales Wildlife Sanctuary (West Indies)
- 99-603 Immigration Reform and Control Act of 1986
- 99-570 International Narcotics Control Act of 1986 (title II)
- 99-529 Special Foreign Assistance Act of 1986
- 99-513 R.M.S. Titanic Maritime Memorial Act of 1986
- 99-498 Higher Education Amendments of 1986
- 99-475 Release of USIA Materials to Museums
- 99-472 Export-Import Bank Act Amendments of 1986
- 99-415 Anglo-Irish Agreement Support Act of 1986
- 99-399 Omnibus Diplomatic Security and Antiterrorism Act of 1986
- 99-399 Diplomatic Security Act (titles I-IV)
- 99-399 Victims of Terrorism Compensation Act (title VIII)
- 99-399 International Maritime and Port Security Act (title IX)
- 99-399 Fascell Fellowship Act (title X)
- 99-239 Compact of Free Association Act of 1985
- 99-198 Food Security Act of 1985
- 99-198 Food for Progress Act of 1985 (sec. 1110)
- 99-190 Further Continuing Appropriations, 1985
- 99-190 Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference)
- 99-180 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986
- 99-177 Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act]
- 99-162 Sales of Arms to Jordan
- 99-145 Department of Defense Authorization Act, 1986
- 99-93 Foreign Relations Authorization Act, Fiscal Years 1986 and 1987
- 99-93 United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II)
- 99-93 Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III)
- 99-93 Iran Claims Settlement (title V)
- 99-93 United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI)
- 99-93 Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII)

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- 99-88 Supplemental Appropriations Act, 1985  
99-88 Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV)  
99-85 Authorization for an Improved U.S./Soviet Direct Communications Link  
99-83 International Security and Development Cooperation Act of 1985  
99-83 International Narcotics Control Act of 1985 (title VI)  
99-83 Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI)  
99-64 Export Administration Amendments Act of 1985  
99-47 United States-Israel Free Trade Area Implementation Act of 1985  
99-8 African Famine Relief and Recovery Act of 1985  
99-5 Pacific Salmon Treaty Act of 1985  
98-623 Governing International Fishery Agreements With Iceland and the European Economic Community (title I)  
98-623 Antarctic Marine Living Resources Convention Act of 1984 (title III)  
98-618 Intelligence Authorization Act for Fiscal Year 1985  
98-573 Trade and Tariff Act of 1984  
98-573 International Trade and Investment Act (title III)  
98-573 Generalized System of Preferences Renewal Act of 1984 (title V)  
98-573 Steel Import Stabilization Act (title VIII)  
98-573 Wine Equity and Export Expansion Act of 1984 (title IX)  
98-562 Cooperative East-West Ventures in Space  
98-533 1984 Act to Combat International Terrorism  
98-525 Department of Defense Authorization Act, 1985  
98-525 United States Institute for Peace Act (title XVII)  
98-473 Continuing Appropriations, 1985  
98-473 Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference)  
98-473 President's Emergency Food Assistance Act of 1984 (title III)  
98-447 United States Government Opposition to the Practice of Torture  
98-445 Eastern Pacific Tuna Licensing Act of 1984  
98-373 Arctic Research and Policy Act of 1984 (title I)  
98-373 National Critical Materials Act of 1984 (title II)  
98-266 Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland  
98-258 Agricultural Programs Adjustment Act of 1984  
98-258 Agricultural Exports (title V)  
98-198 Child Health Revolution  
98-181 Supplemental Appropriations Act, 1984  
98-181 Trade and Development Enhancement Act of 1983 (title VI, part C)  
98-181 International Lending Supervision Act of 1983 (title IX)  
98-181 Multilateral Development Banks: Sense of Congress (title X)

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- 98-164 Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X)
- 98-164 United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II)
- 98-164 Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III)
- 98-164 Asia Foundation Act (title IV)
- 98-164 National Endowment for Democracy Act (title V)
- 98-164 Foreign Missions Amendments Act (title VI)
- 98-164 International Environmental Protection Act of 1983 (title VII)
- 98-164 Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII)
- 98-164 United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX)
- 98-151 Continuing Resolution, 1984
- 98-151 Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1))
- 98-151 International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2))
- 98-119 Multinational Force in Lebanon Resolution
- 98-111 Radio Broadcasting to Cuba Act
- 98-94 Department of Defense Authorization Act, 1984
- 98-67 Caribbean Basin Economic Recovery Act (title II)
- 98-43 Lebanon Emergency Assistance Act of 1983
- 97-446 Convention on Cultural Property Implementation Act (title III)
- 97-425 Nuclear Waste Policy Act of 1982
- 97-418 Protection of Foreign Missions
- 97-389 Fisheries Amendments of 1982
- 97-389 Atlantic Salmon Convention Act of 1982 (title III)
- 97-389 Governing International Fishery Agreements with Japan and Spain (title IV)
- 97-325 International Carriage of Perishable Foodstuffs Act
- 97-290 Export Trading Company Act of 1982 (title I)
- 97-290 Bank Export Services Act (title II)
- 97-252 Department of Defense Authorization Act, 1983
- 97-241 Department of State Authorization Act, Fiscal Years 1982 and 1983
- 97-241 Foreign Missions Act (title II)
- 97-241 United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III)
- 97-241 Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV)
- 97-229 Energy Emergency Preparedness Act of 1982
- 97-145 Export Administration Amendments Act of 1981
- 97-132 Multinational Force and Observers Participation Resolution
- 97-127 Czechoslovakian Claims Settlement Act of 1981
- 97-113 International Security and Development Cooperation Act of 1981
- 97-98 Agriculture and Food Act of 1981

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- 97-98 Agriculture Trade and Export Policy Commission Act (title XII, subtitle C)
- 97-35 African Development Bank Act (title XIII, subtitle B, part 3)
- 96-599 International Coffee Agreement Act of 1980
- 96-561 American Fisheries Promotion Act (title II)
- 96-533 International Security and Development Cooperation Act of 1980
- 96-533 African Development Foundation Act (title V)
- 96-494 Agriculture Act of 1980
- 96-494 Agricultural Trade Suspension Adjustment Act of 1980 (title II)
- 96-494 Bill Emerson Humanitarian Trust Act (title III)
- 96-487 Alaska National Interests Lands Conservation Act
- 96-478 Act to Prevent Pollution from Ships
- 96-465 Foreign Service Act of 1980
- 96-449 Hostage Relief Act of 1980
- 96-422 Refugee Education Assistance Act of 1980
- 96-389 Bretton Woods Agreements Act Amendments, 1980
- 96-339 Atlantic Tunas Convention Act of 1975, Appropriation Authorization
- 96-323 North Atlantic Treaty Organization Mutual Support Act of 1979
- 96-283 Deep Seabed Hard Mineral Resources Act
- 96-283 Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV)
- 96-280 Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation
- 96-271 International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981
- 96-259 Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund
- 96-236 International Sugar Agreement, 1977, Implementation
- 96-212 Refugee Act of 1980
- 96-175 Strategic and Critical Materials Transaction Authorization Act of 1979
- 96-133 Energy Policy and Conservation Act Amendments
- 96-92 International Security Assistance Act of 1979
- 96-72 Export Administration Act of 1979
- 96-70 Panama Canal Act of 1979
- 96-60 Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I)
- 96-60 International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II)
- 96-53 International Development Cooperation Act of 1979
- 96-39 Trade Agreements Act of 1979
- 96-35 Special International Security Assistance Act of 1979
- 96-9 Reaffirming North Atlantic Alliance—United States Commitment
- 96-8 Taiwan Relations Act
- 95-630 Financial Institutions Regulatory and Interest Rate Control Act of 1978

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- 95-630 Export-Import Bank Act Amendments of 1978 (title XIX)
- 95-561 Education Amendments of 1978
- 95-561 National Academy of Peace and Conflict Resolution (title XV, part B)
- 95-511 Foreign Intelligence Surveillance Act of 1978
- 95-501 Agricultural Trade Act of 1978
- 95-485 Department of Defense Appropriation Authorization Act, 1979
- 95-452 Inspector General Act of 1978
- 95-435 Bretton Woods Agreements Act Amendments, 1978
- 95-426 Foreign Relations Authorization Act, Fiscal Year 1979
- 95-426 International Communication Agency Authorization for Fiscal Year 1979 (title II)
- 95-424 International Development and Food Assistance Act of 1978
- 95-393 Diplomatic Relations Act
- 95-384 International Security Assistance Act of 1978
- 95-287 Reaffirming the Unity of the North Atlantic Alliance Commitment
- 95-242 Nuclear Non-Proliferation Act of 1978
- 95-238 Department of Energy Act of 1978
- 95-223 International Emergency Economic Powers Act (title II)
- 95-213 Foreign Corrupt Practices Act of 1977 (title I)
- 95-118 International Financial Institutions Act
- 95-113 Food and Agriculture Act of 1977
- 95-105 Foreign Relations Authorization Act, Fiscal Year 1978
- 95-105 United States Information Agency Authorization for Fiscal Year 1978 (title II)
- 95-92 International Security Assistance Act of 1977
- 95-88 International Development and Food Assistance Act of 1977
- 95-6 Fishery Conservation Zone Transition Act
- 94-583 Foreign Sovereign Immunities Act of 1976
- 94-472 International Investment and Trade in Services Survey Act
- 94-412 National Emergencies Act
- 94-350 Foreign Relations Authorization Act, Fiscal Year 1977
- 94-350 United States Information Agency Authorization for Fiscal Year 1977 (title II)
- 94-350 Foreign Service Retirement Amendments of 1976 (title V)
- 94-329 International Security Assistance and Arms Export Control Act of 1976
- 94-304 Establishing a Commission on Security and Cooperation in Europe
- 94-302 African Development Fund Act (title II)
- 94-265 Magnuson-Stevens Fishery Conservation and Management Act of 1976
- 94-265 Driftnet Act Amendments of 1990 (sec. 206)
- 94-163 Energy Policy and Conservation Act
- 94-161 International Development and Food Assistance Act of 1975

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94-141	Foreign Relations Authorization Act, Fiscal Year 1976
94-118	Japan-United States Friendship Act
94-110	Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai
94-70	Atlantic Tunas Convention Act of 1975
94-39	National Aeronautics and Space Administration Authorization Act, 1976
93-627	Deepwater Port Act of 1974
93-618	Trade Act of 1974
93-618	Narcotics Control Trade Act (title VIII)
93-559	Foreign Assistance Act of 1974
93-479	Foreign Investment Study Act of 1974
93-475	State Department/USIA Authorization Act, Fiscal Year 1975
93-366	Antihijacking Act of 1974
93-365	Department of Defense Appropriation Authorization Act, 1975
93-248	Intervention on the High Seas Act
93-205	Endangered Species Act of 1973
93-199	Emergency Security Assistance Act of 1973
93-189	Foreign Assistance Act of 1973
93-188	United Nations Environment Program Participation Act of 1973
93-153	Trans-Alaska Pipeline Authorization Act
93-148	War Powers Resolution
93-129	Board for International Broadcasting Act of 1973
93-126	Department of State Appropriations Authorization Act of 1973
93-110	Par Value Modification Act—Foreign Currency Reports (title II)
92-544	Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973
92-522	Marine Mammal Protection Act of 1972
92-499	Act to Extend Diplomatic Privileges to the Commission of the European Communities
92-403	Case Act—Transmittal of International Agreements
92-352	Foreign Relations Authorization Act of 1972
92-268	Par Value Modification Act
92-257	Trust Territory of the Pacific Islands Act
92-226	Foreign Assistance Act of 1971
92-39	Micronesian Claims Act of 1971
91-672	Foreign Military Sales Act Amendments, 1971
91-652	Special Foreign Assistance Act of 1971
91-441	Armed Forces Appropriation Authorization, 1971
91-269	United States Recognition and Participation in International Expositions
91-175	Foreign Assistance Act of 1969, as amended
90-629	Arms Export Control Act
90-554	Foreign Assistance Act of 1968
90-553	International Center Act
90-390	Export Loans—Assistance
90-349	Special Drawing Rights Act
90-137	Foreign Assistance Act of 1967

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- 89-732 Cuban Refugee Adjustment Act  
89-673 Foreign Gifts and Decorations Act of 1966  
89-583 Foreign Assistance Act of 1966  
89-532 Convention on the Settlement of Investment Disputes Act of 1966  
89-486 Foreign Agents Registration Act Amendments  
89-369 Asian Development Bank Act  
89-296 Ryukyu Islands Claims Settlement Act  
89-259 Cultural Objects—Importation for Temporary Display  
89-171 Foreign Assistance Act of 1965  
89-134 Peace Corps Act Amendments  
88-633 Foreign Assistance Act of 1964  
88-408 Tonkin Gulf Resolution  
88-205 Foreign Assistance Act of 1963  
87-826 Collection and Publication of Foreign Commerce and Trade Statistics  
87-794 Trade Expansion Act of 1962  
87-733 Cuban Resolution  
87-565 Foreign Assistance Act of 1962  
87-510 Migration and Refugee Assistance Act of 1962  
87-297 Arms Control and Disarmament Act  
87-293 Peace Corps Act  
87-256 Mutual Educational and Cultural Exchange Act of 1961  
87-195 Foreign Assistance Act of 1961  
87-195 Tropical Forest Conservation Act of 1998 (part V)  
87-125 General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962  
86-735 Latin American Development Act  
86-628 Legislative Branch Appropriation Act, 1961  
86-565 International Development Association Act  
86-472 Mutual Security Act of 1960  
86-472 Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII)  
86-420 Mexico-United States Interparliamentary Group  
86-147 Inter-American Development Bank Act  
86-108 Mutual Security Act of 1959  
86-42 Canada-United States Interparliamentary Group  
85-931 Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment  
85-846 EURATOM Cooperation Act of 1958  
85-568 National Aeronautics and Space Act of 1958  
85-474 Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959  
85-177 International Atomic Energy Agency Participation Act of 1957  
85-7 Resolution To Promote Peace and Stability in the Middle East  
84-885 State Department Basic Authorities Act of 1956  
84-689 United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution  
84-350 International Finance Corporation Act

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83-703	Atomic Energy Act of 1954
83-680	Fisherman's Protective Act of 1967
83-665	Mutual Security Act of 1954
83-480	Agricultural Trade Development and Assistance Act of 1954
83-451	Civil Government for the Trust Territory of the Pacific Islands
82-486	Extending Certain Privileges to Representatives of Organization of American States
82-414	Immigration and Nationality Act
81-764	Tuna Conventions Act of 1950
81-676	Whaling Convention Act of 1949
81-507	National Science Foundation Act of 1950
81-455	International Claims Settlement Act of 1949
81-439	Agricultural Act of 1949
80-772	Act of June 25, 1948
80-772	Logan Act—Private Correspondence With Foreign Governments
80-772	Johnson Act—Financial Transactions With Foreign Governments
80-402	United States Information and Educational Exchange Act of 1948
80-357	United Nations Headquarters Agreement Act
80-253	National Security Council
79-547	Act of July 25, 1946
79-291	International Organizations Immunities Act
79-264	United Nations Participation Act of 1945
79-173	Export-Import Bank Act of 1945
79-171	Bretton Woods Agreements Act
76-54	Neutrality Act of 1939
75-583	Foreign Agents Registration Act of 1938
75-543	Act of May 25, 1938
71-361	Tariff Act of 1930
69-186	Foreign Service Buildings Act, 1926
65-91	Trading With the Enemy Act

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## Appendix II

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 2005*, either as free-standing law or in amendments, arranged alphabetically by short title or popular name with corresponding Public Law number.

Short Title	Public Law No.
1984 Act to Combat International Terrorism .....	98-533
1998 Supplemental Appropriations and Rescissions Act .....	105-174
2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States .....	107-206
9/11 Commission Implementation Act of 2004 (title VII) .....	108-458
AGOA Acceleration Act of 2004 .....	108-274
Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act) .....	103-199
Act of May 25, 1938 .....	75-543
Act of July 25, 1946 .....	79-547
Act of June 25, 1948 .....	80-772
Act to Extend Diplomatic Privileges to the Commis- sion of the European Communities .....	92-499
Act to Honor the Victims of the Bombing of Panam Flight .....	103-158
Act to Prevent Pollution from Ships .....	96-478
Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference) .....	106-113
Afghan Women and Children Relief Act of 2001 .....	107-81
Afghanistan Freedom Support Act of 2002 .....	107-327
Africa: Seeds of Hope Act of 1998 .....	105-385
African Conflict Resolution Act .....	103-381
African Development Bank Act (title XIII, subtitle B, part 3) .....	97-35
African Development Foundation Act (title V) .....	96-533
African Development Fund Act (title II) .....	94-302

African Elephant Conservation Act (title II) .....	100-478
African Elephant Conservation Reauthorization Act of 1998 .....	105-217
African Elephant Conservation Reauthorization Act of 2001 .....	107-111
African Famine Relief and Recovery Act of 1985 .....	99-8
African Growth and Opportunity Act (title I) .....	106-200
Agricultural Act of 1949 .....	81-439
Agricultural Competitiveness and Trade Act of 1988 (title IV) .....	100-418
Agricultural Development and Trade Act of 1990 (title XV) .....	101-624
Agricultural Exports (title V) .....	98-258
Agricultural Programs Adjustment Act of 1984 .....	98-258
Agricultural Trade Act of 1978 .....	95-501
Agricultural Trade Development and Assistance Act of 1954 .....	83-480
Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment .....	85-931
Agricultural Trade Suspension Adjustment Act of 1980 (title II) .....	96-494
Agriculture and Food Act of 1981 .....	97-98
Agriculture Export Relief Act .....	105-194
Agriculture, Rural Development, Food and Drug Ad- ministration, and Related Agencies Appropriations Act, 2006 .....	109-97
Agriculture Trade and Export Policy Commission Act (title XII, subtitle C) .....	97-98
Aid, Trade, and Competitiveness Act of 1992 (title III) .....	102-549
Alaska National Interests Lands Conservation Act .....	96-487
Amendments to U.S.–Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank .....	108-215
American Aid to Poland Act of 1988 (title II, subtitle B, part II) .....	100-418
American Fisheries Promotion Act (title II) .....	96-561
American Institute in Taiwan Facilities Enhancement Act .....	106-212
American Servicemembers Protection Act (title II) .....	107-206
Andean Trade Preference Act (title II) .....	102-182
Andean Trade Promotion and Drug Eradication Act (title XXXI) .....	107-210
Anglo-Irish Agreement Support Act of 1986 .....	99-415
Antarctic Marine Living Resources Convention Act of 1984 (title III) .....	98-623
Antarctic Protection Act of 1990 .....	101-594
Antarctic Science, Tourism, and Conservation Act of 1996 .....	104-227
Anti-Economic Discrimination Act of 1994 (title V, part C) .....	103-236
Anti-Terrorism Act of 1987 (title X) .....	100-204
Antiterrorism and Effective Death Penalty Act of 1996 .....	104-132
Antihijacking Act of 1974 .....	93-366

Approval of the Compact of Free Association With the Government of Palau .....	99-658
Approving the Renewal of Import Restrictions—Burma .....	108-272
Arctic Research and Policy Act of 1984 (title I) .....	98-373
Arctic Tundra Habitat Emergency Conservation Act ...	106-108
Armed Forces Appropriation Authorization, 1971 .....	91-441
Arms Control and Disarmament Act .....	87-297
Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII) .....	99-93
Arms Control and Disarmament Amendments Act of 1987 .....	100-213
Arms Control and Disarmament Amendments Act of 1989 .....	101-216
Arms Control and Nonproliferation Act of 1994 (title VII, part A) .....	103-236
Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference) .....	106-113
Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference) .....	106-113
Arms Export Control Act .....	90-629
Asia Foundation Act (title IV) .....	98-164
Asian Development Bank Act .....	89-369
Asian Elephant Conservation Act of 1997 .....	105-96
Asian Elephant Conservation Reauthorization Act of 2002 .....	107-141
Asian/Pacific American Heritage Month—Designation .....	102-450
Assistance for International Malaria Control Act .....	106-570
Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005 .....	109-95
Atlantic Salmon Convention Act of 1982 (title III) .....	97-389
Atlantic Tunas Convention Act of 1975 .....	94-70
Atlantic Tunas Convention Act of 1975, Appropriation Authorization .....	96-339
Atlantic Tunas Convention Act of 1995 (title III) .....	104-43
Atlantic Tunas Convention Authorization Act of 1995 (title III) .....	104-43
Atomic Energy Act of 1954 .....	83-703
Au Pair Extension .....	104-72
Authorization for an Improved U.S./Soviet Direct Communications Link .....	99-85
Authorization for Use of Military Force [international terrorism] .....	107-40
Authorization for Use of Military Force Against Iraq Resolution of 2002 .....	107-243
Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678 .....	102-1
Aviation Security Improvement Act of 1990 .....	101-604
Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act] .....	99-177
Ballistic Missile Defense Act of 1995 (title II, subtitle C) .....	104-106
Bangladesh Disaster Assistance Act of 1988 .....	100-576

Bank Export Services Act (title II) .....	97-290
Belarus Democracy Act of 2004 .....	108-347
Bill Emerson Humanitarian Trust Act (title III) .....	96-494
Biological Weapons Anti-Terrorism Act of 1989 .....	101-298
Board for International Broadcasting Act of 1973 .....	93-129
Board for International Broadcasting Appropriations, 1988 (sec. 101(a), title V) .....	100-202
Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV) .....	97-241
Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III) .....	98-164
Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III) .....	99-93
Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V) .....	100-204
Bob Stump National Defense Authorization Act for Fiscal Year 2003 .....	107-314
Bretton Woods Agreements Act .....	79-171
Bretton Woods Agreements Act Amendments, 1978 ....	95-435
Bretton Woods Agreements Act Amendments, 1980 ....	96-389
Bring Them Home Alive Act of 2000 .....	106-484
Cambodian Genocide Justice Act (title V, part D) .....	103-236
Canada-United States Interparliamentary Group .....	86-42
Cape Town Treaty Implementation Act of 2004 .....	108-297
Caribbean Basin Economic Recovery Act (title II) .....	98-67
Caribbean Basin Economic Recovery Expansion Act of 1990 (title II) .....	101-382
Caribbean National Forest Wild and Scenic Rivers Act of 2002 .....	107-365
Case Act—Transmittal of International Agreements ...	92-403
Center for Cultural and Technical Interchange Be- tween East and West Act of 1960 (chapter VII) .....	86-472
Central American Peace Assistance .....	100-276
Central Bering Sea Fisheries Enforcement Act of 1992 (title III) .....	102-582
Chemical and Biological Weapons Control and War- fare Elimination Act of 1991 (title III) .....	102-182
Chemical Weapons Convention Implementation Act of 1998 (division I) .....	105-277
Child Health Revolution .....	98-198
Chinese Student Protection Act of 1992 .....	102-404
Civil Government for the Trust Territory of the Pacific Islands .....	83-451
Clean Air Act Amendments .....	101-549
Clean Diamond Trade Act .....	108-19
Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D) .....	107-228
Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland .....	98-266
Coast Guard Authorization Act of 1993 .....	103-206
Collection and Publication of Foreign Commerce and Trade Statistics .....	87-826
Combatting Proliferation of Weapons of Mass Destruc- tion Act of 1996 (title VII) .....	104-293

Commercial Space Act of 1998 .....	105-303
Compact of Free Association Act of 1985 .....	99-239
Competitiveness Policy Council Act (title V, part I, subtitles C) .....	100-418
Comprehensive Peace in Sudan Act of 2004 .....	108-497
Congo Basin Forest Partnership Act of 2004 .....	108-200
Consolidated Appropriations Act, 2005 .....	108-447
Continuing Appropriations, Fiscal Year 2006 .....	109-77
Continuing Resolution, 1984 .....	98-151
Convention on Cultural Property Implementation Act (title III) .....	97-446
Convention on the Settlement of Investment Disputes Act of 1966 .....	89-532
Conventional Forces in Europe Treaty Implementation Act of 1991 .....	102-228
Cooperative East-West Ventures in Space .....	98-562
Cooperative Threat Reduction Act of 1993 (title XII) ...	103-160
Crime Control Act of 1990 .....	101-647
Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 .....	104-114
Cuban Political Prisoners and Immigrants (sec. 101(a), title VII) .....	100-202
Cuban Refugee Adjustment Act .....	89-732
Cuban Resolution .....	87-733
Cuban Democracy Act of 1992 (title XVII) .....	102-484
Cultural Objects—Importation for Temporary Display Customs and Trade Act of 1990 .....	89-259
Czechoslovakian Claims Settlement Act of 1981 .....	101-382
Dante B. Fascell North-South Center Act of 1991 (sec. 208) .....	97-127
David L. Boren National Security Education Act of 1991 .....	102-138
Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV) .....	102-183
Deep Seabed Hard Mineral Resources Act .....	96-283
Deepwater Port Act of 1974 .....	96-283
Defense Against Weapons of Mass Destruction Act of 1996 (title XIV) .....	93-627
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