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Congress and Foreign Policy—1977

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FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., September 6, 1978.

With the resurgence of congressional activity in foreign affairs, the need has arisen for a document which summarizes the activities of the Congress in this area.

The Committee on International Relations provides summaries of its own activities in documents such as the annual "Survey of Activities" and the biannual "Legislative Review Activities" report. These documents, however, do not provide information in any comprehensive way about foreign affairs related activities of other House committees, the Senate or the Congress as a whole. For this reason, since 1974 the International Relations Committee has requested that the Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress, prepare annual reports of actions taken by Congress which impact on American foreign policy.

It is hoped that this report will be of assistance to the committee and its members in undertaking a review of the committee's legislative and oversight responsibilities in the area of foreign affairs, and that it will also prove helpful to other committees and Members of Congress, as well as to scholars, the press, and the public.

This report is the work of the Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress, and does not necessarily reflect the views of the members of the Committee on International Relations.

CLEMENT J. ZABLOCKI, *Chairman.*

LETTER OF TRANSMITTAL

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to transmit "Congress and Foreign Policy—1977," a report detailing congressional contributions to the shaping of U.S. foreign policy in 1977 and summarizing the role of the 95th Congress in foreign policy.

In addition to examining congressional action on specific foreign policy problems, the report attempts to analyze the larger role of Congress and its relation to the executive branch in the formulation of U.S. foreign policy.

This report was prepared by members of the Foreign Affairs and National Defense Division, Congressional Research Service, and edited by Dr. Joel M. Woldman, Specialist in U.S. Foreign Policy.

GILBERT GUDE, *Director.*

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INTRODUCTION

Congress and Foreign Policy—1977 is the fourth annual summary and analysis of the role of Congress in the foreign policy process prepared for the Committee on International Relations by the Foreign Affairs and National Defense Division of the Congressional Research Service.

Congress has continued to play an active role in the making of foreign policy with regard to certain issues, especially in the areas of foreign arms sales and foreign aid expenditures. The advent of a new administration in January 1977 and the development of new styles and priorities in foreign policy, notably a conscious emphasis on human rights and related humanitarian concerns, prompted vigorous congressional responses and initiatives. Based on the experience of recent years, Congress continues to assert its more active role in foreign policy matters.

As noted in the preceding edition of Congress and Foreign Policy, there is continuing controversy over the division of responsibility between Congress and the executive branch on questions of policy management.[1]

This was especially apparent in the way in which Congress asserted its policymaking role in the controversy over U.S. troop withdrawals from South Korea by inserting legislative language declaring the need for regular consultation with Congress on this process. Congress disregarded President Carter's request and applied statutory limitations on U.S. representatives to the international financial institutions requiring that they oppose loans to human rights violators. The inability of Congress to act quickly on the two new Panama Canal treaties submitted in September resulted from both the lateness in the congressional year of the transmittal and the confusion that had arisen over key provisions of the neutrality treaty, precipitating a second meeting between President Carter and General Torrijos to clarify U.S. rights.

The debate over whether or not to fund production of additional B–1 bombers, as well as most other defense issues, has been seen as part of the broader controversy over the administration's efforts to achieve a new strategic arms limitation (SALT II) agreement with the U.S.S.R. This was reflected in the difficult confirmation process for Arms Control and Disarmament Agency Director Paul Warnke in the Senate and requirements imposed by both Houses for coordination of any new agreement with Congress. Moreover, the President was forced to withdraw his first nomination for Director of Central Intelligence after members of the Senate indicated the unacceptability of that candidate.

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[1] U.S. Congress. House. Committee on International Relations. Congress and Foreign Policy—1976. Committee Print, 1977, 95th Cong., 1st sess. Washington, U.S. Government Printing Office, 1977. p. 1.

As in previous years, Congress in 1977 continued to enact legislative provisions requiring further congressional consideration of particular issues. Examples during 1977 include oversight provisions for strategic arms limitation, U.S. troop withdrawals from South Korea, and bilateral and multilateral economic assistance to nations with poor human rights records.

The interrelationships between foreign policy issues and domestic economic concerns continued to create problems for Congress during the session. Domestic economic interests influenced congressional consideration of such issues as international food and energy policies. The inability of Congress to move forward on legislation to reduce and conserve domestic energy consumption and the resulting growth in oil imports has had far-reaching political and economic repercussions. Thus, for the second consecutive year, Congress has not enacted comprehensive food or energy legislation.

Congress and Foreign Policy—1977 attempts to analyze the congressional contributions to the making of foreign policy in 1977, with special attention to the relationship between Congress and the executive branch. Primary attention is devoted to the role of the House International Relations and the Senate Foreign Relations Committees. However, pertinent activities of other committees and of the House and Senate as a whole are also discussed. The report does not attempt to cover all congressional activities relating to foreign policy or to present complete legislative histories of foreign policy-related measures.

Defining Congressional and Executive Roles in Foreign Policymaking

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INTRODUCTION

The relationship between the legislative and executive branches of Government in foreign policy has never been well-defined. In recent years, there has been movement toward a position of greater congressional involvement in policymaking. This trend continued during the first session of the 95th Congress. At the same time, congressional initiatives have been uneven, reflecting the hesitancy that often develops when a new administration takes office, particularly when the President is of the same party as the majority in each House. Moreover, there was little progress toward enactment of any of the legislative proposals discussed in the 94th Congress to enhance the role of Congress in the area of executive agreements.

Congressional oversight of the intelligence function, a subject of intense debate and discussion during the 94th Congress, moved perceptibly forward. A Permanent Select Committee on Intelligence was established in the House in July, while the select committee in the Senate was engaged during the year in a wide range of inquiries and activities. In both cases, the year was one of movement and of beginnings, with both committees anticipating a full and difficult legislative agenda in the year to come. Both bodies are charged with enacting statutory charters and guidelines for the Central Intelligence Agency (CIA) and the National Security Agency (NSA) in the foreign policy area. The Senate Committee for the first time reviewed annual appropriations for intelligence, including covert activities. Many problems remain, not the least of which is the handling of sensitive information and the jurisdictional conflicts resulting from the number of committees of both Houses—seven in the House and at least five in the Senate—with some responsibility in the intelligence field.

Reorganizations in both the legislative and executive branches in the foreign policy field were planned and/or implemented during 1977. While the House International Relations Committee restructured its subcommittees, the Senate reorganized its over-all committee structure. The reorganization of the Foreign Relations Committee's subcommittee system was less far-reaching than that in the House. The Administration took steps to implement its campaign promises to reorganize parts of the executive branch, including a number of agencies dealing with various aspects of foreign affairs.

Reorganizations implemented under the Reorganization Act of 1977 must be submitted to Congress, which can disapprove Presidential plans. Only one foreign affairs function—international information and cultural exchange programs—was slated for restructuring during 1977. Under the President's second Reorganization Plan of 1977, he recommended that the activities of the U.S. Information Agency (USIA) and the State Department's cultural exchange program be united under a new International Communication Agency (ICA). Neither House disapproved the plan, so it was scheduled for implementation on April 1, 1978.

Since the role of the intelligence community remained an issue during 1977, the administration, with the cooperation of the two Select Committees on Intelligence, drafted an Executive order including new charters, guidelines, and restrictions. Although the expected changes were not implemented during 1977, the President did take steps to centralize certain national intelligence functions and improve their control and direction. In addition, the committee structure of the National Security Council (NSC) was reorganized to emphasize policy coordination, rather than policy formulation.

A joint congressional-executive foreign policy body, the Commission on Security and Cooperation in Europe, originally chartered by Congress in 1976, continued to function as an instrument for direct legislative participation in the foreign policy process. Congressional-executive relations with respect to the Commission seem to have become more harmonious under the Carter administration than during the previous year. This may result from the new emphasis by the administration on human rights as an important factor in foreign policy.

INCREASING THE CONGRESSIONAL ROLE IN FOREIGN POLICYMAKING

Treaties, Executive Agreements, and War Powers*

OVERVIEW

Congressional initiative in 1977 with respect to the balance of power between the legislative and executive branches on treaties, executive agreements, and war powers was uneven, reflecting the hesitancy which frequently exists in Congress when a new President takes office, particularly when he is from the same party as the majority in each house. Congress' activities included:

—amendment of the Case-Zablocki Act to improve the reporting requirement;

—rejection of proposals for congressional approval by *both* Houses of U.S. ratification of the Panama Canal treaties;

—Senate review and subsequent authorization of the SALT I extension;

—Foreign Relations Committee hearings—though no action—on possible amendment of the War Powers Resolution, and

—redefinition of the President's powers to regulate international economic transactions in future times of war or national emergency.

No effort was made to move forward on any of the legislative proposals discussed in the 94th Congress intended to increase the role of Congress in the development of commitments through executive agreements.[1]

DISCUSSION

Treaties and executive agreements

General practice.—During 1977, according to figures compiled by the Department of State, the United States concluded 17 treaties and 424 international agreements other than treaties (executive agreements). For the same period, 14 treaties were submitted to the Senate for approval of U.S. ratification, but only five treaties were approved. Detailed statistics on Senate treaty action are as follows:

SENATE ACTION ON TREATIES—1977

	Approved by Senate	No action pending	Total
Treaties submitted in 1977	4	10	14
Treaties concluded in 1977	(2)	(4)	(6)
Treaties concluded before 1977	(2)	(6)	(8)
Treaties submitted before 1977	1	24	25
Total	5	34	

* Prepared by Marjorie Ann Browne, Analyst in International Relations.

[1] See Congress and Foreign Policy—1975, pp. 45–47; and Congress and Foreign Policy—1976, pp. 11–15.

At the start of the second session of the 95th Congress, there were 34 treaties pending before the Senate Foreign Relations Committee.

In response to the Case-Zablocki Act (Public Law 92–403), the Secretary of State during 1977 transmitted to the Congress 454 unclassified and 32 classified agreements. Thus, since August 22, 1972, when the act was signed, through the end of 1977, 1,819 agreements other than treaties have been transmitted to the Congress.

Case-Zablocki Act amendment.—During 1977 Congress modified the Case-Zablocki Act to require that—

> 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.[2]

This change was intended to insure that the State Department, which is required by law to transmit the agreements to Congress, is aware of and has copies of all such agreements, including those made by agencies other than the Department and its officers. The Department's difficulty in acquiring such knowledge and texts was identified by the General Accounting Office in 1976 as a major problem.[3]

This amendment may have a substantial quantitative impact, depending on the number of agreements being made by other agencies which have not been transmitted on a regular basis to the Department of State. This impact would include:

—increasing the number of agreements transmitted to State Department and ultimately to Congress;
—increasing the numbers of agreements tabulated as being concluded; and
—increasing the number of agreements published and thus available to the American public.

In addition, the comprehensive acquisition of all agreements could better assist those in Congress and in the executive branch in identifying more accurately the developing trends in U.S. relations with other nations. Certainly, its effectiveness will depend on the extent to which all agencies expeditiously and comprehensively transmit such agreements to the State Department. Its effectiveness will also depend on the adequacy of the Department's staff to review such agreements expeditiously and to transmit appropriate agreements to the Congress under the act.

Congressional concern with specific agreements

At least two sets of agreements—the Panama Canal treaties and the SALT I extension—provoked concern in Congress over its role in their development and approval. Presidential submission of the Panama Canal treaties to the Senate brought into conflict two provisions of the U.S. Constitution: the treatymaking power of the President and the Senate and the congressional power to dispose of U.S. territory and property. Some in Congress asserted that both Houses of

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[2] Sec. 5, Public Law 95-45, 91 Stat. 244, approved June 15, 1977. This amendment was recommended by the Senate Foreign Relations Committee in its report to the Senate on H.R. 5040, authorizing additional appropriations for the Department of State for fiscal year 1977 (S. Rept. 95-99). It was accepted by the Senate on May 11, 1977, without debate, and on May 26, 1977, by the House without debate.

[3] A legislative proposal similar to that enacted in 1977 and requiring transmittal to the State Department within 20 days after entry into force had been approved by the Senate but dropped in conference during 1976 (see Congress and Foreign Policy—1976, p. 12).

Congress should participate in the approval of U.S. ratification.[4] The executive branch maintained that the treatymaking power could be used to dispose of U.S. territory and property and it would appear that this position has been accepted by the Congress.[5]

The second set of agreements related to the extension of the 1972 SALT I agreement after its expiration on October 3, 1977.[6] The United States and the Soviet Union each issued unilateral statements, declaring the intention of each not to take any action inconsistent with the provisions of the Interim Agreement, conditioned on similar inaction by the other nation. The executive branch asserted that the statement did not legally obligate the United States by binding international agreement and did not require authorization under section 33 of the Arms Control and Disarmament Act. Some Senators argued that the U.S. and Soviet statements, "whether or not described as unilateral, in fact constitutes a binding international agreement" which would "be in effect for so long as both parties perform according to the terms."[7] The Senate adopted a concurrent resolution (S. Con. Res. 56) authorizing the President to proceed in accordance with the unilateral statement. It would appear, however, that in spite of the Senate resolution, the central issues between the two branches relative to appropriate implementation of section 33 of the Arms Control and Disarmemant Act and the possible *de facto* agreement status of the U.S. and Soviet declarations remained unanswered.

War powers: Amendment of the resolution

While the provisions of the War Powers Resolution did not come into use during 1977, the Senate Foreign Relations Committee undertook a review of the resolution and its effectiveness.[8] Pending for comment was draft legislation to amend the resolution. The purpose of the amendments was twofold: (1) to return the resolution to the original intent of its sponsors and (2) to strengthen and clarify some of the weaknesses revealed during its operation on four occasions.

These amendments, as published in the committee hearings, included the following:

—a listing of the situations when, in the absence of a declaration of war by Congress, the President may introduce U.S. Armed Forces;
—prohibited the obligation or expenditure of funds for any use of the U.S. Armed Forces prohibited by Congress or not authorized by the resolution;
—reduced time limit within the congressional procedures for concurrent resolution from 6 calendar days to 48 hours;
—included executive agreements and concurrent resolutions as among those items which may not be used as authority for the introduction of U.S. Armed Forces unless such introduction is specifically authorized;
—defined the circumstances under which U.S. Armed Forces shall be considered to have been introduced into hostilities.

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[4] It would follow from this line of argument that the treaties should be handled either (1) as executive agreements subject to a joint resolution of Congress or to passage of a bill or (2) as treaties subject to further congressional approval of the disposal of property provisions.

[5] A review of congressional action related to the Panama Canal may be found in the section on Latin America elsewhere in this volume. (Ed.)

[6] Also see the discussion of SALT on pp. 92–96. (Ed.)

[7] S. Rept. 95–499, pp. 11–12.

[8] The committee's hearings on the operation and effectiveness of the War Powers Resolution (Public Law 93–148) were held on July 13, 14, and 15, 1977, and are cited at the end of this section. In addition to testimony from three Members of the Congress, the committee heard the views of the State Department's Legal Adviser on behalf of the administration and of four legal scholars.

Senator Thomas F. Eagleton, as one who favored amendment of the Resolution, observed that it was "tragically flawed" and urged that "the original legislation which twice passed the Senate be passed again." Thomas M. Franck, another witness, characterized the War Powers Resolution as "a healthy redress of the adversary or balance-of-power system that informs our democracy," but Franck agreed with Eagleton that it has "in practice proven to have severe flaws."

Senator Eagleton also observed that the War Powers Resolution was "expanding, not limiting Presidential, war-making powers." On this issue, Abraham D. Sofaer noted that,

> Despite assertions that it grants the President nothing, it can be construed as perhaps the most sweeping delegation ever made of the power to use force.

Myron P. Curzan agreed with Sofaer that the resolution "tends to provide the President with more power than the Constitution originally contemplated he should have."

On the other hand, Senator Barry M. Goldwater argued against the War Powers Resolution:

> The Resolution is a very dangerous tampering by Congress. * * * Far from seeing any need for strengthening the present law, I would prefer to see it stripped of all its mandatory provisions and replaced with a "Sense of the Congress" declaration. * * * I not only believe the War Powers Resolution is a potentially dangerous obstacle to the national security, I believe it is unconstitutional.

Monroe Leigh, State Department Legal Adviser during 1975 and 1976, also testified against the Resolution:

> I believe that a large measure of the friction between the President and the Congress over war powers could be removed if the Congress were to adopt a concurrent resolution detailing what it expected from the President in situations where the armed forces might be introduced into hostilities. Although such a resolution would not have binding legal effect, if it were developed in close consultation with the President, it could lay the groundwork for fruitful cooperation between the two branches of government.

On the final day of hearings, Herbert J. Hansell, the State Department's Legal Adviser, pledged that "the Administration will follow the provisions of the * * * Resolution." He noted "that conscientious observance of the procedures set forth in the Resolution, including effective consultation and timely reporting, will assure that both the executive and legislative branches possess the means to exercise their full and proper constitutional responsibilities."[9] At the same time, however, Hansell urged that the consideration of amendments be "deferred." He recommended that Congress establish procedures to facilitate consultation.[10]

While those arguing in support of the amendment urged that action be taken now, before a crisis develops, it would appear that this suggestion was not heeded. Legislation amending sections 5 and 8(a) of

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[9] Hansell indicated that a review process had been established by the administration to assure timely executive branch reports pursuant to section 4 of the Resolution. The Legal Adviser to the Chairman of the Joint Chiefs of Staff informs the Department of Defense General Counsel of all troop deployments routed through the Chairman's office which could raise a question whether a report to the Congress is required. The General Counsel then advises the Secretary of Defense as to a recommendation to the President that a War Powers report be submitted. The Legal Adviser of the Department of State also receives the information supplied to the DOD General Counsel and brings to the attention of the Secretary of State all cases in which the submission of a report should be recommended to the President.

[10] Assistant Secretary of State Douglas Bennet, Jr., who accompanied Legal Adviser Hansell, suggested that each House of the Congress (1) designate one person as an initial point of contact for executive branch officers in the event of a crisis and (2) establish procedures for creation of an ad hoc committee, consisting of no more than 8 to 10 members of Congress, with whom the executive branch would consult. Each committee might serve to represent a form of collective judgment as the crisis develops. Its membership might consist of both permanent and ad hoc members.

the resolution was introduced in the House by Rep. Stephen J. Solarz on July 14, 1977, the day after he testified before the Foreign Relations Committee, but no action was taken by the House International Relations Committee to consider it. Moreover, legislation to amend the War Powers Resolution was not introduced in the Senate in 1977. The Committee did not issue a report giving its views on the recommendations made during the hearings.

War powers: Wartime or national emergencies

On December 28, 1977, legislation redefining the power of the President to regulate international economic transactions in future times of war or national emergency became law (Public Law 95–223). According to the House International Relations Committee report on H.R. 7738, the law separated "war and nonwar authorities and procedures, preserving existing Presidential powers in time of war declared by Congress, and providing somewhat narrower powers subject to congressional review in times of 'national emergency' short of war." [11] The legislation was a response to the requirement of section 502 of the National Emergencies Act (Public Law 94–412) for the appropriate committees to study section 5(b) of the Trading With the Enemy Act and report any recommendations and proposed revisions.[12]

During House floor consideration of the bill, Representative Charles W. Whalen, Jr. linked it to the War Powers Resolution, observing:

> The committee has tried to create a necessary analog to the war powers legislation passed by this committee and the Congress in 1973. Congress is as much at fault as any administration if it allows a President to carry out policies, wise or unwise, under blanket authority granted by defective legislative statute. This bill will, I hope and expect, in conjunction with the War Powers Act, call the President to task before the Congress and produce the policy justifications Congress has the right to expect. This will restore an organic relationship between the two branches.[13]

The House had included in H.R. 7738 a section which provided for congressional review, including disapproval by concurrent resolution, of regulations to be issued by the President under the legislation. The Senate, following the recommendation of its Committee on Banking, Housing, and Urban Affairs, deleted this section from the legislation,[14] and the House subsequently concurred in the Senate amendment. Rep. Jonathan B. Bingham, in bringing this matter to the attention of the House on November 30, observed:

> According to Senator Stevenson, manager of the Senate bill, the Senate felt strongly that the congressional veto [already] provided in the National Emergencies Act over future declarations of national emergency, which would trigger the international economic regulatory authority spelled out in this bill, constitutes a sufficient congressional check on the use of these authorities and makes unnecessary the additional congressional veto of regulations contained in the House bill. It was the concern of the House committee in considering this legislation that the congressional veto over national emergencies might provide too blunt and imprecise a congressional check—that a future Congress might concur with the need for a declaration of national emergency, but disagree with the use of a particular authority available to the President in light of a declared national emergency.[15]

While the provision providing for concurrent resolution disapproval of regulations was deleted from the legislation, section 207(b), providing for the termination of national emergencies by concurrent resolution pursuant to section 202 of the National Emergencies Act,

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[11] H. Rept. 95–459, p. 1.
[12] See Congress and Foreign Policy—1976, pp. 40–41.
[13] Congressional Record, vol. 123, July 12, 1977: H6872.
[14] S. Rept. 95–466; Congressional Record, vol. 123, Oct. 11, 1977: S16912.
[15] Congressional Record, vol. 123, Nov. 30, 1977: H12559.

remained. In signing H.R. 7738 on December 28, 1977, President Carter referred to section 207(b), noting his "serious concern" over the constitutional questions raised by the concurrent resolution provision and declaring that he would:

> Treat the provision as requiring only that I "notify and wait" with respect to national emergencies covered by Section 207(b) of this act.[16]

Future congressional concerns

Impact of diplomatic recognition on U.S. treaty commitments.—The question of possible termination of U.S. treaty and/or agreement commitments with the Republic of China (ROC) as a condition of U.S. recognition of the People's Republic of China (PRC) was raised in both the House and the Senate during 1977. While the timing and final conditions for such recognition remain open to negotiation, the possibility of negative impact on U.S. relations with the government on Taiwan remains a subject of concern.[17] Senator Barry Goldwater, as one opposed to U.S. recognition of the PRC government, on September 8 presented to the Senate a detailed analysis of the proposition that:

> No President acting alone can abrogate, or give notice of the intention to abrogate, existing treaties with the government on Taiwan unless he obtains the advice and consent of the Senate or the approval of Congress.[18]

On October 20, 1977, Representative Paul Simon expressed doubt as to the advisability of unilaterally terminating treaties with the Republic of China. While Simon did not oppose U.S. recognition of the PRC—and in fact seemed to favor a two-China or China/Taiwan policy—he observed:

> This is a major issue of political controversy in the United States and it should be settled through procedures assuring the full constitutional role of the Congress.[19]

Simon inserted a study from the Congressional Research Service which he argued, showed that "there is no clear constitutional or historical justification for unilateral Presidential action."

When the President, acting for the United States, does extend diplomatic recognition to the People's Republic of China, the substance of the agreement will have an impact paralleling or overshadowing the 1933 Hull-Litvinov agreement[20] extending diplomatic recognition to the Soviet Union. The potential ramifications are already under study within Congress, and this issue, as well as the broader implications of the normalization question will undoubtedly be of increasing importance to the two international relations committees in the next several years.

1977 analysis of executive branch regulations and practices.—In March 1977 the Senate Foreign Relations Committee published a report which described and analyzed the procedures and practices by which international agreements are formulated and entered into by the United States. The study identified several avenues for possible legislative proposals. One group of options would primarily improve

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[16] Weekly Compilation of Presidential Documents, Jan. 2, 1978: 1941.
[17] See the discussion of relations with China on pp. 53–56 for detailed coverage of U.S. relations with both Chinas. (Ed.)
[18] China, the Abrogation of Treaties and the Constitution. Congressional Record, vol. 123, Sept. 8, 1977: S14427, S14433.
[19] Who Is Empowered to Terminate a Treaty? Congressional Record, vol. 123, Oct. 20, 1977: H11400–11403.
[20] This was an executive agreement concluded by the President solely on his constitutional authority.

Congress information about international agreements and included the following points:

(1) Review Executive use of existing prior legislative grants of authority to enter into international agreements other than treaties;

(2) Require precise citation of any prior legal authority (statutory and/or treaty) for all international agreements other than treaties at the time they are reported to Congress;

(3) Require codification and annotation of international agreements;

(4) Establish a format of precise impact-oriented data to be supplied with all international agreements submitted to the Congress;

(5) Require prompt establishment of a written record of any agreement entered into orally and intended or likely to be perceived as obligating any agency or ranking official of the United States government; and

(6) Make State Department Circular 175 binding upon all Executive agencies and departments and upon the State Department itself.[21]

A second group of options would enable Congress to influence the terms of international agreements:

(1) Reinforce and clarify the treaty mechanism,

(2) Supplement the treaty mechanism with a statutory procedure for congressional veto or approval of some or all international agreements other than treaties, or

(3) Combined approaches 1 and 2.[22]

The study also identified nine areas which have raised special problems affecting both congressional information and action on international agreements. They include:

—agency-to-agency agreements
—secret agreements
—joint commissions with foreign nations
—emergencies and disasters
—"non-binding" agreements
—patterns of agreement and inferred commitments
—commercial involvement
—the Vienna Convention on the Law of Treaties and Senate action
—a comprehensive statutory system.[23]

In all likelihood, the extent to which Congress responds to the above mentioned problems and proposals depends on its perceptions of executive branch actions in the development of commitments through executive agreements and on the extent of executive branch/legislative branch cooperation in this field. It appears unlikely that Congress will, in 1978, enact legislation implementing any of these proposals.

CONCLUSION

Congress and Foreign Policy—1976 included the following observations relative to treaties and executive agreements:

It may be that future congressional efforts relative to executive branch activities in the treaties/executive agreements area will continue to be directed towards

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[21] International Agreements: An Analysis of Executive Regulations and Practices, March 1977, pp. 35–38. See end of section for full citation to study.
[22] International Agreements: An Analysis of Executive Regulations and Practices, March 1977, pp. 39–40.
[23] International Agreements: An Analysis of Executive Regulations and Practices, March 1977, pp. 40–47.

oversight in special instances and that attempts to legislate broad cooperation procedures with the executive branch will diminish in favor of more effective administration of the Case-Zablocki Act and of the already enacted provisions for congressional review of foreign relations activities.[24]

Congressional activities in 1977 did, in general, follow that prediction. In addition to amending the Case-Zablocki Act, Congress approved several governing international fishery agreements pursuant to the Fishery Conservation and Management Act of 1976 and implemented the procedures for congressional review of arms sales, as they were amended in 1976.

It is anticipated that Congress will take little action in 1978 that would affect the relationship between the executive and legislative branches on treaties, executive agreements, and war powers unless, as indicated above, a significant crisis in the foreign policy/national commitments area produces sufficient concern for the development of a congressional consensus.

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[24] Congress and Foreign Policy—1976, p. 18.

Congressional and Executive Organization for Foreign Policy/Reorganization*

OVERVIEW

During 1976, studies were undertaken in both Houses on Congress role in foreign policy and its own organization for dealing with these issues.[1] In 1977 Congress undertook a number of organizational modifications designed to better meet changing needs and demands.

Further congressional activity was perhaps stimulated by the inauguration of a new administration, one committed to reorganization of the Government in general. Thus, Congress was also faced with a large number of nominations as well as reorganization proposals affecting various Executive departments and agencies.

The complexity of foreign relations, comprising as it does issues of diplomacy, defense, aid, economics, arms control and intelligence, makes it difficult for either the Executive or Congress to arrive at any final organizational structure that will assure effective legislative mechanisms and meaningful oversight. As issues change, so has the organization of both branches to deal with these issues.

DISCUSSION

Congress

Congressional organization.—At the beginning of the 95th Congress there were reorganizations of a number of committees responsible for different aspects of national security policy.

The House International Relations Committee reorganized its subcommittee structure, going from a purely functional arrangement to one in which there are both functional and regional subcommittees. There are now 9 subcommittees, down from 10 in the 94th Congress; of these 9 subcommittees 4 are regional and 5 are functional.[2]

In the Senate the entire committee structure was reorganized for the 95th Congress, including that of the Senate Foreign Relations Committee, although the reorganization of this committee was less far-reaching than that in the House. There are now 9 subcommittees instead of 10; 6 of them have been carried over from the 94th Congress, 1 with a change of title but not jurisdiction. The remaining 3, all functional subcommittees, represent a redistribution of subject areas.[3]

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* Prepared by Mark M. Lowenthal, Analyst in National Defense.

[1] U.S. Congress. House. Committee on International Relations. Congress and Foreign Policy—1976. (Committee Print). Washington, U.S. Government Printing Office, 1977. pp. 35–42.

[2] The subcommittees of the House International Relations Committee in the 95th Congress are: Africa; Asian and Pacific Affairs; Europe and the Middle East; Inter-American Affairs; International Development; International Economic Policy and Trade; International Operations; International Organizations; and International Security and Scientific Affairs.

[3] The subcommittees of the Senate Foreign Relations Committee in the 95th Congress are: Foreign Economic Policy; Arms Control, Oceans and International Environment; International Operations; Foreign Assistance; African Affairs; European Affairs; East Asian and Pacific Affairs; Near Eastern and South Asian Affairs; and Western Hemisphere Affairs.

In addition, the House voted to create a Select Committee on Intelligence, by a vote of 227–171 on July 14, 1977 (H. Res. 658). This new committee has exclusive legislative jurisdiction over the Central Intelligence Agency and the Director of Central Intelligence, and shared sequential jurisdiction over other intelligence agencies.[4]

Executive nominations.—With the inauguration of the Carter administration, Congress had to consider a number of nominations in the foreign policy area. The nominations of Cyrus Vance to be Secretary of State, Harold Brown to be Secretary of Defense, John Gilligan to be Administrator of the Agency for International Development (AID), and John Reinhardt to be Director of the U.S. Information Agency (USIA) were all confirmed without controversy.[5]

However, President Carter's nominees for the Director of Central Intelligence, Theodore C. Sorensen, and Director of the Arms Control and Disarmament Agency (ACDA), Paul C. Warnke, were very controversial, and Sorensen's nomination was ultimately withdrawn.

Opposition to Sorensen arose over a number of issues, including his background and qualifications, his draft status as a conscientious objector, the role of his law firm and its connection with certain multinational corporations and foreign governments, and his use of classified materials for his memoirs. In the face of growing opposition, Sorensen withdrew his nomination after answering these various allegations and charges before the Senate Intelligence Committee.[6] In February 1977 President Carter nominated Adm. Stansfield Turner to be Director of Central Intelligence (DCI). Although some concern was expressed over Admiral Turner's remaining on active duty while serving as DCI, his nomination received unanimous approval from the Senate Intelligence Committee and the Senate.[7]

The choice of Paul Warnke to be Director of the Arms Control and Disarmament Agency (ACDA), with the rank of Ambassador and chief SALT negotiator during his tenure, aroused great controversy.[8]

It is unusual for Congress to raise such critical questions about Presidential nominees, expecially for an incoming administration and one of the same party as the majority in Congress. The vote on Warnke and the anticipated rejection of Sorensen both signaled an increasingly active congressional role in the direction of national security policy, as well as an increased desire on the part of Congress to take part in policy decisions throughout their evolution.

Executive reorganization

President Carter made executive reorganization one of his campaign themes, and in 1977 the new administration took steps to reorganize a number of agencies and departments dealing with different aspects of

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[4] For greater details on the creation of the House Select Committee on Intelligence and intelligence oversight in general see the discussion of intelligence oversight on pp. 20–36 in this volume. (Ed.)

[5] U.S. Congress. Senate. Committee on Foreign Relations. Vance Nomination. Hearings, 95th Cong., 1st sess. Jan. 11, 1977. Washington, U.S. Government Printing Office, 1977. 126 pp.; and U.S. Congress. Senate. Committee on Armed Services. Nominations of Harold Brown and Charles W. Duncan, Jr. Hearings, 95th Cong., 1st sess. Jan. 11, 1977. Washington, U.S. Government Printing Office, 1977. 87 pp.

The Senate Foreign Relations Committee hearings on the Gilligan and Reinhardt nominations were not printed.

[6] U.S. Congress. Senate. Select Committee on Intelligence. Nomination of Theodore C. Sorenen. Hearings, 95th Cong., 1st sess. Jan. 17, 1977. Washington, U.S. Government Printing Office, 1977. 43 pp.

See also Naughton, James M., et al. The Rejection of Sorensen: A Drama of Human Failing. New York Times. Feb. 2, 1977. p. A1.

[7] U.S. Congress. Senate. Select Committee on Intelligence. Nomination of Adm. Stansfield Turner. Hearings, 95th Cong., 1st sess. Feb. 22 and 23, 1977. Washington, U.S. Government Printing Office. 1977. 98 pp.

[8] For greater details on the Warnke nomination see the discussion of SALT on pp. 92–96 in this volume. (Ed.)

foreign policy. Some of these plans required congressional action while others took place solely within the executive branch and without reference to Congress.

The President's authority to submit reorganization plans was granted under Public Law 95–17, April 6, 1977, the Reorganization Act of 1977.[9] Under the provisions of this act the President can submit to Congress up to three reorganization plans at one time. Either House of Congress then has 60 days of continuous session to pass a disapproval resolution after a plan is submitted; the plan goes into effect after the 60-day period if such a resolution has not been passed.

Reorganization Plan No. 2 of 1977.[10]—Reorganization Plan No. 2 was submitted by President Carter on October 12, 1977, under the authority granted him by Public Law 95–17. This plan proposed the abolition of the U.S. Information Agency (USIA) and a separate State Department Bureau of Educational and Cultural Affairs (CU), and the consolidation of their programs in a new agency associated loosely with the State Department, to be called the International Communication Agency (originally entitled the Agency for International Communication). General policy direction would be handled by the Secretary of State. This plan also proposed the abolition of the two advisory commissions for USIA and CU, and the creation of a new combined seven-member Advisory Commission on International Communication, Cultural and Educational Affairs.[11]

In his message of transmittal President Carter gave some indication of the reasons behind this reorganization. The new arrangement was intended to unify in Washington the administration of programs which have always had unified administration abroad. The message also indicated a shift away from programs and activities which might be considered propagandistic in nature and towards those emphasizing the mutual exchange of cultural and educational efforts and international communication.[12]

Congressional critics of the plan noted that there were few details on the proposed reorganization, especially in terms of the relationship of the new agency to the State Department, the independence of the Voice of America, and expected efficiencies. Ten minority members of the House Government Operations Committee found that the plan complied with the letter but not the spirit of the Reorganization Act.[13]

Motions of disapproval were introduced in both Houses, House Resolution 827 and Senate Resolution 293. House Resolution 827 was defeated on November 29, 1977, 357–34; Senate resolution was not considered by the full Senate and Reorganization Plan No. 2 was thus approved on December 11, 1977.

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[9] **Public Law 95–17 ; 91 Stat. 29 ; 5 U.S.C. 901–902.**

[10] Reorganization Plan No. 1 reorganized the Executive Office of the President, and affected agencies concerned with domestic policy areas or responsibilities. The only parts of the plan dealing with foreign policy organizations stated that the National Security Council staff would be slightly reduced, and that the Intelligence Oversight Board should be retained. This plan went into effect on Oct. 19, 1977. Changes were made in the National Security Council, but not through this Reorganization Plan. These changes are discussed below.

[11] U.S. President, 1977 (Carter). Reorganization Plan No. 2 of 1977. Oct. 12, 1977, Washington, U.S. Government Printing Office, 1977. 95th Cong., 1st sess. H. Doc. No. 95–243. 9 pp. This plan was amended twice after submission, on Nov. 1, and Nov. 2, 1977.

[12] Ibid.

[13] U.S. Congress. House. Committee on Government Operations. Reorganization Plan No. 2 of 1977: Report to Accompany H. Res. 827. Washington, U.S. Government Printing Office, 1977. (95th Cong., 1st sess. H. Rept. No. 95–818) pp. 36–37.

See also the view of Senator Charles A. Percy in U.S. Congress. Senate Committee on Governmental Affairs. Reorganization Plan No. 2 of 1977. Report to Accompany S. Res. 293. Washington, U.S. Government Printing Office, 1977. (95th Cong., 1st sess. S. Rept. No. 95–606) pp. 19–21.

Intelligence reorganization.—The organization, functioning, and proper role of the intelligence community remained issues in 1977 and were the subject of much attention, little of it in public. The Carter administration, with the cooperation of the two Select Committees on Intelligence, drafted an Executive order containing new charters and guidelines and restrictions on certain activities for the various components of the intelligence community. Although the charters were reportedly completed by the end of the year they were not put into effect, pending final adjustments which would attempt to strike an adequate balance between national security and civil liberties.[14] Executive Order 12036 was enacted on January 24, 1978. S. 2525, introduced February 9, 1978, would enact many of these changes and other reforms into law. Thus, Congress had a role in shaping the evolving charters, albeit not a public one.[15]

However, the Carter administration did make some changes in advance of the Executive order and legislative charters. On August 4, 1977, the President announced that the Director of Central Intelligence (DCI) would have budget authority over all national intelligence activities, including those of the State and Defense Departments; his budget decisions could, however, be appealed to the President. The DCI was also given tasking authority for the missions of the intelligence agencies, to be handled through the new National Intelligence Tasking Center. A similar function was formerly carried out, on a less centralized basis, by the National Foreign Intelligence Board (NFIB), and its predecessor, the United States Intelligence Board (USIB). The DCI also retained his primary authority for the production of national intelligence.[16]

This reorganization, which was a major part of Executive Order 12036, was designed to centralize national intelligence functions and to improve control and direction by the President through the National Security Council and the DCI. The administration contends that intelligence requirements, individual agency tasking to meet those requirements, budgetary needs and final intelligence products can be handled in a more coherent manner under this new arrangement. Some critics have felt that this gives too much central authority to the DCI, and there have been questions about the subordination of certain aspects of Defense intelligence to the DCI. A fuller and more judicious analysis must await the further development and actual working of this new arrangement, as well as further possible changes in the expected legislation.

National Security Council.—By Executive Order 11985, May 13, 1977, President Carter reorganized the seven committees of the National Security Council (NSC) into two. The President also noted that the NSC's role would emphasize policy coordination rather than policy formulation, this latter role being more closely vested in the Cabinet.

The two new NSC committees are the Policy Review Committee, which handles long-term projects and issues, and intelligence priorities and requirements; and the Special Coordinating Committee, which deals with crisis situations, covert operations and issues transcending

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[14] Arguments over Civil Liberties Delay Order on Intelligence Work. New York Times, Dec. 20, 1977, p. 12.

[15] See the section on intelligence oversight on pp. 20–36 in this volume for details of congressional activity in that area. (Ed.)

[16] White House Press Release, Aug. 4, 1977.

departmental lines. These changes were also part of Executive Order 12036.

CONCLUSION

By the end of 1977, most of these committees and agencies had been functioning as reorganized for less than a year, making it difficult to make any final judgments as to the effectiveness or efficiency of these changes.

While Congress has sought a stronger role in the formulation of policy and the related question of organization, its role remains somewhat limited, as shown by the number of changes made in 1977 solely on the authority of the Executive.

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Intelligence Oversight *

OVERVIEW

As he prepared to relinquish the chairmanship of the Senate Select Committee on Intelligence near the end of 1977, Senator Inouye wrote that "the intelligence community is now in a state of transition."[1] The same could be said of Congress in its oversight of the intelligence agencies. In the House, the most noteworthy development in 1977 was the establishment in July of a Permanent Select Committee on Intelligence. In the Senate, the Select Committee on Intelligence, which had been established in 1976 (See Congress and Foreign Policy—1976, pp. 25–30), was engaged in a broad range of inquiries and activities, but with little specific legislation to show for it as the year ended.

Nevertheless, the committee's first Annual Report to the Senate (Senate Report No. 95–217, May 18, 1977) and the chairman's end-of-session report are important documents in the history of U.S. intelligence operations and congressional-executive relations in this field. The Annual Report is particularly useful for its description of the committee's first year of activities and its agenda for the future. The two reports indicate that the Senate Committee has only just begun its work and faces some difficult and sensitive problems in the months ahead.

The most important task, according to Chairman Inouye, was the enactment of statutory charters and guidelines for the Central Intelligence Agency (CIA), the National Security Agency (NSA), and, on the domestic side, the Federal Bureau of Investigation (FBI).[2] This would involve (a) reconciling the need for secrecy of intelligence operations with the citizenry's right to know what the Government was doing and (b) striking a balance between laws and regulations, on the one hand, and maintaining the necessary flexibility to enable the intelligence community to do its job. The proposed legislation would also attempt to define more clearly the relationship of the intelligence community to the press and to academia and would involve measures designed to enable the courts to deal more effectively with cases involving information classified for national security purposes.

The House Permanent Select Committee on Intelligence will also be grappling with many of the same problems. Under their charters both committees were directed to study and report upon various aspects of U.S. intelligence operations and their management and control, such as the quality of intelligence analysis, the authorization of funds, the conduct of covert and clandestine activities, and the need to revise laws, regulations and congressional rules to improve the protection of intelligence secrets and to provide for disclosure where

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* Prepared by Hugh W. Wolff, Specialist in U.S. Foreign Policy.

[1] Inouye, Daniel K. Report to the Senate on the Work of the Senate Select Committee on Intelligence: Congressional Record [daily ed.] vol. 123, Dec. 15, 1977: S19845.

[2] Ibid.

such action would be consistent with security. They were instructed also to look into the desirability of establishing a joint congressional committee on intelligence or of having joint briefings and coordinating their policies on safeguarding intelligence information.

Thus, to a considerable degree the 1978 agendas for the two Intelligence Committees are already established. Furthermore, any legislative proposals that they put forward will almost inevitably be of concern to the committees on Armed Services, Judiciary and Foreign/International Relations, which continue to have jurisdiction over some of the intelligence agencies. In the pages that follow, this paper discusses first the measures taken to date to develop and to exercise more effective congressional oversight of intelligence, and then describes the major problem areas to be considered and the viewpoints likely to be expressed as Congress moves ahead in this important and sensitive field.

DISCUSSION

New Developments in Congressional Oversight

Senate

As a result of the Senate's approval, on February 4, 1977, of Senate Resolution 4, to reorganize the committee system, the membership of the Senate Select Committee on Intelligence was increased from 15 to 17, with 9 majority and 8 minority members. Accordingly, Senators Moynihan (Dem., N.Y.) and Wallop (Rep., Wyoming) were added to the committee. In the general reshuffling of committee assignments, four new Republicans (Mathias, Pearson, Chafee and Lugar) were appointed to positions on the Intelligence Committee formerly held by Senators Thurmond, Baker, Hatfield, and Stafford, and Senator Goldwater became vice chairman in place of Senator Baker.

In addition to the four original subcommittees—Charters and Guidelines; Budget Authorization; Collection, Production and Quality of Intelligence; and Rights of Americans—two new ones were established: one on Investigations, chaired by Senator Morgan, and the other an Ad Hoc Group on Secrecy and Disclosure, chaired by Senator Biden. The latter was instructed to study the Nation's secrecy laws and regulations and, if necessary, to recommend new legislation or executive action in order "to strike a more workable balance between the necessary secrecy and the right of the people to be informed of the activities of governmental agencies." [3]

The Sorensen nomination.—Even before the 95th Congress convened, the Senate Intelligence Committee was confronted with a controversial issue, the nomination of Theodore C. Sorensen to be Director of Central Intelligence (DCI). According to press reports, Sorensen had been recommended to President-elect Carter by Prof. Richard Neustadt of Harvard, apparently on the grounds that the CIA was in trouble and would require rebuilding by a person who was both sensitive to issues of civil liberties and familiar with the Presidency and the need for reliable intelligence.[4] Sorensen's previous experience in the Kennedy administration and his reputation for keen analytical capabilities and independent judgment also commended

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[3] U.S. Congress. Senate. Select Committee on Intelligence. Annual Report to the Senate. Washington, U.S. Government Printing Office, 1977. (95th Cong., 1st sess. S. Rept. No. 95-217, May 18, 1977) p. 21. Henceforth referred to as "Annual Report."

[4] Kraft, Joseph. Sorensen at the CIA. Washington Post, Jan. 6, 1977.

him to Carter. Opponents of the nomination argued that Sorensen lacked administrative experience, knew little about national security affairs in general and intelligence in particular, and had indicated too casual an attitude toward classified information in affidavits relating to the publication of the Pentagon papers.

By the time the Senate Intelligence Committee held its hearing on the Sorensen nomination, on January 17, it was apparent that the nominee faced strong opposition from conservatives and from some liberals as well. At the hearing committee members of both parties expressed concern about the affidavits and cited the need for a DCI who could command the confidence of the intelligence community. Although committee disapproval was by no means assured, Sorensen, after entering a vigorous defense of his record and integrity, announced that he was asking Governor Carter to withdraw his nomination on the grounds that "to continue fighting for this post * * * would only handicap the new administration if I am rejected, or handicap my effectiveness as Director if I am confirmed." [5]

About a month later, Adm. Stansfield Turner appeared before the same committee [6] and, after responding to extensive oral questioning and to written interrogatories, was recommended for approval as DCI. On February 24 his nomination was confirmed by the Senate.

The forced withdrawal of Sorensen was a shock to the White House and an early indication of the strained relationship between Congress and the Executive that was to recur in various ways throughout the year. It also served to highlight the continuing controversy over the role of intelligence in this country. To the extent that Sorensen was seen by senators and others as a man critical of undue secrecy in government and of some of the intelligence operations of the past, this episode seemed to indicate that congressional opinion was swinging away from the zeal for reform of recent years and toward a greater concern for maintaining the morale of the intelligence community. By appointing Admiral Turner as DCI, the President avoided having to deal with this issue a second time. A military man with excellent credentials as a scholar and administrator, Turner was nevertheless an "outsider" to the intelligence agencies but not to global strategy and the use of national intelligence.

Investigation of CIA surveillance of Micronesian officials.—In May the Senate Intelligence Committee released a brief summary of its findings after a 4-month investigation of allegations that the CIA had conducted electronic surveillance and other clandestine collection efforts against Micronisian officials beginning in 1973, when authorities of the Territory of the Pacific Islands (for which the United States had responsibility under a U.N. trusteeship) had been negotiating for their independence. The committee found that the responsible U.S. officials had "failed to differentiate between intelligence techniques appropriate for use against an armed adversary and those proper for use against a people under U.S. administration and protection." [7]

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[5] U.S. Congress. Senate. Select Committee on Intelligence. Nomination of Theodore C. Sorensen. Hearings, 95th Cong., 1st sess. Jan. 17, 1977. Washington, U.S. Government Printing Office, 1977. p. 34.

[6] U.S. Congress. Senate. Select Committee on Intelligence. Nomination of Adm. Stansfield Turner, Hearings, 95th Cong., 1st sess. Feb. 22 and 23, 1977, Washington, U.S. Government Printing Office, 1977, 98 pp.

[7] U.S. Congress. Senate. Select Committee on Intelligence. News Release: Statement and Summary Findings of Investigation into CIA Involvement in Micronesia. [Undated] p. 4.

The committee criticized the Executive for failure to seek opinions from the Departments of State and Justice as to the legality of the clandestine operations, which had been deemed lawful by the CIA's General Counsel and had been approved by Dr. Kissinger as Assistant to the President for National Security Affairs. The committee also reported that in the only instance when microphone surveillance was used no one outside the CIA was informed and that "it was not the practice at that time to report such activities to congressional committees." [8] In its findings the committee urged that in the future the use of "such a highly intrusive technique as microphone surveillance * * * should warrant appropriate congressional consultation. * * *" [9] The committee also expressed the belief that none of the information obtained by the CIA had had any effect on the negotiations for independence or on any agreements reached to date.

Intelligence Committee's first annual report.—The most comprehensive and enlightening description of the activities and future plans of the Senate Intelligence Committee is to be found in its first Annual Report, which was published May 18, 1977 (Senate Report No. 95–217). The report acknowledged that Congress was responsible in part for past abuses committed by intelligence agencies because of its failure to exercise proper oversight. It set forth in considerable detail the processes developed thus far to improve oversight and to insure proper accountability. Ongoing activities and some planned for the future were also described. A separate chapter was devoted to each of the six subcommittees, with discussion of major concerns in each case. For example, the Subcommittee on Collection, Production and Quality of Intelligence was engaged on a series of case studies of U.S. intelligence estimates in such key areas as Soviet strategic weapons developments, China, Portugal in 1973–75, increases in oil prices by Arab countries in 1973–74, the energy question in general, and the problem of monitoring a possible U.S.-Soviet agreement on strategic arms (SALT).[10] Of equal significance was the work of the Budget Authorization Subcommittee, which for the first time in history was reviewing, evaluating and setting limits on the annual appropriations for all aspects of intelligence, including a detailed examination of covert action programs.

These covert action programs were the subject of a special chapter outlining new oversight procedures worked out between the committee and the executive branch. In accordance with the "sense of the Senate" provision in section 11 of Senate Resolution 400, the committee was notified by the CIA whenever the President certified (as provided in section 662 of the Foreign Assistance Act) that a proposed covert action operation was important to the national security. Such notification was made prior to implementation of the proposal and included not only a summary of the proposal, its origin, justification, and risks but also its estimated cost, timing, duration, etc. Subsequently, the committee received semiannual reports on the status of all covert action projects plus interim reports in some instances. According to the Annual Report, the committee had "complete access to relevant

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[8] Ibid. p. 3.
[9] Ibid. p. 4.
[10] On Dec. 20, 1977, the first such study was released by the committee. It was a sanitized "statement of findings" drawn from a 66-page classified staff study entitled, "U.S. Intelligence Analysis and the Oil Issue, 1973–74." This study was critical of the work of the CIA in predicting and evaluating the role of Saudi Arabia during and following the oil embargo.

Agency files and personnel" and, in the budget authorization process, had reviewed and voted upon every individual covert action project. The report commented:

> Thus it is clear that the Senate, through its delegated committee, has been able to review, consider and act on the record in conformity with Constitutional processes even in so difficult and secret an area as covert action. If the procedures established during the past year are continued, there is every reason to believe that whatever covert action is undertaken by the United States will reflect the national will as expressed by both the Legislative and executive branches and not by just the executive branch alone.[11]

With reference to the question of establishing a joint congressional committee on intelligence, the report found that "for the foreseeable future a joint committee does not seem desirable or possible." However, it noted that efforts were then under way to establish a counterpart committee in the House.[12]

Other problem areas that were studied by the Select Committee included counterintelligence, the activities of foreign intelligence services in this country, and the major forms of intelligence collection, some of which involve highly sophisticated technology, costly research and development, and systems which are to some extent redundant. Overall, the Report reflects dramatic improvements in the state of intelligence oversight. It includes this important assessment: "* * * it is this committee's judgment that the intelligence agencies are now functioning under the control of the President, the Director of Central Intelligence, and the heads of the various intelligence entities, and that they are now fully and properly accountable to the Congress." [13]

Chairman Inouye's report.—In November, Chairman Inouye made an end-of-session report to the Senate in which he supplemented and updated the material in the Annual Report. Notably, he reported that since July the committee had been working closely with the Executive on the reorganization of the intelligence community. As an interim measure an executive order was being prepared which would serve also as a blueprint for permanent legislation setting forth the principal missions and purposes of the intelligence agencies and providing for more effective control over their activities.[14]

Senator Inouye saw the forthcoming work on statutory charters and guidelines as the "most important" task of the committee to date, one that required achieving a balance "between detailed specifications of what may or may not be done, and the need on the part of the intelligence agencies for a degree of flexibility to meet exigent circumstances." [15]

According to Inouye, various problem areas were to be explored by the committee. One was the relationship between the intelligence community, on the one hand, and the press and academia on the other. The chairman had "come to the conclusion that no intelligence agency should be involved with working journalists." He did not explain what constituted "involvement" other than to say that he was concerned about "the flowback of propaganda to the United States" which could result from the planting of stories in the foreign press by the CIA.[16]

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[11] Annual Report, p. 19.
[12] Ibid., p. 37.
[13] Ibid., p. 13.
[14] Inouye, op. cit., p. S19854. This report, although not published in the Record until Dec. 15, was distributed to members of the committee on Nov. 18, 1977, and released to the press shortly thereafter.
[15] Ibid.
[16] Ibid.

Another fundamental problem confronting the committee was the need to balance secrecy in intelligence matters against the public's right to know what its government was doing. The Senate resolution establishing the Select Committee on Intelligence declared it to be the sense of the Senate that the committee be kept "fully and currently informed with respect to intelligence activities, including any significant anticipated activities * * *." [17] As Chairman Inouye pointed out,

> The necessity for a large and extensive secret intelligence system imposes great demands upon our democratic constitutional society. Secret intelligence activities, by their very nature, require that only a delegated few in the government, in both the Executive and the Legislative branches, have detailed knowledge of the overall activities of our intelligence agencies. I am convinced after my period of first-hand observation that much of the information produced by our intelligence system is not only useful but necessary to the nation's security and well-being.[18]

He noted that, "No other legislature in the world has this right to secret information." It meant, for one thing, that the Select Committee must be representative of the Senate as a whole and must have its confidence. Senator Inouye stressed that his was a nonpartisan committee and that its membership of nine Democrats and eight Republicans "reflects the full spectrum of Senate views from left to right." [19]

The sharing of secret, highly sensitive information also meant that those members and staff people who had access to such information had an obligation to protect it and to disclose it only in accordance with accepted procedures. Chairman Inouye was satisfied with the committee's performance in this respect:

> We have met the challenge of proving that Congress can and will * * * keep the valid secrets entrusted to its care.[20]

He proposed the application of those same procedures to *all* classified information made available to the Senate.[21]

In this report Senator Inouye announced his decision to resign the chairmanship at the end of the session because, in his view, the chairman of this committee should not hold the office for more than 2 years. Rotating the chairmanship should help to maintain "the combination of close detailed work with the agencies and a vigilant attitude toward their activities." He hoped that his action would "establish a precedent which would be reflected in an amendment to Senate Resolution 400," requiring such rotation on a regular basis.[22]

Although Chairman Inouye's report was frank in mentioning several unresolved issues facing the committee and the Congress, it said nothing about the diffusion of responsibility that resulted from having legislative jurisdiction over intelligence divided among several Senate committees. Nor did the report give any indication of serious concern over the effect of the Hughes-Ryan amendment (section 662) to the Foreign Assistance Act, which requires the President to report "in a timely fashion, a description and scope of such [covert action] operation to the appropriate committees of Congress, including the Committee on Foreign Relations * * * and the Committee on Foreign

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[17] S. Res. 400, sec. 11(a), 94th Cong., 2d sess.
[18] Inouye, op. cit., p. S19844.
[19] Ibid.
[20] Ibid., p. S19845.
[21] Ibid.
[22] Ibid., p. S19846. The selection of Senator Birch Bayh to succeed Senator Inouye as committee chairman was announced on Jan. 27, 1978.

Affairs (now International Relations). * * *" Other "appropriate committees" include the Appropriations, Armed Services, and Intelligence Committees of both Houses. Thus, notification is presumably given to eight committees, a situation running counter to the thrust of the recommendations of both the Church and Pike committees, which urged the establishment of permanent intelligence committees in each House in order to strengthen and consolidate congressional oversight. As indicated below, President Carter had also voiced concern over the number of committees involved in intelligence oversight and had urged the formation of a single joint committee for this purpose.[23]

House

New Committee on Intelligence established.—The fact that the House had taken no action to establish an intelligence oversight committee comparable to that in the Senate became a source of concern to the new administration. At a press conference on February 23 and in an informal address to State Department employees 1 day later, President Carter expressed the hope that the two Houses of Congress would form a joint committee on intelligence. Then, apparently becoming aware that a joint committee was unlikely until the House had its own intelligence committee, President Carter, accompanied by Vice President Mondale and Stansfield Turner, Director of Central Intelligence, met on May 12 with Speaker O'Neill and other House leaders to urge early action in this respect.[24]

The leadership took vigorous action. House Resolution 658, closely patterned on Senate Resolution 400, was pushed through the Rules Committee after a 1-day hearing on July 12 and referred to the House July 13 under a rule barring any amendments. The floor debate on July 14 was heated, with minority members objecting in particular to the membership ratio of 9 to 4, which they considered inappropriate for a supposedly bipartisan committee even though it reflected the ratio of Democrats and Republicans in the House at the time. (The counterpart committee in the Senate has a more balanced membership of 9 Democrats and 8 Republicans.) The minority also objected vigorously to the leadership's refusal to permit amendments from the floor and to provisions of the resolution relating to safeguarding classified information, which they considered inadequate.[25]

Opposition was also expressed by members who took issue with a provision authorizing the new committee to write its own regulations relating to access to classified information. In the debate it became clear that such rules would have to include a "need-to know" clause which would prevent disclosure to some members under certain circumstances. Although such a provision would run counter to Rule XI, which gave every member access to anything in a committee's files, the leadership argued that intelligence was too sensitive to be open to all, and without such a limitation the new committee could not expect to gain the confidence of the intelligence community.

The vote on House Resolution 658 was surprisingly close, 227 to 171, with the opposing Republicans joined by more than 30 Democrats who

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[23] Views on this point expressed in the House debate on the establishment of the Permanent Select Committee on Intelligence are discussed below.

[24] Sarro, Ron. House Considers Intelligence Panel. Washington Star, May 12, 1977: 13.

[25] Amending the Rules of the House of Representatives and Establish [sic] a Permanent Select Committee on Intelligence. [Debate and vote in the House] Congressional Record [daily ed.] vol. 123, July 14, 1977: H7104-20.

wanted changes in the resolution and protested that it was being rushed through the House without sufficient debate.[26]

The effect of the House Resolution 658 was to add to the House Rules a new Rule 48, establishing a Permanent Select Committee on Intelligence consisting of 13 members, with at least 1 member from each of the Committees on Appropriations, Armed Services, International Relations, and Judiciary. The majority and minority leaders are *ex officio* members without vote, and no member is to serve on the committee for more than 6 years, exclusive of service during the 95th Congress. Four subcommittees were formed: Program and Budget Authorization, with Representative Bill Burlison as chairman; Legislation, under Representative Morgan Murphy; Oversight, under Representative Les Aspin; and Evaluation, under Representative Charles Rose.

The new committee's charter, like that of the Senate Intelligence Committee, gives it exclusive legislative jurisdiction over the CIA and DCI. Jurisdiction over the Defense Intelligence Agency (DIA), the National Security Agency (NSA), and other elements of the intelligence community is shared sequentially with other committees, such as Armed Services, International Relations and Judiciary (with respect to the FBI's role in foreign intelligence). As in the Senate, the new committee is also given specific responsibility for authorization of appropriations for all agencies and activities of the intelligence community. In the case of authorizations for the CIA and the DCI, the committee has exclusive jurisdiction; for other agencies, jurisdiction is shared sequentially.

Handling of classified information.—On the controversial issue of the handling of classified information and procedures for its disclosure, the charter is virtually identical to Senate Resolution 400. The new committee is given the power to determine whether or not other Members of the House should have access to such information, and in its Rules of Procedure the committee subsequently provided that such access must be requested in writing and "each such request" must be decided by a record vote of the committee, taking into account "such considerations as the sensitivity of the information sought to the national defense or the confidential conduct of the foreign relations of the United States, the likelihood of its being directly or indirectly disclosed and such other concerns—constitutional and otherwise—as affect the public interest of the United States." [27]

The committee is given the power to disclose classified information upon a determination that such disclosure would serve the public interest but only after the matter has been referred to the Executive and the President has been given 5 days to object in writing. In the absence of such objection, setting forth the reasons therefore and certifying that "the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in disclosure," the committee could make the disclosure. However, if the President does object "personally, in writing" and so certify, the committee is required either to drop the matter or, by a majority vote, to refer it to the House with a recommendation. The House is to go into closed session for no more than 2 hours of debate and then to vote on the matter in open session

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[26] Ibid.

[27] U.S. Congress. House. Permanent Select Committee on Intelligence. Rules of Procedure. Washington, U.S. Government Printing Office, 1977. pp. 6–7.

without revealing the information at issue.[28] If the committee's recommendation is not approved, the question is to be considered as "recommitted to the select committee for further recommendation."

Thus, under the new rule, only a vote by the House can override a Presidential objection to the proposed disclosure. By contrast, Senate Resolution 400 provides that the Senate may approve the disclosure of any or all of the information in question, disapprove of such disclosure, or refer the matter back to the committee, "in which case the committee shall make the final determination with respect to the public disclosure of the information in question." [29]

In both House and Senate any unauthorized release of classified intelligence information by a member or staff employee is prohibited, and violations are subject to investigation and penalties, including possible censure or expulsion, in the case of a member, and dismissal or punishment for contempt, in the case of an employee.

No single oversight committee.—During the floor debate, House Resolution 658 was criticized because it failed to centralize jurisdiction over the intelligence agencies in one committee of the House. The sharing of responsibility with at least three other committees (Armed Services, International Relations, and Judiciary) was viewed as simply adding to the oversight problem and making it difficult for the Executive to maintain necessary secrecy. The point was made that seven House committees were being kept informed of various aspects of CIA's activities.[30]

The administration and both the Rockefeller and Murphy Commissions [31] had found congressional oversight to be too diffused and had recommended forming a single joint committee on intelligence. During the debate House leaders, as well as some of those speaking in opposition, voiced the hope that the two Houses could work together to form such a committee.[32] Meanwhile, there are likely to be continuing doubts in Congress and in the executive branch about the sharing of jurisdiction among so many committees, which means that in the House alone highly sensitive information on the intelligence budget and programs could be available to more than 90 menbers, plus staffs, of three key committees—Intelligence (13 members), Armed Services (41 members), and International Relations (37 members)—not to mention the Appropriations and Budget Committees.

Legislative Issues

Disclosure of intelligence budget.—Both oversight committees were required by their enabling resolutions not only to consider all legislation relating to authorizations for appropriations for the Intelligence agencies but also to study and report on "the authorization of funds * * * and whether disclosure of any of the amounts of such funds is in

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[28] The ability of the House to handle such classified information in closed session has been questioned. On June 28, 1977, in floor debate on the Defense Appropriation bill for fiscal 1978, Rep. Burlison said that the House Parliamentarian had counseled against holding a closed session to debate certain amendments relating to the CIA because the House was "not equipped to deal with this procedure." The Parliamentarian had pointed out, for example, that the officers of the House, reporters, clerks, pages, and others did not have clearances to handle such information. (Congressional Record, vol. 123, June 28, 1977: H6619).

[29] S. Res. 400, sec. 8(b)(5)(C).

[30] Boland, Edward P. Amending the Rules of the House of Representatives and Establish [sic] a Permanent Select Committee on Intelligence. Remarks in the House. Congressional Record [daily ed.] vol. 123, July 14, 1977: H7119.

[31] The President's Commission on CIA Activities Within the United States, headed by Vice President Rockefeller, was appointed in January 1975 and made its report in June of that year. The (Murphy) Commission on the Organization of the Government for the Conduct of Foreign Policy, which was established by Public Law 92-352 and was chaired by the late Robert D. Murphy, also reported in June 1975,

[32] Boland. op. cit., H7119; also, Bolling, Richard, p. H7106, and Rhodes, John J. p. H7109.

the public interest. * * *'' The House Intelligence Committee came into being too late to address itself to the fiscal 1978 budget request, but toward the end of the year it began closed hearings on the fiscal 1979 request.

The Inouye committee held public hearings April 27 and 28 to deal with the question of disclosure of the total amount appropriated for intelligence for fiscal 1978. The committee was told by Admiral Turner, Director of Central Intelligence, that the President would not oppose the disclosure of such an aggregate figure for the entire intelligence community. However, three former DCI's, William Colby, Richard Helms, and George Bush, were opposed to such action.

The committee's report on this matter (Senate Report No. 95–274, June 16, 1977) revealed that after a thorough examination of both the constitutional and national security aspects of the problem the committee remained closely divided, voting 9 to 8 to recommend disclosure. Two minority members, Senators Case and Mathias, who voted in favor of release, were balanced by two Democrats, Senators Hathaway and Moynihan, who voted against.

On June 27 Chairman Inouye reported Senate Resolution 207, which expressed agreement with the committee's recommendation and directed him as chairman to disclose the aggregate amount of funds appropriated for national foreign intelligence activities immediately after the appropriation bill had been enacted into law. The latter legislation, the Department of Defense Appropriation Act, 1978, was signed September 21, 1977 (Public Law 95–111), but Senate consideration of Senate Resolution 207 was put off until 1978.

Those advocating release of the information argued that "even if the Constitution does not specifically require such disclosure, such disclosure should take place in the absence of convincing evidence that it would damage the national security." [33] None of the witnesses who testified before the committee had claimed that "this one-time disclosure * * * would be damaging to the national security." Furthermore, the majority held that such disclosure:

> Would serve a number of public interests. The public would be able to weigh the Government's priorities as seen in its spending, and should have increased confidence in the operations, and the legitimacy of the intelligence community. Moreover, if such a figure were disclosed, the public would be able to serve as a check on both the executive branch and the Congress, and should therefore have increased confidence in the mechanisms for oversight of intelligence activities.[34]

Opposing committee members argued that disclosure would be a dangerous and unnecessary precedent, "reversing 2 centuries of sound congressional practice. It would overturn a decision made by the Senate by a vote of 55–33 on this same subject just 3 years ago. And it could well constitute the first in a series of disclosures which would wholly undermine the effectiveness of our entire intelligence apparatus." [35] They claimed that annual disclosures would enable hotile nations "to detect trends in our intelligence operations," such as the development of the U–2 aircraft, which would not have

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[33] U.S. Congress. Senate. Select Committee on Intelligence. Whether Disclosure of Funds for the Intelligence Activities of the United States is in the Public Interest. (95th Cong., 1st sess. S. Rept. No. 95–274, June 16, 1977.) Washington, Government Printing Office, 1977, p. 9.

[34] Ibid.

[35] Ibid, p. 13.

been possible, according to former DCI William Colby, if the CIA budget had been a matter of public knowledge.[36] Both Colby and Helms were particularly concerned that, since the total figure meant little by itself, such disclosure would inevitably lead to the release of further details of the intelligence budget that could do serious damage to the program. Under questioning by Senator Inouye, Admiral Turner said that to his knowledge no other nation in the world followed such a practice.

The disclosure resolution is to be brought before the Senate early in 1978 if the leadership approves.

Senate review of budget request.—Although the disclosure issue attracted the attention of the media, it was in fact a relatively minor aspect of the overall budget review process, the full significance of which is difficult to ascertain because it was carried on almost entirely in closed committee meetings. Nevertheless, it seems clear that under the new procedures established in 1977 by both the executive and the legislative branches the budget proposals of U.S. intelligence agencies will be subject to more thorough review than ever before.

On the legislative side, the establishment of two new oversight committees with the power to authorize funding for national intelligence operations and to monitor the use of such funds represented an entirely new approach by the Congress. As Senator Huddleston pointed out during the debate on S. 1539, the Intelligence Authorization Act of 1978, this was not only the first time that the Senate was able to authorize funds for all intelligence operations but also "the first time that every Member of this body has had the opportunity to review an extensive report detailing the various activities for which these funds are sought." [37] The committee's classified report had been made available to any Senator wishing to examine it.

In addition, the committee published a brief unclassified report (Senate Report No. 95–214, May 16, 1977), stating it to be the committee's intent that the classified report, which described "in detail the full scope and intent of the committee's actions and the specific amounts authorized for each of the major U.S. intelligence activities," should have the force of a Senate authorization bill. The executive agencies were enjoined to "comply fully with the guidelines and limitations contained therein." [38]

Although Chairman Inouye circulated a letter on May 17 to all Senators advising that the subcommittee's classified report was available for examination, according to the Washington Post only three Senators asked to see the report.[39] On the other hand, some Senators were reported to be disappointed that this first authorization bill was brought to the floor "with only slightly more than an hour's notice * * *" at the dinner hour and with few Senators other than members of the Intelligence Committee in attendance.[40]

The only budget figures mentioned in S. 1539 were $35.1 million for the CIA's Retirement and Disability System and $8.95 million for the Intelligence Community Staff (ICS), which was to assist the DCI "to

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[36] Ibid, p. 14.

[37] Huddleston, Walter. Intelligence Authorization Act, 1978. Remarks in the Senate. Congressiona Record, vol. 123, June 22, 1977: S10502.

[38] U.S. Congress. Senate. Select Committee on Intelligence. Authorizing Appropriations for Fiscal Year 1978 for Intelligence Activities of the United States Government * * * and for Other Purposes. Report to accompany S. 1539. (95th Cong., 1st sess. S. Rept. No. 95–214) p. 2.

[39] Lescaze, Lee. A Spooky Milestone in Senate. Washington Post, June 24, 1977; A1.

[40] Ibid.

fulfill his responsibility for directing the substantive functions and managing the resources of the Intelligence Community."

As approved by the Senate on June 22, the bill maintained the existing ceiling of 170 positions for the ICS, a reduction of 26 from the number requested by the administration. Similarly, the authorization of $8.95 million for the ICS was about $1.5 million less than had been requested but $437,000 more than the revised budget for fiscal 1977.

House action on budget request.—The House Permanent Select Committee on Intelligence came into being too late to take part in the congressional review of the fiscal 1978 intelligence budget. This responsibility remained in the hands of a subcommittee of the Armed Services Committee, and whatever action was taken on the authorization of funds for the intelligence agencies by the subcommittee and its parent committee is not apparent from the unclassified report of the latter.

However, the House Appropriations Committee, reporting out the Defense appropriation bill, H.R. 7933, recommended cuts of $204.8 million in intelligence programs and $218.2 million in "intelligence-related" activities. Details of the proposed reductions were given only in classified documents, but the committee report (H. Rept. 95–451, June 21, 1977) was particularly critical of the failure of the Defense Department and the Director of Central Intelligence to meet similar criticisms by the committee last year concerning the definition and management of intelligence-related activities.

During floor debate of H.R. 7933, the House approved an amendment, proposed by Representative Burlison (D.-Missouri), reducing by approximately $15 million the appropriation for "Other Procurement, Air Force." Representative Burlison said that the purpose of this reduction was to reduce the CIA "Reserve for Contingencies" from $35 million to $20 million and to discourage the secret transfer of funds into the account by the Executive without consulting Congress. He was concerned because the transfer mechanism enabled:

> The Agency * * * to carry out projects that have not been approved by Congress—acting through its Subcommittee on Defense Appropriations on highly classified and sensitive matters. * * * It is true that the * * * Subcommittee. * * * must be given "notice." It has been ruled, however, that this can properly be given before or after the fact. Two prominent examples of projects carried on with this fund were the Laos war in Southeast Asia and the Angola war in Africa—before Congress found out and cut off the funds.[41]

Furthermore, the CIA was exempt from a requirement that Federal agencies must:

> Expend their procurement appropriations within 3 years and R&D within 2. If the funds were not obligated within that time frame they reverted to the Treasury. The CIA, however, puts all such funds into its reserve [for contingencies] * * * Money appropriated by Congress for a specific purpose can be—and is—thus diverted to whatever use the Executive chooses. Again, Congress need only be given "notice."[42]

Representative Burlison had argued originally that either the CIA Reserve for Contingencies should be terminated or the CIA should be required to return unobligated funds to the Treasury just as other government agencies did. An amendment having the latter effect had

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[41] Burlison, Bill D. Department of Defense Appropriation Act, 1978. Remarks in the House. Congressional Record, vol. 123, June 28, 1977: H6619.
[42] Ibid.

in fact been offered by Chairman Mahon and approved by the Appropriations Committee.[43]

Arguing on behalf of the CIA's reserve fund, Representative Sikes contended that the CIA had a special need for such reserves to meet contingencies for "unanticipated and often emergency requirements." Use of the fund was subject to approval by the Office of Budget and Management and "at policy levels of the executive branch." In addition, both Appropriation Committees were notified "within 48 hours of the authorization of the release." Representative Sikes said that the fund should be continued and that although the $15 million cut might be too severe it represented "a compromise which may be best under the circumstances." [44] The Burlison amendment was adopted by the House on June 28, but whether the $15 million cut, which was hidden in the Air Force appropriation, remained in the bill as finally passed is not specified in the unclassified conference report.

As enacted into law (Public Law 95–111, September 21, 1977), the Defense Appropriation Act included the following provisions openly limiting the CIA:

> Section 857. None of the funds appropriated in this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year.
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> * * * * * * *
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> Section 859. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

In conference the amount appropriated for intelligence programs had been reduced by just over $222 million. This compared to cuts of over $422 million proposed by the House and nearly $159 million proposed by the Senate. The reductions, which were spread throughout various appropriations, were explained in a classified annex to the conference report, House Report No. 95–565, August 4, 1977.

Legislation on electronic surveillance for foreign intelligence purposes

During 1977 a bipartisan group of congressional representatives worked with the administration to revise draft legislation that would require the executive to obtain a court order in order to conduct electronic surveillance for foreign intelligence purposes. This was a continuation of a similar effort which had gained considerable impetus during the 94th Congress. Both endeavors were stimulated in large measure by the concern over evidence of warrantless surveillances that came to light in the Watergate investigation and in the report of the Church committee indicating that the intelligence agencies had been wiretapping without warrants since the 1930's. While Federal law required that a warrant be obtained before using electronic surveillance in a criminal investigation, there was no such provision for cases involving foreign intelligence investigations.

The proposed legislation was introduced into both Houses on May 18, 1977. Senators Kennedy, Bayh and Mathias sponsored S. 1566, the Foreign Intelligence Surveillance Act of 1977, and Chairman Rodino of the House Judiciary Committee introduced the companion bill, H.R. 7308. On the same day President Carter met with congres-

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[43] Ibid.
[44] Sikes, Robert L. F. Congressional Record, vol. 123, June 28, 1977: H6619–20.

sional leaders and hailed the proposed bill as successfully resolving the inherent conflict between the need for intelligence and the preservation of civil rights. Despite these auspicious beginnings, the bills made slow progress. At the end of the session S. 1566 was still under consideration by the Select Committee on Intelligence, having been reported favorably, with amendments, by the Judiciary Committee on November 15, 1977.[45] In the House, neither the Judiciary nor the new Intelligence Committee had completed action on H.R. 7308 when the session ended.

The issues raised by the proposed legislation on electronic surveillance relate primarily to the degree to which governmental authority is to be used within this country for national intelligence purposes. Most significant in this respect is the provision repealing the Executive's "inherent power" disclaimer, now found in section 2511(3) of title 18 of the U.S. Code.[46] The new bill would provide instead that its procedures and those in chapter 119 of title 18 (Wire Interception and Interception of Oral Communications) "shall be the exclusive means" for authorizing electronic surveillance in this country.

While these issues are extremely important, they relate mainly to the domestic impact of U.S. intelligence operations. From the point of view of the intelligence agencies, the principal concern over this bill is that the FBI, CIA and NSA not be so circumscribed by statutes and regulations as to be unable to operate effectively against legitimate threats to the national security. The continuing debate on legislation relating to electronic surveillance, which has been in progress since 1973, exemplifies the kind of issues likely to arise when Congress considers the proposed charters and guidelines for the intelligence agencies. These proposals, which are expected to be the subject of hearings by the Senate Intelligence Committee early in the second session of the 95th Congress, are discussed below.

Proposed statutory charters and guidelines

Since it was established in May 1976, the Senate Select Committee on Intelligence has been working on draft legislation to establish new charters and guidelines for the intelligence agencies. A special subcommittee under Senator Walter Huddleston of Kentucky, in close consultation with the executive branch, former officials of the intelligence agencies and legal experts, has been drafting legislation that would spell out the authorities and the limitations applicable to the Director of Central Intelligence and to such agencies as the CIA, NSA, and FBI. According to the committee's Annual Report,

> The basic assumption of the committee's charter work is that intelligence activities are necessary for the security and well-being of the country. Clear statutory guidelines are needed, however, to confer legitimacy on them, and to assure their accountability and conformance with the Constitution and laws of the United States.[47]

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[45] U.S. Congress. Senate. Committee on the Judiciary. Foreign Intelligence Surveillance Act of 1977. Report together with minority views to accompany S. 1566. Nov. 15, 1977. 95th Cong., 1st sess. S. Rept. No. 95-604. p. 9.

[46] Enacted in 1968 as part of the Omnibus Crime Control and Safe Streets Act, this reads in part as follows:

> Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143: 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other clear and present danger to the structure or existence of the Government.

[47] Annual Report, p. 27.

The report devotes more than 8 pages to a discussion of the need for statutory charters not only to protect the rights of Americans but also to help "rectify the organizational problems that have not been resolved because of bureaucratic battles within the executive branch." [48] Whether Congress can indeed enact legislation that would give greater authority to the DCI and at the same time put an end to interagency rivalries remains moot. The administration, for its part, initiated a reorganization in August 1977 designed to give the DCI enhanced authority over intelligence budgets and programs. In so doing, it precipitated a conflict between the DCI and the Secretary of Defense, which was apparently resolved by giving the DCI less control in certain areas than he had originally requested. As a consequence of this and other problems, the drafting of an Executive order giving effect to the August 4 reorganization announcement took much longer than had been anticipated and, as indicated above, was not issued until January 1978 (Executive Order 12036).

As the year ended, there were indications that a debate was already under way between civil libertarians and the committee staff, on the one hand, and the intelligence agencies and their supporters, on the other. According to The New York Times, controversy had arisen as to whether the domestic activities of the CIA would be sufficiently restricted under the proposed Executive order, and public interest groups had written to the President urging him to make the order public before signing it so that it could be studied and debated. Committee staffers were reported as having found "civil liberties loopholes 'you could drive a truck through.' " However, a senior intelligence official was quoted to the effect that, although the committee staff might have problems with the order, the members would be more reasonable.[49]

With the publication of Executive Order 12036 in January 1978, there was no further impediment to the introduction of the Senate Intelligence Committee's proposed legislation on charters and guidelines, and on February 9, 1978, such a bill was introduced with the support of committee members of both parties. The proposed National Intelligence Reorganization and Reform Act of 1978 (S. 2525) sets forth in 263 pages the organizational framework of the U.S. Intelligence system and specifies both the authorities and limitations applicable to the various intelligence agencies. If there is to be a great debate on how to control the intelligence community, this bill will provide the occasion and give it focus. As Chairman Bayh remarked in introducing the bill,

> None of us who are sponsors of the bill agree fully with every part of it. There must and will be public hearings to explore alternatives. We need to test the language of the bill carefully, because it must provide firm standards and procedures for years to come.
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> On some questions there are policy differences among us, just as there are differences in opinion among the American people. We shall seek to reconcile these differences wherever possible. * * * [50]

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[48] Ibid.
[49] Arguments Over Civil Liberties Delay Order on Intelligence Work. New York Times, Dec. 20, 1977: 12.
[50] Bayh, Birch. National Intelligence Reorganization and Reform Act of 1978. Remarks in the Senate. Congressional Record [daily ed.] vol. 124, Feb. 9, 1978: S1723-4.

Thus, 2 years after the original select committees to investigate the intelligence community had completed their work, both Houses of Congress were in a position to move ahead on detailed legislative measures legitimizing and controlling U.S. intelligence operations. A difficult period of transition was coming to an end, but the issues remaining to be resolved were nonetheless formidable.

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Commission on Security and Cooperation in Europe*

OVERVIEW

The Commission on Security and Cooperation in Europe [1] was established by Congress in1976 to monitor the implementation of the Helsinki accords, which had been signed in 1975 by the heads of state of 35 countries of Europe and North America.[2] The Commission, consisting of six senators, six representatives, and three officials of the executive branch, was an unprecedented instrument for direct congressional participation in the foreign policy process.[3] It was established at a time when Congress demonstrated considerable skepticism over the administration's degree of dedication to insuring the implementation of the accords, particularly their human rights provisions.[4]

In 1977, the Commission became a significant actor in international and domestic events related to the Conference and the process of implementing its results. It played a substantial role in formulating and carrying out U.S. policy at the Belgrade follow-up meeting to CSCE. The evidence pointed to an increasingly cooperative relationship between the Commission and the executive branch. The performance of the Commission seemed to meet with general approval in the United States and its Western allies. At the same time, it remained a source of friction between the United States and the countries of the Soviet Bloc.

General interest in the performance of the Commission centered in two areas:

(1) Its role as an instrument of congressional participation in the foreign policy process and as a mechanism for coordinating administration and congressional positions on a specific issue; and

(2) Its impact on a continuing series of international negotiations that could substantially influence East-West relations.

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* Prepared by Francis T. Miko, Analyst in International Relations.

[1] The initials CSCE create some confusion in that they are used to denote both the Conference on Security and Cooperation in Europe and the U.S. Commission, established to monitor the implementation of its results. For purposes of this report, CSCE is used only in reference to the Conference. The U.S. monitoring body is referred to in abbreviated form as "the Commission."

[2] The Helsinki accords were formally titled the Final Act of the Conference on Security and Cooperation in Europe (CSCE). The Final Act, so designated to indicate that it was a legally nonbinding agreement was signed at the end of 3 years of negotiations in Geneva and Helsinki. It included provisions on European security, economic cooperation, human rights and the freer movement of people and information between East and West, as well as cultural and educational cooperation. Furthermore, the 35 signatory nations agreed to future negotiations to continue the process initiated at the Conference. The first follow up meeting was held in Belgrade in 1977–1978. Preliminary talks were conducted in the summer of 1977 and the formal meeting began on October 4 and was expected to continue into March 1978.

[3] The members of the CSCE Commission currently include Representative Dante B. Fascell (chairman) Senator Claiborne Pell (Co-Chairman), Senators Dick Clark, Patrick J. Leahy, Richard Stone, Clifford P. Case, Robert Dole, Representatives Jonathan B. Bingham, Paul Simon, Sidney R. Yates, John Buchanan, and Millicent Fenwick, as well as Patricia H. Derian (Dept. of State), David E. McGriffith (Dept. of Defense) and Frank A. Weil (Department of Commerce).

[4] Also see the discussion of Human Rights on pp. 142–152. (Ed.)

DISCUSSION

Commission activity in 1977

Belgrade Conference-related activity.—The Belgrade Conference was the major CSCE-related event of 1977. Prior to the Conference, a series of meetings were held between relevant agencies of the executive branch and the Commission to map out U.S. strategy. The Commission participated actively in the preliminary round of the Belgrade negotiations which took place in the summer of 1977. The U.S. delegation to the actual Conference (October 1977–March 1978) was headed by former Supreme Court Justice Arthur Goldberg. Commission Chairman Dante B. Fascell was named deputy chief of the U.S. delegation. The other Commission members were appointed to the delegation and the Commission staff were included among the U.S. representatives on three working groups of the Conference.

1977 ended with the Belgrade Conference in a virtual stalemate. The United States and many Western participants insisted that the Conference focus on a thorough review of each country's record in implementing the CSCE Final Act's human rights and other provisions and that the document which emerged from the Conference should reflect the findings of that review. The Soviet Bloc countries, not wanting to be called to account for their post-Helsinki performance, sought to review only the positive results of the earlier Helsinki accords and to concentrate attention on new initiatives to further security and cooperation in Europe. Given the deadlock based on East Bloc refusal to engage in a thorough review and the U.S. refusal to agree to any new proposals in the absence of such a review, it was generally felt that the most that could be expected to emerge from Belgrade was a brief document indicating that the meeting had taken place, that participants would meet again in Madrid (1980) and that despite some progress, much remained to be done to implement the Helsinki accords.

Hearings.—In 1977, the Commission held hearings, issued and received reports on implementation of the Helsinki accords and participated actively in the work of the U.S. delegation at the Belgrade follow-up meeting. On January 6, 1977, the Commission held an open session in which it received testimony from exiled Soviet dissident Andrei Amalrik on the Soviet record of compliance with the CSCE accords.[5]

The Commission also conducted hearings on the economic provisions ("Basket 2") of the Helsinki accords on January 13 and 14. Then Secretary of Commerce Elliot Richardson and several leading economists testified. Some of the witnesses urged that the United States place greater emphasis on the economic portions of CSCE, on the grounds that they held the best prospects for meaningful implementation in a manner beneficial to all participating states.

On February 23, exiled Soviet dissident Vladimir Bukovsky testified before the Commission, arguing for continued firmness by the United States on human rights and for patience in awaiting results in the Soviet Union. The Commission held hearings on family reunification problems involving the Soviet Union and Eastern Europe (March 15, 1977). On April 27 and 28 the Commission conducted hearings on

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[5] Also see the discussion of U.S. Relations with the Soviet Union on pp. 47–52. (Ed.)

religious and minority rights. Hearings on CSCE's impact on public opinion in the Communist countries were held on May 9. Three more days of hearings were held on information, cultural and educational exchange between East and West (May 19, 24 and 25).

The series of 1977 hearings was concluded on June 6, when Secretary of State Cyrus Vance testified before the Commission on the administration's view of the record of implementation of CSCE and on U.S. strategy at the upcoming Belgrade meeting. He indicated that the United States would insist at Belgrade on a thorough review of the implementation of CSCE and that the administration was less than fully satisfied with the record of implementation to date by most Communist countries.

Reports.—On June 6, 1977, the President transmitted his Second Semiannual Report to the Commission on Security and Cooperation in Europe. The report, required by law, was the new administration's first assessment of the results of the Helsinki Conference. The report contained a strong indictment of the Soviet Union and some East European countries for failing to live up to the spirit of the accords. The criticism of the record of Communist countries was generally consider harsher than that contained in the first report of 1976.

The Commission released its own assessment of the implementation of the Final Act on August 5, 1978. The report underlined the shortcomings as well as the progress that had been achieved since Helsinki and recommended further specific steps to achieving fuller compliance. It was also critical of the record of performance by several of the Communist governments.

The Third Semiannual Report of the President to the Commission, transmitted on December 5, echoed the Commission view that while the Helsinki accords offered significant potential for improving East-West relations, much of that potential remained unfulfilled.

Legislation.—Legislation related to the Commission concerns in 1977 included a section 502 of Public Law 95–105, the Foreign Relations Authorization Act of 1978, urging the United States to take up the cause of individual human rights violations at Belgrade, and specifically the case of Soviet political prisoner Anatoly Shcharansky. In another action related to CSCE, Congress repealed a provision of Public Law 82–414, the McCarran-Walter Act of 1952, restricting the entry of foreign Communists into the United States. The Commission had considered this provision of the statute to be contrary to the Helsinki accords.

Relations between the Commission and the executive branch

From its inception, the Commission was recognized as an unusual, if not unprecedented, creation. It brought the executive branch through its three representatives into an organization numerically dominated by its 12 congressional members. While it was not the first Commission to include both executive and legislative branch representation, it was the first to include only members from those two bodies with such a clear congressional majority and involved directly in the diplomatic process.

The Ford administration voiced strong reservations about the establishment of such a Commission. Both the White House and State Department sent letters to Congress stressing that the monitoring of the CSCE accords was properly an executive branch function.

Under the Carter administration relations between the Commission on the one hand, the administration and State Department, on the other, seem to have become more harmonious. Cooperation is facilitated by the apparent shared emphasis of participants from both branches on human rights in East-West relations.

The Commission has had to balance its desire to work with the executive branch in a constructive fashion, against its need to maintain an independent identity. At Belgrade, representatives of the Commission are subordinate to the head of the U.S. delegation. While this close collaboration has raised questions in the minds of some observers about the constitutionality of the arrangement (in terms of separation of powers) it has actually served to strengthen congressional support for U.S. policy on CSCE, in turn placing the U.S. delegation in a stronger position at Belgrade. According to former Supreme Court Justice Arthur Goldberg, the head of the U.S. delegation, his own initial doubts about the constitutionality of the Commission-executive relationship were removed by recent court decisions.

There appears to be little serious opposition within Congress to the Commission or the relationship it has developed with the executive branch. The fact that U.S. policy on CSCE and its strategy at Belgrade have enjoyed a high degree of bipartisan congressional support, in marked contrast to congressional suspicions over U.S. policy in previous rounds of CSCE negotiations, may in part be due to the Commission's role in formulating that policy. Outside Congress, there has been some criticism of the Commission role, particularly among special interest groups which feel the United States should be exerting even stronger pressure on the East Bloc countries at Belgrade and by others who feel the U.S. is jeopardizing détente by adopting too aggressive a position at the Conference. Representatives of the first group have suggested that a more independent Commission could perform a more aggressive watchdog role and do more to press the administration to take a harder line at Belgrade. Neither of these positions seems to enjoy wide support.

Commission impact on the CSCE process

The extent to which the activity of the Commission has shaped the course of CSCE is difficult to measure, particularly since its period of existence has coincided with a significant change in U.S. human rights policies. But it has been involved in formulating and carrying out a U.S. Belgrade strategy that has generally been followed by Western nations in demanding a detailed review of the record of all countries in implementing the Final Act. Ambassador Goldberg had praised the contribution of the Commission to the work of the U.S. delegation. In the pre-Helsinki rounds of CSCE, the United States has allowed its Western allies to take the leadership on most issues and had received considerable criticism for its alleged disinterest.

Although the Final Act of CSCE dealt with a wide range of issues, the focus of Commission attention has been on the human rights, human contacts, and information sections of the accords, and to some extent the provisions on economic, cultural, and educational cooperation. The legislation establishing the Commission (P.L. 94–304) directed it explicitly to focus on these areas. This congressional emphasis seems to reflect the common United States and Western view

that the humanitarian provisions of the Helsinki accords were among the most significant results of the Conference. It also results from the widely held view within and outside Congress that U.S. policy under Secretary of State Kissinger did not attach sufficient priority to the implementation of the humanitarian provisions by Communist countries. Congressional proponents of the Commission seemed to feel that Congress, through the Commission, could fill the perceived gap in official U.S. interest.

The geographic focus of Commission inquiry has been on the record of compliance by the Soviet Union and the Communist countries of Eastern Europe, although it has also studied U.S. performance and encouraged moves to more fully implement the accords in the United States. The emphasis on the Soviet Union and Eastern Europe has been explained on the grounds that while the United States and Western countries could improve their performance in some areas, the Communist countries have been primarily responsible for erecting the barriers to the flow of people and information between East and West which the accords seek to remove.

Foreign assessments of the Commission.—The governments of Western and neutral European countries have not reacted publicly to the establishment of the Commission. They have demonstrated acceptance of its legitimacy by their willingness to work with its representatives. The Western press, for the most part, has welcomed the creation of the Commission as a demonstration of U.S. interest and concern on CSCE. The response of the Soviet Union and most East European countries to the Commission has been far more negative. The governments of these countries have depicted it as a tool for unwarranted U.S. interference in the internal affairs of Communist countries and have charged that its creation is itself a violation of the Helsinki accords. Furthermore, Eastern spokesmen have charged that the emphasis by the Commission on certain aspects of the CSCE accords amounts to a serious distortion of what has been carefully constructed as a balanced document. They have also claimed that the Commission's emphasis on Eastern performance impedes rather than advances the goal of implementing the accords since it places unnecessary strains on East-West relations. The Soviet position has been that signatory states and their organizations such as the Commission can legitimately monitor only their own record of compliance with the accords. In conjunction with their denunciations of the Commission, the Soviet and East European governments have barred its representatives from visiting their countries.

Domestic role of the Commission.—A significant activity of the Commission has been to hear the views of ethnic Americans and other individuals and groups most interested in and affected by the provisions of the CSCE accords. As such the Commission has provided a channel for these concerns to be considered in the formulation of policy. The Commission acts as a clearinghouse for individual cases and problems addressed by provisions of the Helsinki accords. This appears to be a Commission function that is valued by both the Congress, as a service for its constituents, and by the administration. Some observers have criticized what they view as an overemphasis on domestic political considerations on the part the Commission. How-

ever, this domestic role seems clearly to serve the interests of Congress and is unlikely to be reduced.

The Commission in 1978

The year 1978 will not bring any new round of CSCE negotiations, once the Belgrade Conference is concluded. The Commission can be expected to focus on its role of monitoring trends in the CSCE process and tracking individual actions by signatory states that indicate compliance or noncompliance with the Final Act. It will continue to report to Congress on its findings in preparation for the expected 1980 Madrid CSCE Conference. If the Communist countries were to revise their policy and allow Commission representatives to make factfinding visits, this could add a new dimension to the Commission's monitoring activity.

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INTRODUCTION

The congressional role in the making of foreign policy varies greatly from issue to issue, with certain recent developments allowing Congress the potential for significantly influencing policy and monitoring implementation. Since the end of World War II, the major congressional vehicles for legislating foreign policy have been foreign aid authorization and appropriation measures. This legislation remains an important mechanism for Congress, both in setting general guidelines for U.S. economic and military assistance programs, and in making and influencing policy toward specific countries and regions. The congressional impact on U.S. policy toward the Middle East, for example, is reflected in large part by the amounts of military assistance made available to countries in the region. Another important congressional tool in foreign policy is annual approval of the defense budget, which has an impact on the world balance of power, and on U.S. commitments and relations with treaty partners.

This section of Congress and Foreign Policy—1977 covers a wide variety of difficult issues. They range from U.S. political and economic relations with the major Communist powers, various other foreign policy aspects of political/military relations including the significant policy debates on arms transfers and nuclear proliferation—and a broad range of bilateral and multilateral relationships in which the United States finds itself involved with allies and adversaries. The growing complexity of international problems, especially those arising from the so-called "North-South" confrontation and the related issues of economic and development assistance and global food and energy policy, find an important political forum in the Congress domestically and in the United Nations and its agencies internationally.

U.S. domestic political and economic concerns, especially as expressed in congressional treatment of many of these issues, have resulted in a number of interesting developments during the 1977 session. The confluence of politics, economics, and moral values has been especially complex in the case of human rights. This is an area in which both the legislative and executive branches have had particular interest during 1977. As many chapters of the following section clearly indicate, varying interpretations of the relative importance of human rights and humanitarian policy concerns in relation to U.S. ties with a wide variety of foreign countries have caused lively differences of opinion and strategy between Congress and the President, and among various schools of thought within Congress.

A number of the contentious foreign policy concerns of the past session—notably the Panama Canal Treaties, Soviet and Cuban involvement in Africa, the role of Communist Parties in Western Europe, and U.S.-Soviet discussions on a second Strategic Arms Limitation Treaty—remain unresolved and will receive continued congressional attention during the second session of the 95th Congress. This is equally true of several of the intractable problems relating to food and energy shortages, to mention two of the most prominent global issues which have sometimes been causes of bilateral confrontation in the past year.

RELATIONS WITH THE GREAT POWERS

U.S. Relations With the Soviet Union*

OVERVIEW

To many Members of Congress, the United States relationship with the Soviet Union is the most important aspect of American foreign policy. Thus, throughout 1977, congressional concern was evident in many areas relating to the Soviet Union (e.g., Soviet military growth, trade, human rights and Soviet actions in the Third World) and legislative initiatives reflected an ongoing desire to be an active participant in determining the direction and pace of Soviet-American relations.

The complexity and importance of these issues is reflected in the diversity of congressional views. For example, regarding strategic arms limitation (SALT) negotiations, many Members indicated that they favored a new agreement only if it did not jeopardize U.S. national security. There were, of course, many different views regarding what constituted a threat to U.S. national security, and these differences were not restricted merely to party positions but were equally dramatic within both major parties. Soviet-American trade was another area where congressional interest was high but a consensus for action was largely lacking. Even in the case of détente, accepted by most Members in at least abstract terms, there was disagreement on the question of substantive implementation.

Despite such differences, there were some issues in Soviet-American relations on which there was at least general congressional agreement, the most prominent of which was human rights. Consequently, congressional support for this issue remained extremely strong and unified. Congressional commitment to maintaining a strong defense posture vis-a-vis the Soviet Union was also unwavering. And finally, regarding Soviet actions in the Third World, Congress refrained from involvement, a position some observers argued was forced upon Congress by the general unwillingness of the American public to become involved in any new "Vietnam type" situation.

DISCUSSION

Détente in Soviet-American relations

While most Members of the 95th Congress endorsed détente as an abstract concept, they held widely divergent views on measures for its implementation. Some Members felt that the United States should lead the way by making unilateral gestures of good will in such areas as SALT and East-West trade. They argued that such gestures might

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*Prepared by William B. Inglee, Research Assistant in Soviet and East European Affairs.

encourage the Soviets to take similar actions. But a large segment of Congress disagreed with this approach, arguing that such unilateral actions would be harmful to the United States and would offer the Soviet Union opportunities to enhance its own position. Many other Members felt that a position somewhere between these two approaches would be in the best interests of the United States. They felt that the United States and the Soviet Union must move in concert if relations between the two countries were to be improved. The advocates of this approach claimed that it would foster the spirit of détente while still insuring U.S. national security.

In October 1977, the House International Relations Subcommittee on Europe and the Middle East held hearings on the current state of Soviet-American relations.[1] During the course of these hearings Dr. Marshall Shulman, Special Adviser to Secretary of State Vance, testified on many of the most important issues in Soviet-American relations: SALT and other arms control-related issues, areas of political competition, economic relations; exchanges and scientific cooperation; and the issue of human rights.

SALT and the military balance

During its first session the 95th Congress acted upon a number of SALT related issues. First, the Senate approved the nomination of Paul Warnke as head of the United States SALT II negotiating team and Director of the Arms Control and Disarmament Agency. Second, the Senate passed a resolution supporting the Carter administration's unilateral extension of the SALT I Agreement, although not without considerable debate.[2]

The role of Congress in the SALT process was given further recognition by the Carter administration when in mid-1977 the Arms Control and Disarmament Agency announced that it was asking 14 House Members and 25 Senators to act as congressional advisers to the SALT II negotiations. The Arms Control and Disarmament Agency made it clear that the congressional advisers would not be directly involved in the negotiating process.[3] Rather, congressional participation was viewed as a means of bringing Congress informally into the process of negotiating with the Soviets.

The 95th Congress approved a record high military budget for fiscal year 1978 (approximately $117 billion), thus reaffirming the commitment of Congress to maintaining a strong U.S. defense posture vis-a-vis the Soviet Union. The relative ease with which the 1978 military appropriations were approved was believed to be the result of a growing belief among many Members that the Soviet Union's military strength had grown steadily in recent years.

In order to aid Congress in assessing the Soviet-American strategic balance, the Senate Foreign Relations Committee sponsored hearings in early 1977 on "U.S./Soviet Strategic Options." Among the experts called upon to testify were: Lt. Gen. Daniel O. Graham (retired), former Director, Defense Intelligence Agency; Fred C. Ikle, then Director, Arms Control and Disarmament Agency; and Paul H. Nitze,

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[1] U.S. Congress. House. Committee on International Relations. Subcommittee on Europe and the Middle East. The Soviet Union: Internal Dynamics of Foreign Policy, Recent and Future. Hearings, 95th Cong., 1st sess., Sept. 27; Oct. 11, 13, 18, and 26, 1977, Washington, U.S. Government Printing Office, 1977. 333 pp.

[2] For a more detailed discussion of this issue see the chapter on SALT elsewhere in this volume. (Ed.)

[3] Letter dated May 9, 1977, from ACDA Director Paul C. Warnke to the Speaker of the House of Representatives, Thomas P. O'Neill, Jr.

former Deputy Secretary of Defense and member of the SALT negotiating team.[4] The hearings contributed additional insights to the ongoing congressional debate concerning Soviet strategic capabilities and intentions.

Soviet-American trade

Most of the legislation passed during the first session of the 95th Congress affecting Soviet-American trade was of an administrative nature, geared toward improving the efficiency of the export control system. From the standpoint of Soviet-American trade, the most important piece of legislation passed was the extension and amendment of the Export Administration Act of 1969 (Public Law 95–52).[5] The 1977 amendments attempted to make the export licensing process more efficient and appropriate to the present day realities of East-West relations.

A major change contained in the Export Administration Act amendments was the elimination from consideration of a country's Communist or non-Communist status. Instead, the country's present relationship with the United States, its relationship with other countries friendly or hostile to the United States, and its ability to control the transfer of U.S. exports to third countries became the main criteria for determining U.S. export control policy. Whereas past U.S. export control policy had been based on the premise that all Communist countries (with the exception of Yugoslavia), were an equal threat to U.S. security, the new legislation permits each country to be dealt with individually. The proponents of this approach argued that the Soviet Union, Albania, the People's Republic of China, and Romania are all Communist nations, yet each espouses and exhibits a differing ideology and foreign policy; indeed, at times they are more hostile to one another than to the United States.

However, despite these revisions of the U.S. export control mechanism, there were also other related legislative actions taken during the first session that appeared to run at cross purposes. Many Members of the 95th Congress continued to believe that political considerations such as human rights and the free emigration of Soviet Jews should be linked to Soviet-American trade. Congress reflected this view by:

(1) passing an amendment to the Export-Import Bank Act of 1945 that linked human rights to the extension of loans;[6]

(2) not repealing the Jackson-Vanik amendment to the Trade Act of 1974 which linked Jewish emigration to Soviet-American trade; and,

(3) continuing to consider the possibility of linking trade to Soviet observation of human rights.

Thus, the main dilemma facing Congress in the area of Soviet-American trade—how to increase trade with the Soviet Union while still remaining consistent with our policy of support for human rights and protecting national security—remained unresolved in 1977. While many Members wished to expand Soviet-American trade, others

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[4] U.S. Congress. Senate. Committee on Foreign Relations. Subcommittee on Arms Control, Oceans and International Environment. United States/Soviet Strategic Options. Hearings, 95th Cong., 1st sess., Jan. 14, 19, and Mar. 16, 1977, Washington, U.S. Government Printing Office, 1977. 187 pp.

[5] Public Law 95–52, Export Administration Act Amendments of 1977, signed into law by President Carter on June 22, 1977.

[6] Public Law 95–143, Amendment to the Export-Import Bank Act of 1945, signed into law by President Carter on Oct. 26, 1977.

wished to place greater emphasis on political and security considerations in determining the level of this trade—a linkage which hampered growth.

Human rights, Jewish emigration and the Commission on Security and Cooperation in Europe

While the Carter administration made support for human rights an officially recognized guiding principle of U.S. foreign policy in 1977, Congress continued to place strong emphasis on human rights as an essential element of U.S. relations with the Soviet Union—a stance that predated that of the present administration.

In March, both the House and the Senate approved a resolution (S. Con. Res. 7) protesting the abuse of human rights in the Soviet Union; the Senate passed it by a vote of 91–0, while the House passed it 400–2. Congressional concern for human rights in the Soviet Union was again expressed during that same month when the Senate presented a letter to President Carter supporting his human rights policy on the eve of Secretary of State Cyrus Vance's departure for Moscow to meet with Soviet leaders.[7]

Closely related to the general issue of human rights was the continued work of the Congressional-Executive Commission on Security and Cooperation in Europe.[8] The Commission was very active, holding numerous hearings on economic, political, and military relations between East and West, and Commissioners themselves were members of the U.S. delegation at the Belgrade CSCE followup meetings. The issue of most importance to its congressional Members, however, was that of human rights in the Soviet Union and Eastern Europe.

The Soviet Union and the Third World

In 1975 and 1976, Congress and the Ford administration had been unable to agree on a suitable American response to Soviet and Cuban involvement in Angola. Congress and the Carter administration experienced similar difficulties in 1977, in dealing with Soviet actions in the Horn of Africa.[9] The problem in both cases was essentially the same. Though many Members felt the need to respond in some way to Soviet involvement, there was no agreement on the form this response should take. The legacy of Vietnam largely precluded American military involvement on a large scale, and diplomatic pressure on the Soviet Union appeared ineffective. The Carter administration seemed committed to a policy of restraint. A small number of Members advocated U.S. involvement, generally limited to military assistance to Somalia at least to partially counterbalance massive Soviet military assistance to Ethiopia. But the majority of Members, while voicing concern and displeasure over Soviet actions, were unwilling to support U.S. involvement at almost any level.

Issues for the second session

Many of the issues relating to Soviet-American relations that dominated congressional foreign policy thinking during the first session of the 95th Congress are likely to continue to be of great interest and concern during the second session.

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[7] Senator Howard M. Metzenbaum, letter to President Carter. Insertion in record. Cong. Rec. (daily ed.), vol. 123, Mar. 25, 1977, p. S4915.
[8] See discussion of this issue elsewhere in this volume. (Ed.)
[9] See discussion of Africa issues elsewhere in this volume. (Ed.)

If the Soviet Union and the United States sign a SALT II Agreement in 1978, as many observers are predicting they will, there will probably be a long and heated debate in the Senate regarding its ratification. Although the House of Representatives has no official role in the treaty ratification process, it is likely that a new SALT agreement will be a topic of discussion in the House as well.

In the area of Soviet-American trade, the second session will be faced with essentially the same problem that confronted the first session; namely, how to reconcile pressures for increased trade with countervailing pressures such as the linkage of human rights to Soviet-American trade. The growing U.S. foreign trade deficit may emerge as an important factor in bringing pressure to bear on Congress to loosen constraints inhibiting Soviet-American trade.

With regard to the human rights situation in the Soviet Union, congressional concern can be expected to remain high. The Jewish emigration question can be expected to receive special consideration.

The debate on the current state of the Soviet-American military balance and Soviet strategic intentions will be still another area of ongoing interest which will affect the congressional position on many defense issues such as authorization of new weapon systems and the size of the U.S. defense budget.

Finally, Soviet activity in the Third World, particularly its present involvement in the Horn of Africa, will no doubt remain a focal point of congressional attention. For while the mood of the first session tended toward noninvolvement, increasing Soviet and Cuban involvement in the Horn of Africa has heightened consideration of more activist options in both Congress and the administration. There are indications that many Members are becoming increasingly concerned with Soviet actions, as is the Carter administration, and therefore may be reassessing their thinking on this issue.

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Relations With China*

OVERVIEW

No major legislation dealing with China was passed by Congress during 1977, but congressional leaders continued to demonstrate an active interest in the problems and prospects of improved U.S. relations with the People's Republic of China (PRC). Highlighting the congressional role in this process over the past year were the visits of 12 Members of Congress to Peking, and several congressional proposals to change laws that restrict U.S. trade with the PRC. In addition, hearings on United States-China relations were conducted by the Subcommittee on Asian and Pacific Affairs of the House International Relations Committee. The hearings clearly reflected a prevailing view among those testifying that favored an improvement in U.S.-PRC relations, but they also noted with equal clarity a lack of consensus on what steps the United States should take in order to improve relations with Peking.

Congressional activity on China policy over the past year has occurred against a backdrop of heightened U.S. and world interest in Sino-American relations following the start of formal bilateral negotiations between the Carter administration and the post-Mao Tse-tung leadership in China. Thus far, no appreciable movement in U.S.-PRC relations has resulted from these talks. Secretary of State Cyrus Vance's August 22–26 visit to Peking—the first high-level Carter administration contact with the PRC—reportedly resulted in a useful exchange of views with Chinese Communist Party Chairman Hua Kuo-feng and Vice Premier Teng Hsiao-ping, but had no noticeable effect on U.S.-PRC diplomatic relations.[1] Earlier in the year, low-level U.S.–PRC talks were held on resolving bilateral financial claims, but no results were noted.[2] The Carter administration has also reportedly debated the pros and cons of selling military technology to China, but has decided—at least for the time being—against such sales.[3]

DISCUSSION

Normalization

Commentaries by congressional leaders during the past year, and debates during hearings on United States-China relations which were conducted in September and October by the Subcommittee on Asian and Pacific Affairs of the House International Relations Committee, have focused on the problem of "normalization"—the establishment of full diplomatic relations—as the chief impediment to improved U.S.-PRC relations. Statements on China policy by Les AuCoin, Robert Dole, Barry Goldwater, Edward Kennedy, Charles Percy,

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* Prepared by Robert G. Sutter, Analyst in Asian Affairs.
[1] New York Times, Aug. 26, 1977; Washington Post, Aug. 26, 1977.
[2] New York Times, May 1, 1977.
[3] New York Times, June 23, 1977.

William Roth, Lester Wolff and other congressional leaders,[4] and opinions voiced by 22 expert witnesses who testified at the above-mentioned hearings, reflected widely differing points of view as to how the United States should approach the question of normalization. These hearings and subsequent analyses drawing on them have, however, contributed to the identification of two important schools of thought on this issue.

One group of American observers has maintained that prompt progress toward the establishment of formal U.S. diplomatic relations with the PRC is needed in order to maintain and enhance the friendly Sino-American relationship begun during President Nixon's February 1972 visit to Peking. They have presented arguments showing that normalization will assist important U.S. strategic, economic, moral, and other interests in international affairs, and they have warned that further delay in establishing U.S.–PRC diplomatic relations may lead to a major reversal in Sino-American relations.

Other U.S. observers doubt that substantial benefits would accrue to the United States and argue that normalization with the PRC could endanger the security of the people of Taiwan, U.S. investments there, and American interests elsewhere in Asia. These spokesmen have argued that normalization in accord with Peking's conditions could require an abrupt U.S. break with Taiwan which would seriously complicate U.S. interests in East Asia.[5]

Congressional visits, trade, and human rights

Visible evidence of the congressional role in improved relations with China was seen in the visits of Members of Congress to the PRC over the past year. A congressional delegation led by Representative John Brademas and Senator Richard Schweiker visited China during April.[6] It was the 13th U.S. congressional delegation to travel to the PRC since President Nixon's visit to Peking in 1972. Also, Senator Howard Metzenbaum traveled privately to the PRC in August, and Senator Edward Kennedy made a similar trip in December. Although Peking has not reciprocated by sending members of its National People's Congress to the United States, a high-level delegation from the Chinese People's Institute of Foreign Affairs, led by Ambassador Hao Te-ching, held talks with congressional and administration leaders during a 3-week tour of the United States in June and July.

Legislative proposals dealing with China have focused during the past year on issues of U.S.–PRC trade.[7] Thus, for example, Senator Robert Dole proposed on April 28 (S. 1415) that the Trade Act of 1974 be amended to authorize certain credits or credit guarantees for the sale of agricultural products to nonmarket economy countries—a change that presumably would serve to expedite U.S. grain sales to the PRC. Representative Les AuCoin and 22 cosponsors introduced two bills on 11 July that were designed to ease U.S. credit restrictions in regard to trade with the PRC. One bill (H.R. 8197) proposed to amend the Trade Act of 1974 to permit the PRC to paticipate in

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[4] See, for example, Washington Post, Aug. 17, 1977; Cong. Rec., May 9, 1977, p. S7255; Asia Mail, March 1977; Asia Mail, August 1977.

[5] For an analysis of recent opinion in the Congress and elsewhere in the United States regarding the normalization question, see U.S. Library of Congress. Congressional Research Service. U.S.–PRC Normalization: Arguments and Alternatives. Multilith 77–182 F, August 3, 1977.

[6] Other members of the group were Representative Silvio Conte, Senator William Roth, Representative Mark Andrews, Senator John Culver, Representative Jack Edwards, Senator John Durkin, Representative George Danielson, and Representative Barbara Mikulski.

[7] For further discussion of the East-West trade issue, see also the preceding chapter. (Ed.)

U.S. programs which extend credits, credit guarantees, or investment guarantees. The other (H.R. 8196) proposed to amend the Export-Import Bank Act of 1945 in order to open the bank's lines of credit for use by American exporters in transactions with the PRC.

Proposed congressional resolutions (H. Con. Res. 32, H. Con. Res. 332) stressed the importance of continued close U.S. relations with the Republic of China (ROC). An amendment proposed by Senator Goldwater to Senate Concurrent Resolution 60, and a congressional resolution (H. Con. Res. 395) proposed by Congressman Mathis, condemned the state of human rights in the PRC. The condition of human rights in the PRC was also treated tangentially during hearings, conducted on June 14, 1977, by the Subcommittee on International Organizations of the House International Relations Committee, which dealt with the condition of human rights in Taiwan. Most notably, Senator Goldwater submitted a statement to the subcommittee favorably comparing the condition of individual liberties in the ROC with what he claimed was "the denial of all recognized civil liberties by the PRC." [8]

Prospects

Congressional concern regarding U.S. relations with China will probably focus next year—as it has in the past—on the issue of U.S.-PRC normalization. At present, it appears that U.S.-PRC relations are at an impasse and have few prospects for a quick breakthrough which would lead to the establishment of formal diplomatic relations. Over the next year, the Congress will probably have occasion to consider whether the status quo in U.S. relations with Peking is satisfactory for U.S. strategic, economic, and other interests in the region, or whether the United States should take steps to improve ties with the PRC. Prominent among measures to improve relations, which will generate some attention from Congress, are the recent proposals by Senator Dole, Representative AuCoin, and others to amend laws restricting U.S. trade with China. Meanwhile, official contacts between congressional Members and Chinese leaders—especially those made during the visits of congressional delegations to the PRC—are likely to remain a significant feature of U.S.-PRC relations during 1978.

Two other issues concerning China—human rights and possible U.S. arms sales to China—may require congressional attention next year. Thus, for example, congressional Members may be called upon to consider the recently proposed resolutions condemning the status of human rights in the PRC, and Congress may follow the hearings this year on human rights in Taiwan with an examination of conditions in the PRC. Regarding arms sales, PRC officials have recently expressed an interest in purchasing arms from Western countries, although they are not known to have expressed a specific interest in U.S. weapons. U.S. military sales to China—if they occur—would probably prompt debate in Congress on the pros and cons of selling U.S. military hardware to Peking. Congress may play a more direct role in regulating such sales, inasmuch as the International Security Assistance and Arms Export Control Act of 1976 gives Congress the right to reduce or end arms sales to a country found to be seriously violating human rights.

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[8] U.S. Congress. House. Committee on International Relations. Subcommittee on International Organizations. Human Rights in Taiwan. Hearing, 95th Cong., 1st sess. Washington, U.S. Government Printing Office, 1977. p. 73.

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FOREIGN POLICY IMPLICATIONS OF POLITICAL/ MILITARY POLICY

Foreign Policy Implications of the Defense Budget*

OVERVIEW

Action by Congress on the defense budget during 1977 confirmed the still tenuous nature of the link between U.S. military posture and foreign policy. The requirement, imposed on the Department of Defense by section 812, Public Law 94–106, that the relationship between foreign policy and military posture be explained and justified in the annual report of the Secretary of Defense,[1] continued to be honored more in the breach than in reality. Moreover, Congress, itself, showed little more clarity on how foreign policy objectives and defense posture were related. Debates on defense spending legislation continued to reflect generally particularistic concerns, rather than more broadly conceived foreign and defense policy objectives.

Notwithstanding the difficulty of explicitly linking defense spending decisions to stated foreign policy objectives, it cannot be said that action by Congress on the defense budget was without significant foreign policy implications. On the contrary, during action on the defense budget in 1977 Congress dealt with a number of foreign policy-related defense issues. These included: NATO standardization and interoperability; spending and forces for European contingencies: funding for enhanced radiation artillery warheads for deployment in Europe; and the B–1 bomber and strategic cruise missile programs. Few of these issues were resolved conclusively during 1977 congressional action, and most will likely remain issues for 1978 and beyond.

U.S. military posture and foreign policy

Secretary of Defense Donald H. Rumsfeld's annual report covering the fiscal year 1978 defense budget request continued to reflect a basic disagreement with the premises of section 812 of the fiscal year 1976 Department of Defense Appropriations Authorization Act. That section, it may be recalled, stipulates that:

> The Secretary of Defense, after consultation with the Secretary of State, shall prepare and submit to the Committees on Armed Services of the Senate and House of Representatives a written annual report on the foreign policy and military force structure of the United States for the next fiscal year, how such policy and force structure relate to each other, and the justification for each.[2]

In responding to this requirement Secretary Rumsfeld noted "as this Report set forth last year, the U.S. defense posture does not and cannot be made to relate directly to the short-term objectives and

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* Prepared by Richard P. Cronin, Analyst in National Defense.

[1] See Richard P. Cronin and Joel M. Woldman, "U.S. Foreign Policy Issues and Goals and the Defense Budget," Congress and Foreign Policy, 1975. Committee Print. House Committee on International Relations. Washington, U.S. Government Printing Office, 1976. pp. 7–8.

[2] Section 812, Public Law 94–106, Oct. 7, 1975.

strategies of foreign policy decisionmakers, although it can and does contribute in a fundamental way to the environment in which such decisions are made." While conceding that "the size and composition of U.S. Armed Forces should not be insulated from what happens in the world," the basic thrust of the Defense Secretary's argument was that changes in U.S. foreign policy or the world situation would have to have proven long-term significance before basic realinements in U.S. forces and defense posture could safely take place.[3]

DISCUSSION

The administration budget request for fiscal year 1978

January 1977 request and February budget amendments.—The initial fiscal year 1978 request submitted by the Ford administration totaled $122.9 billion in budget authority and $112.3 billion in outlays for the total national defense functional category.[4] This represented increases, respectively, of $14.4 billion in budget authority and $12.2 billion in outlays over the estimates for fiscal year 1977. The February budget amendments submitted by the Carter administration reduced the budget request to $120.1 billion in budget authority and $111.9 billion in outlays over the prior year. Most of the Carter administration's amendments to the budget, which amounted to a net reduction of about $2.7 billion, were derived from slowdowns, pending reevaluation, of weapons development and procurement programs.

Foreign policy aspects of the defense budget request

In presenting its revised budget the Carter administration sought to portray the image of a reorientation of the focus of U.S. defense spending toward possible NATO contingencies. This was presented as the obverse side of proposed slowdowns in strategic weapons development programs and the announced decision to withdraw U.S. ground forces from Korea over the next 5 years. Thus total net reduction of about $3.4 billion from the Ford budget request included the addition of about $400 million to meet immediate requirements relating to the readiness of U.S. forces in Europe. The additional funds for aircraft shelters and ammunition storage facilities in Europe, however, were small in comparison with reductions in weapons development and procurement programs which were also relevant to U.S. capabilities in Europe.[5]

Subsequent budget amendments

Subsequent budget amendments in mid-1977 reduced the Carter administration request for fiscal year 1978 by another $818.6 million. These included several changes having a potentially important effect on U.S.-Soviet negotiations on a new Strategic Arms Limitation

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[3] U.S. Department of Defense. Report of Secretary of Defense Donald H. Rumsfeld to the Congress on the fiscal year 1978 budget, fiscal year 1979 authorization request and fiscal years 1978–82 defense programs. Jan. 19, 1977, p. 14.

[4] The national defense function of the budget includes regular Department of Defense military appropriations (including retired pay), foreign military assistance, atomic energy defense activities of the Energy Research and Development Administration (now the Department of Energy) and miscellaneous defense-related activities such as the Selective Service System.

[5] For example, development slowdowns, program reductions or cancellations amounting to $1,060 million involving the following weapons systems: Nonnuclear Lance missile (proposed cancellation); Hawk antiaircraft missile; advanced attack helicopter; CH53E heavy-lift helicopter; F–15 air superiority fighter; advanced tanker-cargo aircraft; Airborne Warning and Control System (AWACS); and A–7E attack aircraft. Department of Defense. Statement of Secretary of Defense Harold Brown to the Congress on the amendments to the fiscal year 1978 budget and fiscal year 1979 authorization request, Feb. 22, 1977.

Treaty (SALT–II); namely, the decision to terminate the B–1 bomber program and the related decision to accelerate the development of air-launched cruise missiles. This decision involved the reduction of about $1.5 billion from the B–1 program and the related SRAM–B (short-range attack missile) program, and the addition of about $500 million for the air-launched cruise missile development program and to upgrade and extend the life of the B–52 bomber force. Other amendments added $5 million for a classified intelligence program and $193.8 million in long-lead funds for the first of four nuclear powered, AEGIX air defense system-equipped, *Virginia*-class cruisers.

Congressional action on the defense budget and foreign policy implications/overall budget reductions

The congressional budget process.—The new congressional budget process which followed from passage of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) provides for the setting of overall spending limits for each functional category of the budget, within which all appropriations and other spending authority must be accommodated. In effect, Congress establishes the relative priorities of each budget function with respect to other Federal programs. Senate Concurrent Resolution 19, the first concurrent resolution on the budget, which received final approval in the Senate on May 13 and the House on May 17, 1977, provided defense spending targets of $118.5 billion in budget authority and $111.0 billion in outlays. These targets were $1.6 billion lower in budget authority than the administration's February budget request and $0.9 billion in lower estimated outlays. Controversy over the proposed spending targets for the national defense function and the overall balance of defense and nondefense spending was a key factor in the initial failure of the House to agree on a first budget resolution. The final resolution was a compromise between revised (upward) House spending targets and Senate targets that were nearly identical to the administration's request.

The second concurrent resolution on the budget, House Concurrent Resolution 341, which passed the House and Senate on September 15, 1977, provided ceilings of $116.4 billion in budget authority and $110.1 billlon in outlays for the national defense function for fiscal year 1978. These changes reflected expected or completed actions by the Congress on defense spending legislation, including the deletion of the B–1 bomber program and the requested increases in funding for the air-launched cruise missile program.

Defense spending legislation.—Action to date on fiscal year 1978 appropriations is shown in table 2. This table does not include an annual cost-of-living pay increase supplemental that will be submitted in the spring of 1978.

Foreign policy implications of congressional action

Congress dealt with a number of issues having foreign policy implications during action on defense spending legislation. Some of the more important issues, and the results of congressional action, include the following:

NATO standardization and interoperability

Background.—In the past several years both Congress and the executive branch have expressed increasing interest in improving the

TABLE 2.—NATIONAL DEFENSE FUNCTION APPROPRIATIONS, FISCAL YEAR 1978

[Dollar amounts in millions]

Appropriation act	Revised request [1]	Enacted	Public Law
Department of Defense (H.R. 7933)	$112,532	[2] $109,752	95–111
Military construction and family housing (H.R. 7589)	3,016	2,978	95–101
Foreign assistance and related programs (H.R. 7797)—(foreign military assistance	972	926	95–148
Supplemental (H.R. 9375—cruise missile supplemental)	449	424	95–240
Treasury, Postal Service and other agencies (H.R. 7552—Civil Defense and Defense Production Act)	142	130	95–81
Public Works—ERDA (H.R. 7553—atomic energy defense activities)	2,382	2,242	95–96
Miscellaneous	13	12	----------
Total	119,505	116,463	----------

[1] Totals reflect July 22, 1977, Presidential recision of the B–1 bomber program, July 1, 1977 OMB revised estimates and previous budget amendments.

[2] Excludes funds in bill for Office of Federal Procurement Policy (functional category 802) Act totals $109,752,776,000 with these funds.

Source: House Committee on Armed Services, fiscal year 1978 National Defense function (050) Budget, Resolution, Authorization and Appropriation, Washington, U.S. Government Printing Office, 1978, 2 pp.

degree of standardization and interoperability of the weapons of the U.S. forces and its NATO allies.[6] One milestone in the growth of concern about this issue was the passage, during 1976, of section 802, Public Law 94–361 (Department of Defense Appropriations Authorization Act, 1977). Section 802 stated that "it is the policy of the United States that equipment procured for the use of personnel of the Armed Forces of the United States stationed in Europe under the North Atlantic Treaty should be standardized or at least interoperable with equipment of other members of the North Atlantic Treaty Organization." The section went on to specify considerations and procedures to be used by the Department of Defense in deciding standardization and interoperablity issues when procuring military equipment, and to specify reporting requirements for cases involving the decisions to acquire equipment manufactured outside the United States or the initiation of procurement actions on new major systems that are not standardized or interoperable with NATO equipment.[7]

1977 action affecting NATO standardization and interoperability objectives.—During 1977, Congress continued to provide funds for the two weapons systems commonly viewed as showpiece examples of standardization and interoperability, the French-German Roland air defense missile system and the XM–1 main battle tank. Action by Congress on both systems, however, highlighted the pitfalls that lie in the path of standardization objectives. Moreover, the paucity of significant weapons systems programs meeting standardization and interoperability objectives illustrates the still limited commitment to these goals in the face of other objectives such as national self-sufficiency, domestic defense employment and lowest unit cost objectives.

In its report on Defense Appropriation Authorization Bill for fiscal year 78 (H.R. 5970), the House Armed Services Committee expressed serious impatience with seeming runaway cost growth in the Roland

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[6] Also see the discussion of SALT on pp. 92–96 in this collection. (Ed.)

[7] Sec. 803 of the same act, which is a broadened form of language added to the authorization bill during 1975, stresses the common development of weapons systems for employment in the NATO theater, greater emphasis on licensing and coproduction, accelerated inter-European development and production programs and the "two-way street" concept of cooperation between Europe and North America.

development program. Most of this cost growth stemmed from the Army's insistence on "Americanizing" the entire system. Faced with development cost growth on the order of 100 percent during the past 3 years, the committee put restrictive language in the bill as reported (sec. 203) that would establish a minimum field replaceable subsystems interchangeability objective of at least 350 subsystems (versus an Army objective of 500 subsystems) and a ceiling of $265 million on the entire development program.[8] Subsequently, the House and Senate conferees agreed to delete the restrictive provisions from the bill itself, but the conferees went on record as supporting the development of the Roland system within guidelines indicated by the House committee. "The conferees," the report (S. Rept. 95-282) noted, "support increased standardization but in the long run a program with excessive cost overruns and questionable performance would do more to delay standardization than to aid it. Therefore, it is crucial that the Roland system meet cost and performance goals." (p. 37) Having stipulated guidelines for the continued development of the system, the conferees agreed that "The Secretary of the Army shall inform the Committees on Armed Services of the House and Senate within 60 days of the date of this report whether these conditions can be satisfied." (p. 38.)

The Congress also came into conflict with Department of Defense over another major standardization objective, that of putting the same engine, gun and other principal systems on the new American and German (and, perhaps, British) main battle tanks.[9] This was a compromise goal after the U.S. seemingly backed down from an earlier indication that it would test the German Leopard II tank against the winner of the U.S. prototype competition for the XM-1 main battle tank, and at least consider the German tank for acquisition if it proved superior to the U.S. prototype. It was widely believed that agreement to adopt the German 120mm gun for the XM-1, instead of the American 105mm gun, was to be a *quid pro quo* for Germany's willingness to contribute to NATO's acquisition of the American AWACS radar surveillance system and as a salve for German irritation at being denied an opportunity to sell the Leopard II tank to the U.S. Army.[10]

Enhanced radiation warheads ("Neutron Bomb")

The budget request for atomic energy defense activities conducted by the Energy Research and Development Administration (ERDA) contained a classified amount of funds for the initiation of production

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[8] H. Rept. 95-194, pp. 76-77.

[9] Also see the discussion of Western Europe on pp. 205-210 in this collection. (Ed.)

[10] In a report on the XM-1 tank program the Investigations Subcommittee of the House Armed Services Committee noted:

"It has come to the attention of the subcommittee that there appears to be a curious but, nonetheless, pervasive interrelationship between the fate of the Leopard/XM-1 agreement and the purchase of AWACS. Leading members of the German Bundestag have been quoted on several occasions as saying that a failure on the part of the United States to select the German 120-millimeter gun for its XM-1 tank would mean the FRG would decline to purchase the AWACS.

It has been suggested on a number of occasions that acceptance of the FRG's 120-millimeter gun is, to our European allies, the symbol of U.S. commitment to the principle of standardization, and as such has become the necessary condition for Federal Republic of Germany participation in the AWACS program. The committee, however, found no evidence to indicate that AWACS and the tank negotiations have ever been officially linked as a package deal either by the United States or the FRG Government."

U.S. Congress. House. Committee on Armed Services. Report of the Oversight Hearings on the Status of the Army XM-1 Tank Program before the Investigations Subcommittee of the Committee on Armed Services, Oct. 18, 1977. Washington; 1977 (H.A.S.C. No. 95-35), pp. 11-12.

of an enhanced radiation warhead for the Lance tactical missile and the development of new nuclear warheads for the 8-inch howitzer and the 155mm artillery shells.[11] The basic objective of enhanced radiation warheads, which are intended for the European theater, is to substitute lethal, relatively narrowly confined radiation for concussion and heat characteristics in nuclear warheads, thereby limiting collateral damage to structures and noncombatants.

While the principles involved in these weapons are not new, the reports that the ERDA budget request contained funds for their development and production touched off a heated and often emotional debate in Congress. Proponents of the enhanced radiation warheads argued that these weapons could stop massive Soviet armor assaults without causing catastrophic damage and civilian deaths in heavily populated areas such as the border regions between East and West Germany. It was argued that this would thereby make the nuclear deterrent more credible and would consequently reduce the likelihood of such weapons having to be used. Opponents of the warheads criticized the fact that outside the immediate blast area they killed by means of a relatively lingering death from radiation overdose, and maintained that the weapons were therefore inhumane. Opponents of the weapons noted the seemingly higher value placed on buildings than people. Perhaps more crucial, opponents of the warheads argued that such devices, because they reduced collateral damage, would be more tempting to use in a crisis and would therefore lower the nuclear threshold.

During action on the ERDA authorization bill (H.R. 6566) the House rejected an amendment to stop further work on the weapons by a margin of 109 yeas to 297 nays, and the final bill passed by a margin of 330–78. Since the Senate had attached no restrictions on the enhanced radiation warheads the final bill left the administration's proposed program intact.

A more serious challenge arose during consideration of H.R. 7553, the public works for water and power development and energy research appropriation bill, 1978. Considerable debate occurred in both the House and Senate on the enhanced radiation warhead issue, with opposition relatively stronger in the latter body. An amendment to bar any funds in the bill for the production of enhanced radiation warheads failed by a margin of 38–58, but the Senate adopted, by a vote of 74–19, an amendment barring the production of enhanced radiation weapons unless the President certified to the Congress that such a step was in the national interest. The amendment also provided that, within 45 days of such certification, Congress could disapprove the President's decision by a concurrent resolution. This was a compromise amendment offered by the Senate Majority Leader Robert Byrd following a filibuster led by Senator Mark O. Hatfield. The conference report was approved by both the House and Senate on July 25 with the Senate amendment intact, and the President signed the bill into law as Public Law 95–96 on August 7, 1977.

The B–1 bomber/cruise missile decision

Background and congressional action.—A third issue with potentially large foreign policy implications was the President's decision, sub-

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[11] A report in the Washington Post of June 24, 1977 (p. A1) alleged that these new warheads would be of the enhanced radiation type.

sequently endorsed by Congress after a hard fight, to cancel the B–1 strategic bomber program and focus on the long-range version of the air-launched cruise missile (ALCM) as the most cost-effective way of maintaining the "triad" of manned strategic bombers, land-based ICBM's and sea-launched ballistic missiles. The object of this decision was to prolong the useful life of the B–52 bomber beyond the time when it will be incapable of penetrating Soviet air defenses and thereby avoid the necessity of spending some $20 billion to acquire a fleet of 244 B–1 bombers. Instead, the administration proposed to build an unspecified number of low-flying, subsonic cruise missiles to be launched from existing B–52 bombers and, perhaps, modified civilian-type wide-body aircraft.

Congress ratified the decision to cancel the B–1 bomber production program during final action on H.R. 7933, the Department of Defense Appropriation Act (Public Law 95–111). The issue was closely contested in the House, however, with agreement coming by a narrow margin of 202–199. The Congress more readily agreed to add nearly $500 million in a supplemental appropriation (H.R. 9375) to accelerate development of the air-launched cruise missile and upgrade the B–52 fleet, but final action on this measure was delayed until February by a House-Senate dispute over the proposed cancellation of the fiscal year 1977 B–1 production program, involving some $462 million in unobligated funds. A Senate amendment that would have rescinded fiscal year 1977 funds was defeated in the House on December 6, 1977, by a margin of 166 yeas to 191 nays. The Senate voted to uphold its position on February 1, 1978. The House receded from its disagreement to the Senate amendment on February 22, 1978.[12]

Foreign policy implications.—The B–1 bomber/cruise missile decision seems to have affected the SALT II negotiations, but in a still unpredictable way. The B–1 aircraft itself was not a significant factor in the Vladivistok Accord of November, 1974, since it was designed as a replacement for the B–52 force. The Soviets, however, had shown early resistance to the cruise missile. Considerable acrimony arose between the U.S. and the Soviets over whether cruise missiles were to be counted in the tentative ceiling of 2,400 strategic missile launchers.[13]

By canceling the B–1 bomber and seeking reliance on the cruise missile, therefore, the U.S. traded a relatively noncontroversial system for one which would likely encounter strong Soviet resistance at the SALT II bargaining table.

While the U.S. previously planned to deploy the cruise missile in conjunction with the B–1 bomber, the terms which the U.S. achieves for cruise missiles are now much more critical. Reportedly, the United States has agreed to sign a 3-year protocol limiting the range of cruise missiles to 1,500 nautical miles, with extra range allowances for flying a diversionary flight path. The Soviets, however, have balked at

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[12] Proponents of completing aircraft 5 and 6, which would have been additional test aircraft instead of production models, argued that this course would preserve the option to build the aircraft for perhaps 2 years longer and thereby offer a hedge against unforeseen developments, including a breakdown in the SALT II talks. Opponents of the fiscal year 1977 program argued that this would be a waste of money since Congress had already confirmed the President's decision to cancel the program.

[13] "The ABC's of the Arms Controversy," Time, Apr. 11, 1977, p. 13.

agreeing to the deployment of cruise missiles in civilian-type wide-body aircraft on grounds that the total numbers of U.S. cruise missiles and launchers would not be verifiable.[14]

The B–1 decision may also make it more difficult for the administration to gain Senate approval of a SALT II agreement. Most observers agree that the B–52 bomber has a limited future as a penetrating bomber. Without the B–1 as a follow-on manned penetrating bomber it will probably be more difficult to meet criticisms of certain asymmetries in U.S. and U.S.S.R. strategic forces, especially the heavier and more numerous Soviet ICBM's. Moreover, while a 3-year protocol limiting cruise missile ranges would not have much practical effect on the planned development program, critics of the reported protocol terms may be expected to argue that it will be very difficult to drop the limitations at the end of the protocol period without seeming to take a backward step in strategic arms control.

Issues for 1978

Due to the inconclusive results of 1977 action on defense budget issues having foreign policy implications, most issues discussed in this chapter will likely carry over into 1978. Congress may or may not be presented with a SALT II treaty in 1978, but if a treaty is offered for ratification any restrictions on the testing and deployment of long-range cruise missiles will almost certainly generate a heated debate. The issue of NATO standardization is an open-ended issue that will likely last as long as the alliance. During 1978 Congress will have an opportunity to review the decision to adopt the German 120mm gun for the XM–1 tank and a variety of other weapons systems issues having standardization and interoperability implications. The issue of a major military assistance program for South Korea, postponed this year due to the adverse political climate, may be taken up in 1978. Finally, there will be the issue of the continued reorientation of U.S. defense posture toward European contingencies and, more re-recently, toward threats to the Persian Gulf oilfields. Congress may want to consider these plans in the context of the implications for U.S. military posture and foreign policy worldwide.

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[14] "Soviets Express Concern Over SALT Progress," Washington Post, Feb. 12, 1978, p. 1.

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IB77013—Navy Shipbuilding
IB77097—U.S. Arms Sales Debate

Overseas Commitments and Bases*

OVERVIEW

Although it was anticipated that President Carter would submit legislation to implement the Defense Cooperation Agreement (DCA) with Turkey early in 1977, he did not do so. The issues related to the Turkish DCA remain, however, and are likely to resurface in 1978. Congress may be faced with the further requirement of considering similar defense arrangements with Greece and with the Philippines during 1978.

DISCUSSION

Turkish Defense Cooperation Agreement

When the Congress chose not to resume military assistance and sales to Turkey in late July 1975 (due to its concern with the Turkish military intervention in the 1974 Cyprus crisis), the Turkish Government announced that the Defense Cooperation Agreement of July 3, 1969, governing "common defense cooperation between Turkey and the United States and all other related agreements had lost their validity." This action by the Turks had the eventual effect of suspending activities at certain key intelligence-collecting installations maintained by the United States in Turkey.

On October 28, 1975, the United States Government and the Government of Turkey began formal negotiations in the hope of resolving the base use controversy. On March 26, 1976, Secretary of State Henry A. Kissinger and Turkish Foreign Minister Ihsan S. Caglayangil signed a new four-year Defense Cooperation Agreement. The proposed agreement, if approved, would replace the 1969 U.S.–Turkish Defense Cooperation Agreement and its annexes (a classified executive agreement) and would permit the United States to resume the activities at United States installations in Turkey suspended by the Turkish Government in July 1975. The document was submitted to the Congress by the President accompanied by a draft joint resolution on June 16, 1976.[1]

Implicit in the language and concept of the March 26, 1976, United States-Turkish DCA is the separation of the Cyprus issue from consideration of U.S. military aid to Turkey, at least for the 4-year life of the agreement. Since implementing legislation would have to be passed by Congress to waive the provisions of section 620(x) (the Turkish arms embargo provision) of the Foreign Assistance Act and approve the military aid package in the accord, a full discussion of these issues will likely occur when the DCA is finally submitted for congressional action. It was unclear in December 1977 when the President would submit the necessary implementing legislation for the

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*Prepared by Richard F. Grimmett, Analyst in National Defense.

[1] U.S. Congress. House. Defense Cooperation Agreement with Turkey. H. Doc. No. 94-351. June 16, 1976. 94th Cong., 2d sess., Washington, U.S. Government Printing Office, 1976.

Turkish DCA. In 1977 the Carter administration chose only to endorse the DCA "in principle" during congressional hearings. However, it is possible that 1978 will see the final submission of an agreement for congressional consideration.[2]

Anticipated Defense Cooperation Agreement with Greece

As a result of the bitterness created in Greece by the successful Turkish military intervention in the Cyprus civil conflict of 1974, coupled with the belief by the Greeks that the United States had not acted effectively to restrain Turkey's action, the Greek Government, in the summer of 1974, made known to the United States Government its desire to renegotiate existing agreements relating to U.S. military facilities in Greece. After initial discussions on this subject were held between the two governments, the United States agreed on April 29, 1975 to terminate the homeporting of the U.S. Sixth Fleet at Elefsis [Athens]. Certain U.S. military facilities "which contribute to Greek defense needs" were to continue to operate at the Greek Air Force Base at Hellenikon [Athens]. It was also determined on April 29 that a review by the two governments of the status and conditions of operations at the remaining U.S. military facilities in Greece will continue in an effort to achieve agreement on "elimination, reduction and consolidation" of such facilities.[3]

On April 15, 1976 representatives of the United States and Greece approved a statement outlining the principles which will guide future United States-Greece Defense Cooperation. This statement noted that the United States and Greece would seek to complete "as soon as possible" a new Defense Cooperation Agreement that will replace the agreement on United States-Greek military facilities signed in 1953 and other related agreements. The statement further indicated that the new agreement would be designed to reflect the "traditionally close association" between Greece and the United States and the "mutuality of their defense interest in the North Atlantic Alliance." In addition, the new agreement, would "define the status and set forth the terms for operations of military installations in Greece where United States personnel are present."[4]

Negotiations to conclude a new United States-Greek Defense Cooperation Agreement based upon the above stated principles began in early May 1976.

On July 28, 1977, the Greek and United States Governments initialed a draft agreement. This agreement has not yet been formally signed by the two governments, however, and until this signing occurs, the text of the final United States-Greek Defense Cooperation Agreement cannot be made public and submitted to Congress for implementation. State Department officials have indicated that the basic

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[2] U.S. Congress. Senate. Committee on Foreign Relations, Subcommittee on Foreign Assistance. Hearings on Security Assistance Authorization, Apr. 21, 1977. 95th Cong., 1st sess. pp. 9, 13, 31–36; and U.S. Congress. House. Committee on International Relations, Subcommittee on Europe and the Middle East. Hearings on Foreign Assistance Legislation for Fiscal Year 1978 (Part 5) (Apr. 21, 1977) 95th Cong. 1st sess., Washington, U.S. Government Printing Office, 1977 pp. 276–281, 286–289.

[3] U.S. Department of State. Press release No. 219. Apr. 29, 1975.

[4] U.S. Department of State Bulletin, vol. 74. May 17, 1976: 629–630.

NOTE.—Since the Turkish DCA was signed, only 1 day of formal hearings has been held on it, with no action resulting from this hearing. See hearing of Sept. 15, 1976, before the Senate Foreign Relations Committee. U.S. Congress. Senate. Committee on Foreign Relations. United States-Turkey Defense Cooperation Agreement. Hearings on S.J. Res. 204, 94th Cong., 2d sess., Sept. 15, 1976. Washington, U.S. Government Printing Office, 1977.

framework of the Greek DCA follows that of the April 15, 1976 statement of principles on the subject signed by both governments.[5]

It is not clear when the Greek DCA will be signed and submitted to Congress for consideration. But it is possible that this could occur in 1978.

Anticipated military bases agreement with the Philippines

On April 12, 1976 the United States and the Philippines formally opened negotiations on a new agreement to govern the use of two major military bases and associated facilities that the United States currently maintains there. Detailed negotiations on this bases agreement have continued off and on since June 15, 1976. In 1977 U.S. officials held talks with President Ferdinand Marcos of the Philippines and key officials of his government on a wide variety of issues relating to the bases. These discussions and negotiations continue and at some point may lead to the most fundamental redrafting of the United States-Philippines Military Bases Agreement since the original basic accord entered into force on March 26, 1947.[6]

Among the key questions reportedly under discussion between the United States and Philippine Government are the terms under which the United States will be permitted to use the naval station at Subic Bay and Clark Air Force Base—the largest military base the United States utilizes in Asia. The Philippine Government is seriously interested in reasserting its sovereignty and jurisdiction over the installations maintained by the United States in the Philippines, as well as obtaining greater compensation or "rent" from the United States for use of these military facilities. The Philippine Government is also interested in reducing the size of U.S. base holdings there. Clark Air Force Base alone consists of over 131,000 acres, while the Subic Bay installation covers nearly 62,000 acres of land and sea. The Philippine Government is further interested in securing legal jurisdiction over U.S. military personnel assigned there, and obtaining an effective role in determining the uses to which the military bases are put.[7]

In view of the many significant issues involved in the current negotiations between the two governments, talks have proceeded slowly and carefully. The date that the new agreement will be signed cannot be predicted at this time. However, pending the final resolution of the talks, under the existing agreement, the United States retains its current rights until the year 1991.

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[5] Information supplied by Department of State, January 1978. Also see Washington Post, July 29, 1977, p. 14; Los Angeles Times, July 29, 1977, p. 4.

[6] 11 U.S.T. [Bevins] 55–77 contains the text of the original U.S.-Philippines Military Bases Agreement.

[7] For press accounts of the private, ongoing negotiations, and related details concerning the U.S.-Philippines Military Bases Agreement see: New York Times, June 11, 1976; p. 3; Washington Post, June 15, 1976, p. 20; Washington Post, June 16, 1976, p. A20; New York Times, June 16, 1976, p. 8; New York Times, June 26, 1976, p. 4; Washington Post, July 11, 1976, p. 15; Los Angeles Times, Aug. 15, 1976: IX-1; Wall Street Journal, Sept. 10, 1976, p. 30; Los Angeles Times, July 11, 1977, p. 1; New York Times, Aug. 14, 1977, p. 14; Washington Post, Sept. 25, 1977, p. A27; Christian Science Monitor, Sept. 23, 1977, p. 4; Washington Post, Nov. 17, 1977, p. A26; Christian Science Monitor, Nov. 16, 1977, p. 1; Washington Post, Dec. 7, 1977, A23.

Conventional Arms Transfers*

OVERVIEW

Other than an increased emphasis on human rights, there were few new legislative initiatives concerning U.S. security assistance and arms transfer programs in 1977. The emphasis rather was on institutionalizing and extending reforms and legislative restrictions in the program which had been enacted in 1976. Certain restrictions were modified so as to ease burdensome administrative problems which had been encountered in implementing the 1976 legislation. On May 19, 1977, the President announced the policy of his administration concerning arms transfers. The Congress closely observed and commented on subsequent administration efforts at implementation of that policy during the remaining months of 1977.

DISCUSSION

Legislation

Military assistance.—The first order of business concerning security assistance which occupied the Congress in 1977 was a request by the Carter administration in late February to authorize an additional $30 million in supplemental military assistance to Portugal for fiscal year 1977. This amount was designed to provide a C–130 aircraft and priority ground force equipment to a newly constituted Portuguese airborne brigade. This authorization, which in large part represented a reallocation of funds already authorized, was quickly approved by both Houses and was signed into law on April 30, 1977 (Public Law 95–23).[1]

The budget of the Ford administration for fiscal year 1978 proposed a military assistance program of $218.6 million to eight countries, five of which contained U.S. military bases. The eight were Greece, Portugal, Spain, Turkey, Jordan, Indonesia, the Philippines, and Thailand. As in fiscal year 1977, Jordan was again slated to be the largest recipient of U.S. grant military assistance. An additional $66 million was allocated for the management of the program and for the delivery of previously funded materiel to countries no longer receiving military aid. This military aid program of $284.6 million for fiscal year 1978 required the appropriation of $230 million in new obligational authority. In addition, $35.7 million was requested for the international military education and training (IMET) program for fiscal year 1978 to provide training to personnel from 46 countries. $710 million was requested to finance credit arms purchases from the United States.

On March 28, 1977, President Carter transmitted his security assistance proposals for fiscal year 1978 to Congress. The new administration's request for military assistance was identical to the Ford budget request. However, the request for international military

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* Prepared by Herbert Y. Schandler, Specialist in National Defense.

[1] U.S. Congress. House. Committee on International Relations. To Authorize Supplemental Military Assistance to Portugal for Fiscal Year 1977. Hearings. 95th Cong., 1st sess., Mar. 1, 1977; S. Rep. No. 95–43, Mar. 9, 1977: H. Rept. No. 95–81, Mar. 15, 1977.

education and training was reduced by $700,000 for a total request of $35 million, and the request for the credit sales program was reduced by $2.75 million for a total request of $707.25 million to finance a credit sales program of $2,217.5 million. This downward adjustment, according to the President's message to the Congress, was made in the light of human rights situations in the countries involved, although no countries were specified in the message.[2]

Secretary of State Vance, in earlier testimony, had stressed that the fiscal year 1978 security assistance budget had not been originated by the Carter administration nor had the specific programs been designed by that administration. Nonetheless, the Secretary stated that review of these programs had convinced the new administration that they were, on the whole, wise and in the best interest of the nation. As the Secretary of State saw the situation, "abrupt actions by the United States in making major cuts in these programs would disrupt plans and programs which are now underway in foreign countries and could have serious adverse political consequences." [3] The cuts which had been made, the Secretary indicated, had been based upon human rights considerations concerning Ethiopia, Argentina, and Uruguay.[4]

Little change in these programs was made by the Congress. A total of $228.9 million was authorized for the military assistance program, a reduction of $1.1 million from the administration request. This amount, which was programed for supply operations for Ethiopia, was deleted by the House International Relations Committee "for reasons of gross and systematic violations of human rights and because of the Ethiopian Government's closing of the U.S. military mission and other U.S. facilities." This deletion was approved by the Conference Committee.[5] For international military education and training, $31 million was authorized, and $677 million was authorized to support a foreign military credit sales program of $2,102.35 million.[6] The committees of both Houses, in their reports, indicated that these reductions in sales credits were to be applied to programs in Argentina, Ethiopia, El Salvador, Guatemala, and Brazil, primarily because of human rights violations in those countries.[7] Military aid to Chile and Uruguay had been prohibited by legislation passed in 1976. Many of the Latin American countries earlier had responded to the State Department's criticism of human rights conditions in those countries by renouncing U.S. assistance in any case.[8] In addition, provision of that military assistance authorized for Turkey was prohibited until the President certified to the Congress that "substantial progress" had been made toward agreement regarding military forces in Cyprus.

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[2] U.S. Congress. House. Committee on International Relations. International Security Assistance and Arms Export Control Act: Communication from the President of the United States. Mar. 28, 1977. H. Doc. No. 95-113, 95th Cong., 1st sess.

[3] U.S. Congress. Senate. Committee on Appropriations. Foreign Relations and Related Programs Appropriations, Fiscal Year 1978. H.R. 7797. Hearings. 95th Cong., 1st sess. Washington, U.S. Government Printing Office, 1977. pp. 173-174.

[4] Ibid., p. 196.

[5] U.S. Congress. House. Committee on International Relations. International Security Assistance Act of 1977. Report on H.R. 6884. H. Rept. No. 95-274, 95th Cong., 1st sess. May 9, 1977, p. 12; and U.S. Congress. House. International Security Assistance Act of 1977. Conference Report to Accompany H.R. 6884. Report No. 95-503. 95th Cong., 1st sess. July 15, 1977, p. 2.

[6] H. Rept. No. 95-503, op. cit., pp. 7, 11.

[7] H. Rept. No. 95-274, op. cit., pp. 24-25; U.S. Congress. Senate. Committee on Foreign Relations. The International Security Assistance and Arms Export Control Act of 1977. Report to Accompany S. 1160. S. Rept. No. 95-195. 95th Cong., 1st sess., May 16, 1977, p. 35.

[8] "Argentina and Uruguay Reject U.S. Assistance Linked to Human Rights," New York Times, Mar, 2, 1977, pg. 10; "Brazil Cancels Military Aid Treaty Over U.S. Report on Human Rights," New York Times, Mar. 12, 1977, p. 1; "Guatemala Rejects Aid, Cites Rights Criticism," Washington Post, Mar. 17. 1977, p. A14; "El Salvador Rejects U.S. Arms Aid," Washington Post, Mar. 18, 1977, p. A12.

Similarly, the appropriations committees made little change in security assistance programs, although certain prohibitions which had been suggested in the committee reports of the authorizing committees were made explicit in the appropriations process. Military assistance funds were reduced to $220 million. This reduction, according to the House Appropriations Committee, was "to encourage a further shift from a military grant program to cash or loan transactions." [9] For international military education and training, $30 million was appropriated, and $675.85 million was appropriated for the sales credit program.

The appropriations bill (Public Law 95–148), however, contained specific prohibitions on the expenditure of these funds. International military education and training was specifically prohibited for Argentina. Military assistance, military training, and sales credits were prohibited to Argentina, Brazil, El Salvador, and Guatemala, and specific limitations were placed on the amount of military assistance, military training, or credit sales which could be provided to the Philippines.[10]

The International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329) made major changes in the statutory framework governing military assistance and sales programs. Thus, major new policies, procedures, or restrictions were not considered necessary in 1977. In this regard, the House Committee on International Relations indicated in its report on security assistance authorizations for fiscal year 1978 that its bill reflected "the intention of the committee to adhere to and extend the reforms enacted last year in the areas of international security assistance and arms export control." [11] Similarly, the Senate Committee on Foreign Relations saw substantial progress toward bringing about a more coordinated and coherent program of arms sales on the part of the administration while providing the Congress with a stronger voice in that program.[12]

However, some changes were made in the law at the request of the administration in order to ease certain administrative problems which had been encountered in implementing the procedures enacted in 1976. The management of the military assistance and sales program was modified. Military assistance advisory groups were specifically authorized for 15 countries. The primary functions of these groups were designated to be logistics management, transportation, fiscal management, and contract administration. The sense-of-Congress was expressed that advisory and training assistance in the countries specified should be provided primarily by personnel who are detailed for limited periods to perform specific tasks.

In countries not specifically authorized a military advisory group, three members of the armed forces were permitted to be assigned to perform accounting and other management functions with respect to international security assistance programs. At the request of the administration, existing legislation was also amended to allow military attachés to perform overseas management functions of the

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[9] U.S. Congress. House. Committee on Appropriations. Foreign Assistance and Related Programs Appropriation Bill, 1977. Report to Accompany H.R. 7797. H. Rept. No. 95–417. June 15, 1977, 95th Cong., 1st sess., p. 39; and U.S. Congress. House. Making Appropriations for Foreign Assistance and Related Programs for the fiscal year ending Sept. 30, 1977. Conference Report to Accompany H.R. 7797. H. Rept. No. 95–701, Oct. 12, 1977, 95th Cong., 1st sess.

[10] Public Law 95–148, Oct. 31, 1977.

[11] H. Rept. No. 95–274, op. cit., p. 8.

[12] S. Rept. No. 95–195, op. cit., p. 10.

security assistance program if the President determined (and promptly reported such determination to the Congress) that this would be the most economic and efficient means of performing such functions.[13]

The International Security Assistance Act of 1977 (Public Law 95–92) also modified the procedures for approval of transfers of U.S.-furnished weapons, equipment or services to third countries. Previously, such transfers could be approved by the President subsequent to notifying the Congress of his intention to approve such transfers. The 1977 act would permit such transfers only if Congress did not adopt a concurrent resolution disapproving of the transfer within 30 calendar days after notification. The legislation, however, allowed transfers of maintenance, repair, overhaul defense services, or of repair parts, or other defense articles used in furnishing such services, without regard to this restriction if the transfer would not result in any increase in the original military capability of the defense articles and services to be maintained, repaired or overhauled. Restrictions on transfers were also made nonapplicable to temporary transfers for the sole purpose of receiving maintenance, overhaul or repair, or to cooperative cross-servicing arrangements among members of NATO. Requiring the 30-day notification, administration witnesses had stated, frustrated maintenance cooperation and gave rise to unintentional violations.[14]

Similarly, at the request of the administration, authority was provided for the commercial sale of major defense equipment in excess of $25 million to Australia, Japan, and New Zealand. Previously, commercial sales in this amount were allowed only to members of NATO.

On April 28, 1977, Secretary of State Cyrus Vance consulted with the Senate Foreign Relations Committee in closed session concerning the forthcoming administration arms sales policy. During that consultation, the committee expressed its concern that the new policy might discriminate against the State of Israel and thereby weaken its deterrent capability, since Israel was not to be excepted from forthcoming Presidential controls on arms sales.[15] Consequently, the Subcommittee on Foreign Assistance of the Senate Foreign Relations Committee approved an amendment that urged sympathetic consideration by the administration of requests by Israel for licenses to produce U.S. designated military equipment for use by the Israeli armed forces, or coproduction of military equipment with Israel. In a meeting with members of the subcommittee on May 12, and in a subsequent letter, President Carter urged that this not be "codified in legislation."

The President stated:

> I recognize the special responsibilities the United States has toward Israel in this regard and the particular consideration that therefore must be given to our military arms and coproduction arrangements with Israel. * * * Legislation including specific exceptions for Israel would have very unfortunate consequences. * * *[16]

The subcommittee accepted the President's assurances and substituted the following amendment:

> In accordance with the historic special relationship between the United States and Israel and previous agreements and common understandings, the Congress

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Public Law 95-92, Aug. 4, 1977, sec. 7(a).

[14] U.S. Congress. Senate. Committee on Foreign Relations. Security Assistance Authorization. Hearings on S. 1160. 95th Cong., 1st sess., pp. 13–14.

[15] Also see the discussion of the Middle East on pp. 196–204. (Ed.)

[16] S. Rept. No. 95–195, op. cit., pp. 36–38.

joins with the President in reaffirming that a policy of restraint in U.S. arms transfers, including arms sales ceilings, shall not impair Israel's deterrent strength or undermine the military balance in the Middle East.[17]

Although a similar amendment did not appear in the House bill, this policy statement was accepted by the Conference Committee and was enacted in the International Security Assistance Act of 1977 (Public Law 95–92).[18]

On October 21, 1977, the President forwarded to the Congress proposed legislation which would grant him authority, until December 31, 1982, to transfer to the Republic of Korea, without reimbursement, defense articles in the custody of U.S. Army units scheduled to depart from Korea and other defense articles from the stocks of the Department of Defense, along with the defense services (such as technical and operating training) directly related to the articles transferred.[19] The value of the defense articles to be transferred was not specified. The President would be required, under this proposed legislation, to provide the Congress at the beginning of each fiscal year a report describing the type, quantities, and value of defense articles furnished or intended to be furnished under this authority.[20] No congressional action was taken on this legislation in 1977.

President Carter's arms sales policy

On May 19, 1977, President Carter announced his administration's policy on arms sales. This policy was based upon the studies required by section 202(b) of Public Law 94–329, which had directed the following study requirement:

> The President shall conduct a comprehensive study of the arms sales policies and practices of the United States Government, including policies and practices with respect to commercial arms sales, in order to determine whether such policies and practices should be changed. Such study shall examine the rationale for arms sales, the risks to world peace as a result of such arms sales, trends in arms sales by the United States and other countries, and steps which might be taken by the United States to provide for limitations on arms sales. In addition, such study shall include an evaluation of the impact of United States arms sales policies on the economic and social development of foreign countries and consideration of steps which might be taken by the United States to encourage the maximum use of the resources of the developing countries for economic and social development purposes.

The President was required to submit findings of this study to the Congress no later than June 30, 1977, along with recommendations for legislation as appropriate, as well as the efforts made by the United States during the preceding 5 years to initiate and otherwise encourage arms sale limitations, and the efforts currently being made along those lines.

Further, section 218 of the same act had directed the Secretary of State, in consultation with the Secretary of Defense, to conduct a comprehensive study of the effects of the provisions of the Arms Export Control Act with a view to determining their consequences on: (1) the foreign policy of the United States; (2) the balance of pay-

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[17] Ibid.
[18] H. Rept. No. 95–503, op. cit., p. 32; Public Law 95–92, sec. 26.
[19] Also see the discussion of U.S.-Korean relations in "Asia: Korea and Vietnam" on pp. 190–195. (Ed.)
[20] U.S. Congress. House. Committee on International Relations. Special International Security Assistance Act of 1977. Communication from the President of the United States, Oct. 21, 1977. H. Doc. No. 95–247. 6 pp.

ments of the United States; (3) trade with foreign countries; (4) unemployment in the United States; and (5) weapons procurement by the Department of Defense. This study, along with recommendations for appropriate legislation, was also required by June 30, 1977. One consolidated study was submitted to the Congress on June 30, 1977.[21]

In his statement, the President indicated, "The virtually unrestrained spread of conventional weaponry threatens stability in every region of the world." The policy announced by the President contained two basic elements:

> The United States will henceforth view arms transfers as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests.
>
> We will continue to utilize arms transfers to promote our security and the security of our close friends. But in the future, the burden of persuasion will be on those who favor a particular arms sale, rather than those who oppose it.

In addition, the President indicated that despite unilateral U.S. restraint in the sale of arms, "Actual reductions in the worldwide traffic in arms will require multilateral cooperation * * * The United States will meet with other arms suppliers * * * to begin discussions of possible measures for multilateral action."

To implement the first element of this policy—that of unilateral U.S. restraint in the sale of arms—the President established a set of six controls applicable to all future arms transfers "except to those countries with which we have major defense treaties (NATO, Japan, Australia, and New Zealand)." These controls are:[22]

(1) The dollar volume (in constant fiscal year 1976 dollars) of new commitments under the foreign military sales and military assistance programs for weapons and weapons-related items in fiscal year 1978 will be reduced from the fiscal year 1977 total. Transfers which can clearly be classified as services are not covered, nor are commercial sales, which the U.S. Government monitors through the issuance of export licenses. Commercial sales are already significantly restrained by existing legislation and executive branch policy.

(2) The United States will not be the first supplier to introduce into a region newly developed, advanced weapons systems which would create a new or significantly higher combat capability. Also, any commitment for sale of coproduction of such weapons is prohibited until they are operationally deployed with U.S. forces, thus removing the incentive to promote foreign sales in an effort to lower unit costs for Defense Department procurement.

(3) Development or significant modification of advanced weapons systems solely for export will not be permitted.

(4) Coproduction agreements for significant weapons, equipment, and major components (beyond assembly of subcomponents and the fabrication of high-turnover spare parts) are prohibited. A limited class of items will be considered for coproduction

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[21] U.S. Congress. Senate. Committee on Foreign Relations. Arms Transfer Policy: Report to Congress. 95th Cong., 1st sess., Committee Print, July 1977. Washington, U.S. Government Printing Office, 1977. 107 pp.

[22] White House Press Release, "Statement by the President: Conventional Arms Transfers Policy," May 19, 1977.

arrangements, but with restriction on third-country exports, since these arrangements are intended primarily for the co-producer's requirements.

(5) In addition to existing requirements of the law, the United States, as a condition of sale for certain weapons, equipment, or major components, may stipulate that we will not entertain any requests for retransfers. By establishing at the outset that the United States will not entertain such requests, we can avoid unnecessary bilateral friction caused by later denials.

(6) An amendment to the International Traffic in Arms Regulations will be issued, requiring policy level authorization by the Department of State for actions by agents of the United States or private manufacturers which might promote the sale of arms abroad. In addition, embassies and military representatives abroad will not promote the sale of arms and the Secretary of Defense will continue his review of government procedures, particularly procurement regulations, which may provide incentives for foreign sales.

President Carter's announcement of the administration's arms transfer policy, however, was followed by subsequent decisions to sell or to consider selling quantities of armaments to various nations. In the remaining months of fiscal year 1977 following the promulgation of the President's policy, some 46 separate arms sales notifications were forwarded to Congress. These involved 19 countries and proposed sales of goods and services totaling some $4.5 billion. It was also announced during this period that the United States was prepared to offer substantial amounts of arms to Saudi Arabia, Egypt, Chad, Sudan, Somalia (later withdrawn), and Korea. These actions led to early skepticism on the part of many in Congress concerning the effectiveness of the announced policy in restricting arms transfers as an instrument of U.S. foreign policy. In making public a Congressional Research Service study which analyzed the early implementation of the President's policy, Senator Humphrey stated his concern over the apparent inconsistency between the President's announced policy and actions that had occurred subsequent to the announcement of that policy. "As the current backlog of previously negotiated arms sales diminishes," he stated, "the Subcommittee [on Foreign Assistance], in its oversight role, will review each proposed sale with the President's May 19 policy statement in mind." [23] In commenting on the President's policy on the floor of the Senate on October 7, 1977, the majority leader, Senator Robert C. Byrd, also indicated that he felt that the results of the President's policy up to that date "have been somewhat disappointing." [24]

Insofar as efforts toward multilateral restraint were concerned, the Minister of Defense of France, during a Washington visit in November, stated that his country "* * * will not sell weapons without reasons or without limitations. * * * France also subscribes to a policy of limitations of sales of armaments once it falls within an overall framework and constitutes a realistic solution to the problem." The British

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[23] U.S. Congress. Senate. Committee on Foreign Relations. Implications of President Carter's Conventional Arms Transfer Policy. Report by the Subcommittee on Foreign Assistance. December 1977. 95th Cong., 1st sess. Committee Print. Washington, Government Printing Office, 1977. 50 pp.

[24] Congressional Record (daily edition), Oct. 7, 1977, p. S16620.

Ambassador to the United States indicated that the United Kingdom shared "* * * the United States' view that global expenditure on armaments is too high. * * * For any arms sales policy to be effective, the cooperation of the Soviet Union will of course be necessary." In that regard, the United States and the Soviet Union opened exploratory talks in Washington on December 15 on the possibility of a Soviet-American agreement to limit weapons sales. However, sources indicated that these talks failed to find much common ground between the two countries on the issue of limiting the transfers of weapons.[25]

Arms sales

AWACS and Iran.—One significant contribution to the skepticism in Congress concerning the administration's dedication to implementing its own arms sale policy was the proposal to sell Iran seven airborne warning and control system (AWACS) aircraft at a cost of $1.2 billion. Formal notification of the proposed sale was provided to the Congress on July 7, 1977, under the provisions of section 36(b), Arms Export Control Act. Having been alerted earlier to the impending sale, Senators Eagleton and Culver (and four other Senators) had asked the General Accounting Office (GAO) in May to analyze the administration's justification for this sale. The GAO report, classified Secret, was provided on July 14.[26] The press quickly published what were reported to be details from the study.[27] The report, it was alleged, indicated that the sale had not been justified adequately. The administration's study of Iranian defense needs, the study is reported to have concluded, had not considered all available alternative radar systems and had not considered the total cost of the AWACS-based defense system. In addition, the GAO report contained a letter from Adm. Stansfield Turner, Director of Central Intelligence, to the effect that the sale posed a security risk and that the loss of a plane to the Soviet Union could cost the United States its lead over Russia in the technology of electronic warfare. Turner indicated that there was no way the risk could be reduced without removing from the planes so much sensitive electronic equipment as to make them ineffectual.[28]

In the House of Representatives, a resolution to disapprove the sale was introduced (H. Con. Res. 275) by Congressman Gerry E. Studds on July 11. This resolution was referred jointly to the Subcommittee on Europe and the Middle East and the Subcommittee on International Security and Scientific Affairs. GAO witnesses appeared before the two subcommittees on July 19 to summarize their report. Two days later, the subcommittees heard Admiral Turner, who reportedly "stuck unequivocally by his earlier statements" concerning the security risks inherent in the sale.[29] That same day, Erich von Marhod, Acting Director of the Defense Security Assistance Agency, attacked the GAO report before the subcommittees as "misleading and inaccurate." Many highly sensitive pieces of communications and coding

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[25] Bradsher, Henry, S. "Arms Sales: U.S. Russia Still at Odds," Washington Star, Dec. 21, 1977, p. B2.
[26] U.S. General Accounting Office. Issues Concerning the Proposed Sale of the Airborne Warning and Control System E-3 to Iran. Secret. July 14, 1977.
[27] "CIA Raises Security Risks in Radar-Jet Sales to Iran," Washington Post, July 14, 1977, p. 3.
[28] "CIA Raises Security Risks in Radar-Jet Sales to Iran," Washington Post, July 14, 1977, p. 3; "Turner Repeats Warning on Sales of Radar Jets," Washington Post, July 22, 1977, p. 3.
[29] "Turner Repeats Warning on Sale of Radar Jets," Washington Post, July 22, 1977, p. 3.

gear that Admiral Turner had assumed would be on the Iranian planes would be removed, von Marbod testified. On July 28, the day the subcommittees were scheduled to vote on the resolution of disapproval, Senator Culver, who had introduced a resolution of disapproval in the Senate, testified before the House panels in opposition to the proposed sale.

The von Marbod testimony was followed by that of Secretary of State Vance. Secretary Vance confirmed that this sale would be a specific exception to the recently announced Presidential policy that the United States would not be the first to introduce advanced weapons systems into an area. This exception was justified, he claimed, because Iran "must depend on advanced weaponry to offset quantitative and other disadvantages in order to maintain a regional balance."[30] Subsequently, the committee voted, 19–17, to approve the resolution of disapproval. The questions which had been raised about the sale apparently had convinced many members that a great deal of uncertainty surrounded the issue and that, with the first AWACS not scheduled for delivery to Iran until 1981, more time was needed to sort out the facts.

As indicated, Senator Culver (and 15 additional cosponsors) had introduced a resolution in the Senate to disapprove the sale (S. Con. Res. 36). The Foreign Assistance Subcommittee of the Senate Foreign Relations Committee heard testimony form Senator Culver in opposition to the sale on July 18. Administration witnesses appeared before the Senate subcommittee on July 22. Von Marbod's testimony again undercut the "security risk" argument concerning this sale which had been raised by the GAO report.[31]

On July 22, Senate Majority Leader Byrd, in a letter to the President, urged withdrawal of the proposed sale. The majority leader indicated that the demanding legislative schedule facing the Congress in the 2 weeks remaining prior to recess would make it difficult for Congress to act on the AWACS proposal within the 30-day statutory period. The majority leader, in addition, indicated his own serious reservations concerning the sale.[32]

On July 25, the President indicated to Senator Byrd that he had decided not to withdraw the notification.[33] On July 27, the Foreign Assistance Subcommittee voted to forward the disapproval resolution to the full committee "without recommendation and without prejudice."[34] The subcommittee also voted to draft a letter for delivery to the President asking him to withdraw the notification in order to allow more time for analysis of the issues which had been raised concerning the sale. "We do not want to put ourselves, if possible, into a position of confrontation with the President on this matter," Senator Humphrey stated, "yet, we have legitimate concerns, which the testimony has revealed. Similarily, we do not want any action on our part to be interpreted as antagonistic to Iran or inconsiderate of the needs of Iranian defense."[35]

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[30] Department of State Bulletin, Aug. 22, 1977, vol. LXXVII, p. 246.
[31] U.S. Congress. Senate. Committee on Foreign Relations. Subcommittee on Foreign Assistance. Sale of AWACS to Iran. Hearings. 95th Cong., 1st sess., pp. 34–35, 54–56.
[32] Ibid., p. 64.
[33] Logan, Harold J., "Carter Plans Radar Sale To Iran Despite Opposition," Washington Post, July 26, 1977, p. A3.
[34] Hearings. Sale of AWACS to Iran, op. cit., p. 70.
[35] Ibid., p. 68.

The letter from the Senate subcommittee also asked the President for six assurances, if, after reviewing the alternatives, he decided to resubmit the AWACS sale to Congress. Among these assurances asked were:

> * * * that the planes would not include certain sensitive encipherment equipment; that security arrangements be developed to ensure adequate protection of the Iranian AWACS; that the AWACS be used only for defensive purposes; that the "multiplier" effect of AWACS be taken into account in considering future sales to Iran; that cadre training of Iranian crews take place entirely in the U.S., and no U.S. personnel would be on AWACS operational flights; and that a study be conducted on Iran's capacity to absorb high technology defense items.[36]

Senator Byrd appeared before the Senate Foreign Relations Committee on July 28 and called for strong committee endorsement of the disapproval resolution. Before the committee could act, however, the House International Relations Committee had voted in favor of the disapproval resolution. Senator Humphrey, in another attempt to avoid a confrontation with the administration on this issue, telephoned Secretary of State Vance to attempt to convince the President to withdraw the notification for resubmission in September after congressional questions concerning the sale had been resolved. Humphrey, in this case, was successful and the notification of the proposed sale was withdrawn. In a letter to Senator Humphrey dated July 28, the President confirmed this withdrawal and indicated that "he was prepared to provide assurances with respect to six matters raised by the Subcommittee on Foreign Assistance." [37]

The proposed AWACS sale to Iran was resubmitted to the Congress by the administration on September 7. A resolution of disapproval (S. Con. Res. 48) was again introduced by Senator Culver (with 21 cosponsors) on October 1. In hearings on this subject on September 19, the administration told the Subcommittee on Foreign Assistance that the assurances requested by the subcommittee had been met and, indeed, had been agreed to by the Government of Iran.[38] In a letter to all Members of the Senate, Senators Humphrey and Case indicated that "the President has been responsive to our concerns and the issues raised by the Foreign Assistance Subcommittee as a result of our hearings. Alternative systems have been evaluated and the assurances we requested have been agreed to. Therefore, we believe that the sale accompanied by the assurances should be approved." [39]

The subcommittee also stated its understanding, subsequently confirmed by the administration, that the AWACS sale to Iran would be counted in fiscal year 1978 totals for U.S. arms sales. This was important in that the President had, in his policy statement, indicated that sales in fiscal year 1978 would be lower than in fiscal year 1977. The subcommittee was concerned that, by counting this total in fiscal year 1977 figures, a higher figure from which to reduce fiscal year 1978 sales would be established. With these understandings, the sale was allowed to proceed without further objection from the Congress.

Aircraft sales to Egypt.—Aside from the AWACS sale to Iran, only one major arms sale attracted significant congressional interest in

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[36] Ibid., pp. 87–88.
[37] Hearings. Sale of AWACS to Iran; op. cit., p. 84; also Department of State Bulletin, Aug. 22, 1977; vol. LXXVII, p. 247.
[38] Ibid., pp. 90, 94–96.
[39] Ibid., p. 108.

1977. On September 7, 1977, the administration notified Congress of its intention to sell to Egypt 14 C–130 aircraft and a number of remotely piloted reconnaissance "drone" aircraft at a total cost of $250 million. Although resolutions of disapproval to block the sale were introduced in the House, no action was taken on these sales because the material involved was not considered to have lethal or offensive capabilities.[40]

At the same time, the administration also notified the Congress of plans to have American technicians participate in the rebuilding and maintenance of Egypt's Soviet-supplied MIG–21 aircraft. Under the plan, American technicians from Lockheed and General Electric would be subcontracted by an unnamed European country to refurbish the aircrafts' engines. No American personnel would be stationed in Egypt under this program. In testimony before the Congress, the administration affirmed that this U.S. effort would not enhance or upgrade the capabilities of the Eygptian aircraft, but would merely arrest deterioration. The administration indicated that this stipulation would be contained in the contract. Consequently, there was no opposition to this program.[41]

Congressional interest.—The AWACS incident, however, had increased congressional dissatisfaction with legislative controls over the Nation's arms sales policies. On October 18, the Senate Foreign Relations Committee adopted a resolution which first commended the President's goal of reducing the conventional arms race, then strongly urged the President to stay within the framework of his arms transfer guidelines by limiting the transfer of sophisticated military equipment to the Persian Gulf region, and, finally, requested that the executive branch, in order to allow the Congress to pass appropriately on requests for transfer of sophisticated technology to the Persian Gulf region, provide the Congress with "an adequate study of the military balance in the Persian Gulf region and the ability of countries in the area efficiently to absorb advanced U.S. military technology."[42]

On October 7, 1977, in a statement on the floor, Senate Majority Leader Robert C. Byrd also raised questions concerning "the appropriate role of the Congress in the arms sales process." Senator Byrd indicated that present procedures, which presented the Congress with "essentially a take-it-or-leave-it proposition" concerning individual arms sales, with "no real opportunity for compromise * * * [and] no direct means for Congress to attach reservations or conditions to a proposed sale," were inadequate. The majority leader then outlined procedures which he believed should be instituted "to insure that the Senate does exercise its proper role." Among his recommendations were the following:

(1) The executive branch should submit a detailed overall plan for arms sales for each fiscal year early in the congressional session. * * *

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[40] U.S. Congress. House. Committee on International Relations. Proposed Sale of Military Equipment and Services to Egypt. Hearing, 95th Cong., 1st sess., Sept. 15, 1977, pp. 15–16. U.S. Congress. Senate. Committee on Foreign Relations. Sale of C–130 Aircraft to Egypt. Hearing. 95th Cong., 1st sess., Sept. 21, 1977, p. 20.

[41] Ibid.

[42] Congressional Quarterly, Oct. 22, 1977, p. 2258.

(2) Congress should * * * extend the period for congressional review of major arms sales.

(3) As a general rule, the Executive should not submit notifications of proposed sales during extended congressional nonlegislative periods.* * *

(4) The cumulative and long-term impact of arms sales must be given more thorough consideration.* * *

(5) Consideration should be given to requiring explicit congressional approval—rather than a resolution of disapproval—for major arms sales.* * *

(6) Finally, in the case of Iran, * * * I would suggest a moratorium on further sales in the near future.* * * [43]

Summary

In 1977, many Members of Congress had expressed their support of the administration's willingness to seek restraint in the sales of conventional weapons and its willingness to consult with the Congress on this issue. A continuing problem, however, which had been accentuated by the controversy over the sale of AWACS aircraft to Iran, was the fact that Congress received notification of proposed sales on a piecemeal basis and then only after significant negotiation had been conducted with the prospective purchaser and a letter of offer was to be presented. Cancellation—or even major modification—of a negotiated sale at that point entailed possible damage to U.S. relationships with the purchasing country.

Similarly, the piecemeal, one-at-a-time, notification system does not provide opportunity for congressional review of the entire program on an annual basis. To meet this problem, Senator Javits had proposed an amendment to the Arms Export Control Act which would have required the executive branch, in its annual presentation to the Congress, to identify for each foreign country the total of aggregate dollar value of sales it intended to make that year and to identify the major defense equipment intended to be sold. By requiring the presentation of arms sales plans in this overall format, the amendment was designed to enable the Congress to exercise its policy-formation and oversight responsibilities in a coherent and deliberate manner.

Senator Humphrey, the subcommittee chairman, in commenting on this amendment, stated that "the purpose of this amendment is fully within the purpose and statement of objectives of that particular piece of legislation." However, he requested that the amendment be withdrawn in view of the committee's decision to "note in precise language * * * the desire of the full committee to have the cooperation of the administration in the fulfillment of the directives of this amendment." Accordingly, the amendment was withdrawn.[44]

Thus, in the future, regardless of the effectiveness of President Carter's arms transfer policy, it is likely that the Congress will seek, either by working with the administration, or through legislation, to provide for an early overall view of the foreign military sales program on an annual basis in order to allow for a greater degree of congressional participation in the formulation of policy concerning the Nation's arms sales program.

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[43] Congressional Record (daily edition), Oct. 7, 1977, pp. S16616–21.
[44] S. Rept. No. 95–195, op. cit., pp. 11–12.

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Nuclear Nonproliferation*

OVERVIEW

As this report on 1977 activities in Congress was going to press, the Nuclear Nonproliferation Act of 1978 was signed into law by President Carter. This legislation probably is the most significant statement of U.S. policy in the nuclear field since the Atomic Energy Act of 1954. Its formulation and much of its legislative evolution—involving lengthy negotiations and much give and take among two administrations, several congressional committees, and a whole range of private and governmental interests—took place in 1977 and is a major focus of this chapter. Other significant congressional activities—new legislation in the International Security Assistance Act that limits support to countries involved in certain transfers of enrichment equipment, materials, or technology, and consideration of two treaties designed to limit proliferation—are also considered.

These activities need to be seen in the perspective of a long history of postwar efforts to limit the diffusion of nuclear weapons to increasing numbers of countries. As the "nuclear club" has slowly grown to include the Soviet Union, Great Britain, the People's Republic of China, France, and now India, national and international concern with the weapons proliferation danger has gone through several cycles of rising and falling intensity, reaching a high point with the signing of the Nuclear Nonproliferation Treaty in 1968. Thereafter, interest waned, only to be revived in 1974 by India's first nuclear explosions test. More recent developments—President Nixon's offer of nuclear reactors to Israel and Egypt, commitments by France and Germany to supply sensitive enrichment and reprocessing facilities and technology to Brazil and Pakistan, Iran's announcement of plans to acquire a massive nuclear power generating capacity, rumors that Israel may already have become a nuclear weapon state, export licensing controversies, and other events—have sustained that interest and led to a new round of nonproliferation activity in the executive branch and Congress.[1]

Efforts to halt the spread of nuclear weapons have always been complicated by the close technical relationship between the "peaceful" and the "military" atom. Compelled by expectations of economic benefit, the scientific knowledge, technical know-how, and facilities that are the foundations of a nuclear energy industry have spread inexorably, containing in seed most of the essential elements needed to develop nuclear weapons.

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[1] See also the discussion of U.S. International Energy Policy on pp. 129–132. (Ed.)

In April 1975, the Ford administration initiated a multilateral effort in conjunction with other supplier states to deal with this problem by reaching agreement on the application of additional safeguards to the transfer of civil nuclear materials, facilities, and technology, a diplomatic undertaking that bore some fruit in September 1977, when the nuclear supplier's group agreed to new guidelines to cover exports.

During the Presidential campaign of 1976, candidate Carter made an issue of the weapons proliferation danger. Following his assumption of office in 1977, new policy directives were issued to end government support for plutonium production, strengthen the capacity of the United States to serve as a "reliable supplier" of enriched uranium, and tighten up export controls. Legislative proposals were also submitted to Congress.

Meanwhile, Congress, which frequently has played the leading role in determining U.S. atomic energy policy, already had embarked on important initiatives of its own. These efforts produced several important legislative enactments of limited scope in 1977, and comprehensive new legislation in 1978.

DISCUSSION

Comprehensive nonproliferation legislation

The major focus of congressional activity on the nonproliferation issue throughout 1977 and into the early weeks of 1978 was on efforts to enact a comprehensive legislative statement of U.S. policy. Two measures of this kind were introduced in early March: S. 897 in the Senate and H.R. 4409 in the House. An omnibus administration bill was introduced in both Houses in late April. Meanwhile, the Senate had already gone on record in favor of a vigorous U.S. antiproliferation policy when it passed Senate Resolution 40, which endorsed negotiations with world leaders to curb the spread of enrichment and reprocessing facilities, achieve broader acceptance of international safeguards, explore means of providing international nuclear fuel services, agree on sanctions against nations seeking to acquire nuclear explosives, and strengthen the International Atomic Energy Agency (IAEA).

In the House, H.R. 6910, the administration's proposal, and H.R. 4409, which was introduced by Representatives Bingham, Zablocki, and others, and was based on extensive congressional consideration of the proliferation issue in hearings, sponsored studies, and other forums going back to the 94th Congress, were both referred to the International Relations Committee. This referral was a result of changes made at the beginning of the 95th Congress, when the International Relations Committee acquired from the Joint Committee on Atomic Energy formal legislative jurisdiction over "export controls, including nonproliferation of nuclear technology and nuclear hardware" and "all (international) agreements for cooperation in the export of nuclear technology and nuclear hardware."

Subcommittee hearings were held in May, and extensive consultations with administration officials entered into thereafter. The result was a subcommittee working draft incorporating elements from the two proposals, which, as a clean bill, H.R. 8638, was marked up and

ordered reported by the full committee on August 2. This bill was considered in the House and passed on a rollcall vote, 488–0, on September 28.

In the Senate, S. 1432, the administration bill, was referred jointly to the Committees on Foreign Relations and Governmental Affairs, which already had before them S. 897, introduced in early March by Senator Percy for himself and others. In August, the joint referral was modified to include the Committee on Energy and Natural Resources as well. Following various hearings, consultations with executive branch officials, and discussions within and between committees, S. 897 was reported out on October 3, with an amendment in the nature of a substitute proposed by the Governmental Affairs Committee, with amendments to this version proposed by the Committee on Energy and Natural Resources, and with an amendment in the nature of a substitute proposed by the Committee on Foreign Relations. The Senate did not act on these various proposals during the remainder of 1977.

Though the several versions of this legislation differ in detail, and some of these differences may be important, all set out the terms of a comprehensive new approach to the proliferation problem, based upon a combination of national and international efforts to impose more stringent nonproliferation conditions for international transfers of nuclear materials, facilities, and technology; to strengthen the IAEA and its system of safeguards; to promote safeguards training for foreign nationals; to confirm the position of the United States as a reliable supplier of nuclear fuels and services; and to renegotiate existing U.S. agreements for cooperation. The congressional approach has differed from the one taken by the executive branch primarily in leaving somewhat less discretion to the President and executive branch officials in the formulation and execution of national nonproliferation policy, and in putting more stress on the need to make changes in the organization and procedures for negotiating and administering export licenses, agreements for cooperation, and other mechanisms of national control and regulation.

Nuclear proliferation and foreign aid

Meanwhile, as omnibus legislation underwent close congressional scrutiny, other generally less comprehensive attacks on the problem were also being considered in Congress and in some cases enacted into law. In June 1976, the Foreign Assistance Act of 1961 had been amended to require the withholding of military and economic assistance from any country delivering or receiving reprocessing or enrichment equipment, materials, or technology without first having agreed to put all such items under IAEA safeguards and multilateral auspices and management where available.[2] These provisions were revised in 1977 in the International Security Assistance Act,[3] which deals separately with the enrichment and reprocessing issues. This act requires that funds be cut off to any country delivering or receiving enrichment equipment, materials, or technology outside multilateral and IAEA management and safeguards, but permits the President to continue furnishing assistance if he determines and certifies to Congress in

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[2] Public Law 94–329.
[3] Public Law 95–92.

writing that termination would have a serious adverse effect on vital U.S. interests, and further that he has received reliable assurances that the receiving state will not develop or acquire nuclear weapons itself or assist other countries in doing so.

The act also requires that funds be cut off to any country delivering or receiving reprocessing equipment, materials or technology, or to any state not a nuclear weapon state under the nonproliferation treaty that detonates a nuclear explosive. The President may continue to furnish assistance if he determines and certifies to Congress in writing that termination would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or would otherwise jeopardize the national defense and security. Decisions by the President on these matters may be set aside by joint resolution. The act also prohibits the use of fiscal year 1978 funds authorized under the Foreign Assistance Act to finance the construction, operation, maintenance, or fuel supply of any nuclear powerplant under an agreement of cooperation.

Funds were authorized or appropriated in 1977 for a study of the Barnwell Nuclear Fuels Plant in South Carolina to determine if that facility can be used in support of U.S. nonproliferation objectives and contribute to the International Nuclear Fund Cycle evaluation begun by President Carter in October 1977;[4] to strengthen nuclear safeguards programs and other activities of the IAEA;[5] and to carry out several studies relating to nuclear proliferation under the auspices of the Department of Energy.[6] In addition legislation was enacted to require that any Export-Import Bank loan or financial guarantee involving any export of nuclear power, enrichment, reprocessing, research, or heavy water production facilities lay before Congress for a 25-day period before the Bank gives its approval.[7] The same legislation establishes a system whereby the Secretary of State is to report certain specific undesirable actions in the nuclear field taken by a foreign state, after which the Bank may not approve any transaction with that State unless the President determines that it is in the U.S. national interest. Congress must then be notified 25 days in advance of Bank approval. Actions defined as undesirable under the act include violation, abrogation, or termination of IAEA safeguards, or of the terms of a U.S. agreement for nuclear cooperation, or the explosion of a nuclear device by a nonnuclear weapon state.

Test ban treaties

Also before the Senate in 1977 were two treaties, the Threshold Test Ban Treaty and the Treaty on Underground Nuclear Explosions for Peaceful Purposes (the PNE Treaty), intended to restrict underground nuclear explosions tests and peaceful nuclear explosions to a negotiated "threshold" of 150 kilotons. A major argument advanced in favor of the two treaties, as well as a proposed comprehensive test ban now being negotiated by the United States, Great Britain, and the Soviet Union at Geneva, is that they would have an important impact on nuclear nonproliferation. Clearly, any state signing a comprehensive treaty would be directly and formally precluded thereby from taking a crucial last step in the demonstration of a nuclear

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[4] Public Law 95–96.
[5] Public Law 95–108.
[6] Public Law 95–238.
[7] Public Law 95–143.

weapons capability, which is testing. But beyond this, proponents urge, a comprehensive ban would also have an important psychological impact. For one thing, they argue, it would eliminate the inequality inherent in the nonproliferation treaty (NPT), which requires non-nuclear weapon signatories to give up the nuclear weapons option while allowing the nuclear weapon powers to continue perfecting their strategic arsenals and exploring civil engineering applications through testing. A comprehensive test cessation, it is said, would also serve to undermine the "legitimacy" of nuclear explosions tests. Presumably, a would-be nuclear weapon power would find it much more difficult to make the decision to test in a world in which no other power was testing than in one in which several other states routinely conduct such experiments. A comprehensive ban that encompassed peaceful applications tests would be especially valuable, it is said, in that it would confirm the judgment that nuclear explosions have little real engineering potential, and thus would undercut the PNE rationale for testing devices that, by whatever name they are called, are technically and politically indistinguishable from nuclear weapons.

Proponents of a comprehensive treaty have criticized the Threshold and PNE Treaties before the Senate on the ground that they do not contribute to this nonproliferation goal. It is obviously true that these agreements would not eliminate the inequities of the NPT, but the critics go further in arguing that while the treaties prohibit tests above 150 kilotons they legitimize them below that level. This fact, one critic has said, when considered alongside the observation that the 150-kiloton threshold bears no relationship to current verification capabilities, and is too high to impose significant restraints on weapons development, produces no support for U.S. antiproliferation policies, but "cynicism about American and Soviet interests in real arms control * * *"

But would a comprehensive ban be any more effective in slowing the pace of nuclear weapons proliferation? Critics of a comprehensive test ban argue that there is no convincing evidence to indicate that the potential nuclear weapon states that have been so careful to keep their nuclear option open by refusing to sign the NPT would be at all likely to close it by signing a comprehensive test ban. They suggest further that protests concerning the superpower arms race and the inequities of the NPT notwithstanding, the decision by a potential proliferator whether or not to go nuclear most likely will be based on a calculation of local security needs or more dubious considerations of prestige, and only marginally if at all on the larger dynamic of the superpower arms competition. If this should be the case, the non-proliferation rationale for a comprehensive test ban falls to the ground.

President Carter was critical of the two treaties during the campaign, but his administration has since defended them before the Senate with the arguments that ratification would provide "a positive diplomatic climate" for negotiating a comprehensive ban, or a "hedge" should those negotiations fail, while rejection would cast doubts on U.S. "reliability" as a negotiating partner with the Soviet Union. The Foreign Relations Committee recommended approval of the agreements on September 20, but the treaties have continued to

draw heavy fire from critics, largely for reasons already given, but also because it is felt that the agreements are more likely to retard than promote the negotiation of a comprehensive ban. Since most of this criticism comes from those who in other circumstances have been the most ardent supporters of arms limitation measures, there is little momentum for ratification at this time.

Prospects for 1978

The Senate took up S. 897 in early February 1978. On February 7, by a vote of 88–3, it passed a Senate-amended version of H.R. 8638 as a substitute for the Senate bill. The Senate amendments were accepted by the House on February 9, and the measure was signed into law as the Nuclear Non-Proliferation Act of 1978 on March 10.

The votes in the two Houses on the measure suggest that the approach embodied in the act has broad congressional support, and the legislative history indicates that many of the major differences between Congress and the administration have been reconciled.

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Arms Control Impact Statements*

OVERVIEW

Public Law 94–141 amended the Arms Control and Disarmament Act to require the executive branch to submit, in connection with each defense budget request, a series of statements examining the potential impact on the Nation's arms control goals and commitments of certain categories of weapons and military programs for which research and development or procurement authorization or appropriation had been requested. The intent of this requirement was to provide Congress with information on the arms control implications of a wide range of military programs. Receipt of this information was considered necessary if Congress were to make informed budgetary decisions on specific military systems. In addition, by requiring such reports Congress hoped to induce the executive branch to take a more calculated and farsighted perspective on the interrelationship of arms control and military procurement programs.

The first set of arms control impact statements (ACIS) was submitted by the executive branch in August 1976. After a review by the Congressional Research Service (CRS) and the staffs of the Senate Foreign Relations and House International Relations Committees, Senator Humphrey and Congressman Zablocki advised Lt. Gen. Brent Scowcroft, the President's Assistant for National Security Affairs, that the statements were incomplete and not sufficiently analytical. In addition, Senators Sparkman and Case advised the executive branch that the ACIS did not comply with the law and were unacceptable. Both committees advised that future submissions must comply fully with the law.

Thus, the issue before Congress in 1977 became the extent to which the ACIS submitted in connection with the fiscal year 1978 budget request would satisfy the intent of Public Law 94–141.

DISCUSSION

Congressional action

On January 18, 1977, the executive branch submitted ACIS on 26 weapons programs sponsored by the Defense Department and the Energy Research and Development Agency (ERDA) and an overview statement which discussed the relationship of arms control objectives to other elements of U.S. national security policy, e.g., strategy, force posture, and diplomacy. The National Security Council transmitted declassified versions of the 26 statements on February 11, 1977. Later in the year, separate ACIS on the air-launched cruise missile (ALCM) and the "enhanced radiation" warhead for the Lance missile were also submitted.[1]

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* Prepared by Robert G. Bell, Analyst in National Defense.

[1] U.S. Congress. House: Committee on International Relations. Additional Arms Control Impact Statements and Evaluations for Fiscal Year 1978. Print; 95th Cong., 1st sess., Washington, U.S. Government Printing Office, Dec. 1, 1977, 43 pp.

29–972—78——7

Under a procedure established in April 1976, the chairmen of the Senate Foreign Relations and House International Relations Committees requested CRS assistance in reviewing the 26 ACIS submitted in connection with the fiscal year 1978 budget request. The CRS review concluded that from the viewpoint of their completeness and analytical quality, it was difficult to understand how the ACIS could assist Congress in making its own independent appraisal of the weapons systems or in making its constitutional input to foreign policy relating to arms control.

On the basis of the CRS review and the analysis of its committee staff, the Senate Foreign Relations Committee on March 25, 1977, advised Paul C. Warnke, Director of the Arms Control and Disarmament Agency (ACDA), that the latest statements still did not comply with the law and were unacceptable as models for future submissions. The committee called Mr. Warnke's attention to seven model impact statements prepared by CRS as a revealing contrast to the submissions on the same weapons systems provided by the executive branch. The House International Relations Committee expressed the hope that the CRS analyses would assist the administration in preparing future ACIS fully and properly in compliance with the law. In an April 8, 1977, letter to Senator Sparkman, Mr. Warnke pledged to make every effort to insure that future ACIS would comply with the letter and spirit of the law.

On July 13, 1977, the first of the ACIS to be submitted by the Carter administration was transmitted to Congress. The statement dealt with the arms control implications of the "enhanced radiation" warhead for the Lance missile. In response to a request by the House International Relations Committee, CRS reviewed this impact statement, using the same criteria previously employed in assessing the initial set of 26 ACIS. The CRS review concluded that although the statement did not address all possible arms control interests to the extent one might hope, it nonetheless marked a very laudable transition from statements with little or no substantive content to one which provided a starting point for reasoned debate. In inserting the CRS analysis in the Congressional Record, Congressman Zablocki observed that the CRS evaluation made it clear that the administration was attempting to comply more completely with the letter and intent of the law.[2] This assessment was subsequently buttressed by the substantive ACIS submitted on the ALCM.

Prospects for 1978

With regard to the ACIS process, the issue remaining before Congress in 1978 will be whether the improvement in the breadth and scope of impact statements indicated by the first two ACIS submitted by the Carter administration will be sustained in the set of statements submitted in connection with the fiscal year 1979 budget request. Assuming the fiscal year 1979 ACIS provide the basis for informed and well-reasoned debate, an associated issue will be how and to what extent Congress utilizes the ACIS in the course of its budgetary considerations concerning military weapons and programs.

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[2] Congressional Record, Aug. 3, 1977, p. H8498.

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Strategic Arms Limitation Talks (Salt)*

OVERVIEW

In 1977—a year during which SALT II came under the management of a new administration and progressed to the point of tentative agreement—Congress dealt with two principal SALT-related areas, one procedural, the other substantive. Procedurally, Congress sought a meaningful role as a partner in the SALT II formulation process. Substantively, different bodies of opinion within the Congress pursued various strategies intended to influence specific SALT II outcomes consistent with their strategic views.

DISCUSSION

Warnke hearings

The first occasion for significant SALT-related activity by the Congress in 1977 was the nomination of Paul C. Warnke to be Director of the Arms Control and Disarmament Agency (ACDA) and chief negotiator for the U.S. SALT delegation.[1] Senate confirmation proceedings became the forum for efforts by different bodies of opinion within the Congress to influence the outcome of the SALT II agreement to be negotiated by the Carter administration.

Although President Carter was later to state that he did not believe that the exact vote in the Senate on Mr. Warnke's nomination to be the chief U.S. SALT negotiator would have "a major effect on future negotiations with the Soviet Union on SALT," [2] this view was strongly countered by those who reasoned that a vote in favor of confirmation by less than two-thirds of the Senate—the number required for ratification of treaties—would presage future difficulty were the President to submit a SALT II treaty to the Senate that reflected the relatively conciliatory views with which Warnke had been associated. The principal argument made by those voting against Mr. Warnke's confirmation as chief SALT delegate was that his philosophy of arms control could lead to an agreement that would be militarily disadvantageous to the United States.

The jurisdiction for hearing testimony on Mr. Warnke's qualifications for both the ACDA and the chief SALT negotiator posts lay with the Senate Foreign Relations Committee, and the committee held hearings on February 8 and 9, 1977.[3] In its report to the Senate on the nominations, the committee endorsed Mr. Warnke as an "excellent choice" for both positions.[4] Responding to charges that Mr. Warnke's testimony was at variance with what many perceived to be his earlier "soft-line" approach to arms control and national security, the committee report concluded:

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* Prepared by Robert G. Bell, Analyst in National Defense.

[1] Also see the discussion of U.S. Relations with the Soviet Union, on pp. 47–52. (Ed.)

[2] Weekly Compilation of Presidential Documents. Vol. 13, No. 11, p. 331.

[3] U.S. Congress. Senate. Committee on Foreign Relations. Warnke Nomination. Hearings, 95th Cong., 1st sess., Washington, U.S. Government Printing Office, 1977.

[4] U.S. Congress. Senate. Committee on Foreign Relations. Nomination of Paul C. Warnke. (Senate Executive Report 95–6) 95th Cong., 1st sess., Washington, U.S. Government Printing Office, 1977.

Mr. Warnke's testimony reflected changes in his perceptions of America's national security requirements with the passage of time and events, but members believe that these changes reflect the honest reevaluation of an informed and intelligent person.[5]

Only two members of the committee voted against the nomination for the SALT position, and only one voted against the nomination for the ACDA directorship.

With the agreement of the Senate Foreign Relations Committee, the Senate Armed Services Committee also held hearings on Mr. Warnke's nominations.[6] Although the committee did not issue a formal report, opposition to Mr. Warnke's nomination to the SALT position was far more pronounced in the Armed Services Committee than it had been in the Foreign Relations Committee. The focus of the Armed Services Committee hearings was on alleged changes in Mr. Warnke's views on national security and strategic hardware issues as well as on the associated question of whether such alleged alterations of view were likely to undermine his credibility as a senior administration official.

The full Senate voted on the Warnke nominations on March 9, 1977. The vote followed extensive lobbying efforts on Mr. Warnke's behalf by the administration and President Carter's reminder at a press conference that morning that he as President, and not Mr. Warnke, would have the final say on any decisions reached with the Soviet Union regarding SALT. The Senate vote in favor of Mr. Warnke's nomination as chief SALT delegate was 58–40, a clear majority but nonetheless nine votes short of the two-thirds majority that will be required for ratification of any SALT treaty. Mr. Warnke's nomination to be ACDA Director had not provoked strong opposition, and he was confirmed for this position by a 70–29 vote.

Coordination with executive branch on SALT

During 1977, Congress employed a number of fora to exercise a participatory role in the SALT formulation process. Members of the Senate Foreign Relations and Armed Services Committees and the House Armed Services and International Relations Committees received detailed briefings by administration officials on the SALT negotiations. In addition, the Senate and House Armed Services and Appropriations Committees debated the implications for SALT of specific strategic weapons systems (and vice versa) proposed in the course of the normal budgetary cycle and in request for supplemental funding and recision authority. One committee, the Senate Foreign Relations Committee, held hearings on the national security and arms control implications (including implications for the SALT negotiations) of current U.S. strategic options,[7] and the House Armed Services Committee began a broad review of the status of U.S. strategic forces.

In addition to these committee-related activities, many individual Congressmen and Senators issued statements, authored articles, made speeches, or corresponded directly with the President in order to communicate their views on SALT. A more formalized means of personal involvement was instituted in June 1977, when ACDA requested that each House designate a number of Members to serve as congressional

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[5] U.S. Congress. Senate: Committee on Foreign Relations. Nomination of Paul C. Warnke. (Senate Executive Report 95–6); 95th Cong., 1st sess., Washington, U.S. Government Printing Office, 1977.

[6] Ibid.

[7] U.S. Congress. Senate. Committee on Foreign Relations. Subcommittee on Arms Control, Oceans and International Environment. United States/Soviet Strategic Options. Hearings, 95th Cong., 1st sess., Washington, U.S. Government Printing Office, 1977. 187 pp.

advisers on SALT. Members of the House and Senate have been active in this capacity since August 1977.

SALT verification

Public Law 95–108, the Arms Control and Disarmament Act Amendments of 1977, added a new section 37 to the Arms Control and Disarmament Act expressing "the sense of the Congress that adequate verification of compliance should be an indispensable part of any arms control agreement." The legislation declared that in dealing with the issue of verification, the ADCA Director "shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification." Section 37 also establishes a number of ACDA reporting requirements to Congress related to verification, although it expressly states that:

> Except as otherwise provided by law, nothing in this section shall be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control agreements.

As expressed in the conference report on this legislation, Congress intent under section 37 of Public Law 95–108 was to emphasize the responsibility of ACDA and other executive branch agencies to keep Congress informed with respect to the verifiability of significant arms control proposals and to make clear ACDA's responsibility to conduct verification research.[8] The provision was not intended to interfere with the President's ability to conduct arms control negotiations.

Congressional action with respect to the expiration of SALT I

The SALT I interim agreement between the United States and the Soviet Union formally expired on October 3, 1977. At a meeting on May 25, 1977, with Secretary of State Vance, the Senate Foreign Relations Committee addressed the questions of whether some type of congressional authorization would be necessary for any extension of the agreement, and whether the executive branch intended to consult with the committee on this issue prior to the agreement's expiration date.[9] These issues had previously been raised in a Congressional Research Service report issued on May 16, 1977.[10]

On July 22, 1977, the committee advised the State Department that any formal agreement between the United States and the Soviet Union extending the term of the interim agreement would, under section 33 of the Arms Control and Disarmament Act, require prior congressional approval.[11] Had such an agreement been submitted to the Congress for its consideration, one question which could have arisen would have been that of Congress power to modify or abrogate various provisions of the interim agreement, or to add new provisions. In short, it could have been necessary to clarify whether Congress possessed more than a simple "yes or no" approval authority.

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[8] U.S. Congress. Committee of Conference. Arms Control and Disarmament Act Amendments of 1977. (H. Con. Rept. No. 95–563); 95th Cong., 1st sess., Washington, U.S. Government Printing Office, 1977, p. 6.

[9] U.S. Congress. Senate. Committee on Foreign Relations. Concurrence of the Congress with Respect to Presidential Action Affecting the Limitation of Strategic Armaments (S. Rept. No. 95–499). 95th Cong., 1st sess., Washington, U.S. Government Printing Office, Oct. 17, 1977, p. 2.

[10] Bell, Robert G., Implications of Extending the SALT I Interim Agreement. Congressional Research Service, Library of Congress (Multilith No. 77–124F), May 16, 1977. 76 pp.

[11] S. Rept. 95–499, p. 4.

Rather than confront these procedural issues directly, the administration elected to permit the agreement formally to expire; however, on September 23, 1977, 10 days before the expiration date, Secretary of State Vance issued the following statement:

> In order to maintain the status quo while SALT II negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of (the interim agreement) and with the goals of these on-going negotiations provided that the Soviet Union exercises similar restraint.[12]

The Soviet Union issued a similar statement.

In correspondence with the Foreign Relations Committee, the State Department indicated its opinion that the "circumstances" of the parallel but independent declarations lacked the essential elements of an obligation or a binding agreement; i.e., there was no intent to be bound; either party could at any time independently cease acting in accordance with its declaration; and there would be no legal consequences if either so acted.[13] In brief, the position of the executive branch was that its action of September 23, 1977, did not require congressional approval under section 33 of the Arms Control and Disarmament Act.

Although the Senate Foreign Relations Committee agreed generally on the appropriateness of the approach chosen for dealing with the expiration of the interim agreement, not all members of the committee were in agreement that the President's action did not require congressional approval. This disagreement focused on the questions of whether the United States was in fact bound by its declaration and whether the declaration constituted an "action" under the intent of section 33, and was stated as follows:

> Although the differences in view * * * could not be resolved, a large majority of the Members believe that the committee and the Congress should approve a resolution stating that the President is authorized to proceed in accordance with the unilateral statement of September 23, 1977.[14]

Senate Concurrent Resolution 56 passed by the Senate on October 19, 1977, states that the President is "authorized to proceed" in accordance with the September 23, 1977, declaration, and the Senate and House concur, provided that nothing in the resolution be construed to prohibit any weapons system development, procurement, or deployment previously or subsequently authorized by the Congress. The resolution also resolved that the Secretary of State shall report to the Congress on the SALT negotiations every 6 months. Senate Concurrent Resolution 56 was referred to the House International Relations Committee on October 20, 1977, but was not reported to the full House during 1977.

Conclusion

After more than 5 years of participation in the SALT formulation process and diverse attempts to influence specific SALT II outcomes, Congress at the end of 1977 was poised to begin the debate on whether to accept, modify, or reject the product of the long SALT II negotiation.

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[12] State Department Bulletin, vol. LXXVII, No. 2002, p. 642.
[13] S. Rept. No. 95-499, op. cit., pp. 9-10.
[14] S. Rept. No. 95-499, pp. 9-10.

Although in the course of this debate Congress will take into account a wide range of strategic, diplomatic, and political considerations, one question which will be especially pertinent will be whether the proposed SALT II agreement meets the intent of Congress as expressed in Public Law 92–448. Public Law 92–448, the legislative vehicle by which Congress in 1972 authorized the President to approve the SALT I interim agreement, "urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union." Thus, a central point of attention will likely be whether the proposed treaty embodies the principle of strategic equality.

Should Congress in 1978 authorize the President to approve a SALT II agreement, both Houses would most likely return to the task of insuring congressional influence and participation in the formulation of the next round of SALT agreements. Should Congress not accept a proposed SALT II agreement, or should it so modify the proposed agreement that either the President or the Soviet Union would refuse to agree to bring it into force, congressional involvement in the formulation of national security and arms control policy would likely be dominated by an intense debate over the most appropriate course of action to take in the wake of the breakdown in SALT.

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INTERNATIONAL ECONOMIC ASSISTANCE

Bilateral Foreign Economic and Food Assistance*

OVERVIEW

In anticipation of a major reassessment of bilateral aid programs during 1978, Congress took few major initiatives in this area during 1977. A number of legislative actions and deliberations, however, modified existing legislation and suggest issues that will be significant in the near future. The first section of this chapter discusses the main authorizing legislation, the International Development and Food Assistance Act of 1977, amendments to Public Law 480, and bilateral assistance appropriations. Subsequent sections briefly summarize significant hearings on future directions for bilateral assistance and food-related assistance programs.

Although the International Development and Food Assistance Act of 1977 (Public Law 95–88), amending the Foreign Assistance Act and Public Law 480, was passed in 1977, few major initiatives were taken in the area of bilateral food and economic assistance policy in 1977 either by Congress or by the Carter administration.

DISCUSSION

Basic economic assistance legislation

In mid-March, the House International Relations Committee held hearings on economic assistance the day before the official receipt of the President's foreign aid message. A draft bill containing no new program initiatives was submitted to Congress later in the month by the administration. In March and April, the full International Relations Committee and six subcommittees held hearings on various aspects of the administration's aid proposal.[1]

Following 6 days of open markup by the full International Relations Committee,[2] a clean bill, H.R. 6714, authorizing funds for fiscal year 1978 was reported out of committee.[3] In accordance with the jurisdictional changes made in 1974, the International Relations Committee bill dealt with the international aspects of the Food for Peace Program, Public Law 480, as well as bilateral U.S. economic aid. For 1977, military assistance and security supporting assistance were considered and reported in a separate bill (H.R. 6884, which

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* Prepared by Theodor W. Galdi, Analyst in International Relations.

[1] U.S. Congress. House. Committee on International Relations. Foreign Assistance Legislation for Fiscal Year 1978. Hearings. Parts 1–9. 95th Cong., 1st sess. Feb. 22, 23; Mar. 3, 7, 9, 10, 14, 16, 18, 21, 22, 23, 24, 28, 29, 30, 31; Apr. 1, 5, 18, 19, 20, 21, 25, 27, 28; May 2, 3, 4, 1977. Washington, U.S. Government Printing Office, 1977. 2,029 pp.

[2] U.S. Congress. House. Committee on International Relations. Foreign Assistance Legislationf or Fiscal Year 1978. Hearings, Part 8. Full Committee Markup and Subcommittee Recommendations. 95th Cong. 1st sess. Apr. 20, 21, 25, 27, 28; May 2, 3, 4, 1977. Washington, U.S. Government Printing Office 1977. 355 pp.

[3] U.S. Congress. House. Committee on International Relations. International Development and Food Assistance Act of 1977. May 3, 1977. Report to accompany H.R. 6714. 95th Cong., 1st sess. H. Rept. 95–240. Washington, U.S. Government Printing Office 1977. 87 pp.

became Public Law 95–92). H.R. 6714 was considered by the House and passed on May 12, 1977, with four floor amendments.

After 3 days of hearings in March, the Foreign Assistance Subcommittee of the Senate Foreign Relations Committee marked up the administration's draft bill on April 7, 1977.[4] A clean bill (S. 1520 was reported to the full committee and marked up on April 19, 1977. The full Foreign Relations Committee ordered S. 1520 to be reported on April 26, 1977.[5]

Though S. 1520 as reported out of committee closely paralleled H.R. 6714 as passed by the House, it omitted any provisions relating to Public Law 480. In the Senate, all aspects of Public Law 480 lie within the jurisdiction of the Senate Agriculture, Nutrition and Forestry Committee. On June 15, 1977, S. 1520 was considered on the floor of the Senate, amended, and passed. A total of 19 amendments were proposed, 16 of which were adopted. One of the amendments was an entire title II to the bill, proposed by Senator Talmadge, chairman of the Senate Agriculture Committee, which deals with the international aspects of Public Law 480.

The conference report on H.R. 6714 was ordered to be printed on July 14, 1977.[6] The House accepted the conference report on July 21, 1977, and the Senate accepted on July 22, 1977. Public Law 95–88 was signed into law on August 3, 1977.

TABLE 1.—ECONOMIC ASSISTANCE AMOUNTS AUTHORIZED FOR FISCAL YEAR 1978[1]

[In millions of dollars]

Program	Executive branch request	House bill	Senate amendment	Conference agreement
Food and nutrition	550.0	613.2	550.0	580.0
Population planning	167.0	181.0	160.0	167.0
Health	104.9	105.9	109.5	107.7
Education and human resources development	84.4	84.9	84.4	84.9
Technical assistance, energy research reconstruction, and selected development problems	100.0	110.0	100.0	105.0
Sahel development program	50.0	50.0	50.0	50.0
AID operational expenses	220.2	220.2	220.2	220.2
International organizations	254.0	246.0	252.0	252.0
Total	1,563.0	1,681.2	1,606.1	1,646.8

[1] Source: Conference Report on H.R. 6714, International Development and Food Assistance Act of 1977. H. Rept. 95–501.

As the table above indicates, there were few major areas of divergence between the initial executive branch request and the amounts finally agreed to by Congress. Of the $83 million difference between the administration's initial request and Public Law 95–88, $60 million was accounted for by increases for food and nutrition and Italian earthquake relief and rehabilitation.

In the area of foreign aid policy, major provisions of H.R. 6714:

(1) made changes in existing language in the Foreign Assistance Act to indicate congressional desire that the Agency for Inter-

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[4] U.S. Congress. Senate. Committee on Foreign Relations and Subcommittee on Foreign Assistance. Foreign Assistance Authorization. Hearings, 95th Cong. 1st sess. Mar. 23, 24 and 25, 1977. Washington, U.S. Government Printing Office 1977. 260 pp.

[5] U.S. Congress. Senate. Committee on Foreign Relations. International Development Assistance Act of 1977. May 13, 1977. Report to accompany S. 1520. 95th Cong., 1st sess. S. Rept. 95–161. Washington. U.S. Government Printing Office 1977. 45 pp.

[6] U.S. Congress. Conference Committee. International Development and Food Assistance Act of 1977. July 14, 1977. Report to accompany H.R. 6714. 95th Cong., 1st sess. H. Rept. 95–501. Washington, U.S. Government Printing Office, 1977. 45 pp.

national Development (AID) increasingly concentrate development assistance on countries that would make the most effective use of that assistance to help the poor to a better life. It lists a series of criteria to be used in determining whether aid recipients were demonstrating concern and taking effective action to improve the lives of the poor and to allow the poor to participate in development;

(2) amended section 116 of the Foreign Assistance Act, which deals with human rights, to include the extent of a country's willingness to permit unimpeded investigations of alleged violations of internationally recognized human rights as a factor to be taken into consideration when AID formulates U.S. development policy;

(3) authorized $750,000 to be used for studies to identify and openly carry out programs and activities that would encourage or promote increased adherence to civil and political rights in countries eligible for U.S. bilateral assistance;

(4) took cognizance of the need to help less developed countries to protect their environments; and

(5) added a new section to the Foreign Assistance Act authorizing assistance to developing countries for renewable and unconventional energy technologies, emphasizing small-scale, decentralized, renewable energy sources suitable for rural areas.

The only major new economic assistance program authorized by H.R. 6714 was a $200 million multiyear program for development of the Sahel region of Africa. An initial $50 million was authorized for the new program for fiscal year 1978.

Public Law 480 amendments

The basic authorization for Public Law 480 was extended until 1981 in title XII of the Food and Agriculture Act of 1977 (Public Law 95–113). As noted above, title II of S. 1520, dealing with the international aspects of Public Law 480 was added to S. 1520 on the Senate floor in the form of an amendment.

The most significant change made to Public Law 480 in 1977 was the addition of a new Title III: The Food for Development Program. The food for development program authorizes the President to allow local currencies generated by Public Law 480 sales in recipient countries to be accepted as repayment for the U.S. commodities provided the local currencies are used for agricultural and rural development programs that would otherwise not have been undertaken. Voluntary family planning, health, and nutrition were included in the definition of agricultural and rural development programs. The food for development amendments also set out requirements for multiyear use proposals, specific eligibility criteria, minimum amounts to be devoted to the program, reports required, and waiver criteria to be used in dealing with the least developed countries as determined by the United Nations Conference on Trade and Development (UNCTAD).

Other amendments extended human rights language similar to that in section 116 of the Foreign Assistance Act to Public Law 480, increased the minimum distribution of title II commodities to 1.6 million tons, with not less than 1.3 million tons to be distributed through nonprofit voluntary agencies and the world food program,

and repealed provisions forbidding Public Law 480 transactions with Egypt and with countries that aided or traded with Cuba, Cambodia, or Vietnam.

Bilateral foreign economic aid appropriations

Final passage of the Fiscal Year 1978 Foreign Assistance and Related Programs Appropriations Act, Public Law 95–148, was delayed until October 19, 1977 because of several unresolved controversies between the House and Senate and between Congress and the executive branch concerning the multilateral development banks. The issues involved in these controversies and their resolution are discussed in detail below.

Title I of the act appropriated funds for Foreign Assistance Act activities. In the table below, the amounts authorized for major Foreign Assistance Act programs in H.R. 6714 are compared with the amounts appropriated in H.R. 7797.

TABLE 2.—AMOUNTS AUTHORIZED AND APPROPRIATED FOR BILATERAL ECONOMIC AID[1]

[In millions of dollars]

Program	Authorized	Appropriated
Food and nutrition	580	515
Population planning	167	155
Health	107	95
Education and human resources	84	76
Technical assistance, energy, reconstruction, selected problems	105	90
Sahel development program	50	50
AID operating expenses	220	213
International organizations	252	231
All programs	1,646	1,496

[1] Sources: Public Laws 95–88 and 95–148.

Three policy provisions in the appropriations bill deserve attention here:

(1) For the first time, Congress specified repayment periods for development assistance loans authorized by sections 103–106 of the Foreign Assistance Act. Of the $310 million total, $75 million was earmarked for loans repayable within 40 years, $87 million for loans repayable within 30 years, and $148 million for loans repayable within 20 years. This provision marked the first time that Congress had allocated loan totals on the basis of repayment period, rather than overall amount.

(2) The United States contribution to the Sahel development program was limited to 10 percent of the total amount pledged by all countries for the entire program.

(3) None of the funds made available in the act were to be used for assistance to or reparations for the Socialist Republic of Vietnam, Cuba, Cambodia, Laos, Mozambique, or Angola.

Unlike earlier years, the 1977 debate on passage of the Foreign Assistance Act was not a contentious one. Except for amendments reiterating congressional opposition to aid to certain countries and language barring tobacco sales under title I of Public Law 480, there was little serious controversy during the floor debate in either House.

Studies on the future course of U.S. aid policy

Hearings were held by the full House International Relations Committee and the International Relations Committee Subcommittee on International Development to examine the conclusions of an AID Development Coordination Committee study, and the interim report of a Brookings Institution study on the future of U.S. foreign aid.[7]

At the hearings, testimony was received from John Gilligan, Administrator of AID, and Lester Gordon, principal investigator responsible for the Brookings study. Written answers to questions submitted by International Relations Committee Chairman Zablocki were included in the hearings report. The administration responses detailed the current thinking of AID concerning the requirements for implemention of the "New Directions" legislation mandated by Congress, proposed reorganizations, and the agency's efforts to carry out the requirements of the International Development and Food Assistance Act of 1977. In addition, International Development Subcommittee Chairman Michael Harrington included in the hearings report written comments on the interim Brookings study which he had received from several experts in the development field.

Food and U.S. foreign aid programs

Two hearings, chaired by Senator Hubert Humphrey, were held during the year on the role of food in U.S. foreign aid programs. The first, by the Subcommittee on Foreign Agricultural Policy of the Senate Agriculture Committee, examined the current issues in the debate over the extension of Public Law 480: The Food for Peace Program.[8] Witnesses from the Agency for International Development and the Department of State and Agriculture as well as private witnesses were heard. The latter included representatives of religious groups, a major grain exporting company, and the Brookings Institution.

The second hearing, by the Subcommittee on Foreign Assistance of the Senate Foreign Relations Committee, reviewed the status of the implementation of title XII of the Foreign Assistance Act.[9] Title XII: Famine Prevention and Freedom from Hunger, was originally included in the International Development and Food Assistance Act of 1975, Public Law 94–16. It authorizes cooperation between AID and U.S. land grant universities to facilitate international agricultural research and development. Witnesses at the hearing on title XII included AID Administrator John Gilligan and Clifton Wharton, president of Michigan State University and Chairman of the Board for International Food and Agricultural Development.

The relative lack of major bilateral foreign economic aid legislative initiatives in 1977 can be attributed to several factors. Most prominent among these were; (1) the newness of the Carter administration,

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[7] U.S. Congress. House. Committee on International Relations, and Subcommittee on International Development. Rethinking U.S. Foreign Policy Toward the Developing World. Hearings. 95th Cong., 1st sess. Aug. 4, Oct. 12, and Nov. 1, 1977. Washington, U.S. Government Printing Office 1977. 137 pp.

[8] U.S. Congress. Senate. Committee on Agriculture, Nutrition and Forestry. Subcommittee on Foreign Agricultural Policy. Future of Food Aid. Hearings. 95th Cong., 1st sess. Apr. 4 and 5, 1977. Washington, U.S. Government Printing Office 1977. 137 pp.

[9] Committee on Foreign Relations. Subcommittee on Foreign Assistance. Implementation of Title XII of the Foreign Assistance Act. Hearing. 95th Cong., 1st sess. Apr. 27, 1977. Washington, U.S. Government Printing Office 1977. 44 pp.

(2) expectations that a complete restructuring of the Foreign Assistance Act itself would be forthcoming for fiscal year 1979, (3) the general desire of Congress to consolidate and determine the effectiveness of the changes mandated by the "New Directions" legislation before undertaking additional tasks, and (4) the desire to examine the results of the studies of all U.S. aid policy by the Development Coordination Committee and the Brookings Institution before acting.

Prospects for 1978

For 1978, Congress is expected to deal with recommendations to reorganize U.S. foreign aid programs. The primary vehicle for this reorganization, S. 2420, was submitted in January 1978 in the name of the late Senator Hubert Humphrey by Senator Sparkman. The bill envisions creation of a single Cabinet-level International Development Cooperation Administration to set policy for all aspects of U.S. bilateral and multilateral economic and food aid.

Multilateral Assistance*

OVERVIEW

The Congress, in its consideration of a number of issues affecting U.S. participation in the multilateral development banks during 1977, reflected a number of contradictory approaches to key problems and came to no final position regarding a coherent U.S. policy toward these international institutions.[1] It authorizes the United States to join in a major expansion of the multilateral aid program, but it also approved a series of restrictive amendments which raised doubts about the continuity of the multilateral agencies.

The Congress dealt with three main issues during the year. The first involved the pace and level of U.S. contributions. The Congress appropriated money early in the year to bring this country nearly up to date in its payments, and it authorized a major increase in new U.S. contributions to the multilateral program. In the final appropriations bill, though, Congress decided to support a lower rate of growth for U.S. to these agencies.

The second question involved appropriations for pledges made earlier and raised the issue of the credibility of U.S. commitments. When the talks about a fifth replenishment of the International Development Association (IDA V) seemed ready to break down early in the year because other member countries doubted the credibility of U.S. promises to contribute, Congress approved a supplemental appropriation restoring the $55 million cut in fiscal year 1976 from the first U.S. payment to the fourth replenishment (IDA IV).[2] After the new IDA V agreement was approved, however, Congress decided not to provide money for the last two payments ($375 million each) for IDA IV. Other IDA donor countries were reportedly upset at this action.

The last issue had to do with congressional efforts to influence bank operations. Reflecting concerns about loans to countries like Chile

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[1] The United States is a member of four multilateral development agencies: the African Development Fund (AFDF), the Asian Development Bank (ADB), the Inter-American Development Bank (IDB), and the World Bank Group. The AFDF is the concessional loan affiliate of the African Development Bank (AFDB), an institution with only African members. The ADB has two loan accounts: ordinary capital (OC) for near-commercial loans and the Asian Development Fund (ADF) for concessional loans. The IDB also has two basic accounts: ordinary capital (OC) and the concessional Fund for Special Operations. The World Bank Group consists of three programs operating under the same managerial umbrella: the International Bank for Reconstruction and Development (IBRD), for near-commercial loans, the International Development Association (IDA), for concessional credits, and the International Finance Corporation (IFC), for equity investments in Third World private firms. For additional information on these agencies see: U.S. Congress. House. Committee on Foreign Affairs. The United States and the Multilateral Development Banks. Committee Print. 93d Cong., 2d sess., March 1974. (Prepared by Margaret Goodman and Jonathan Sanford, Foreign Affairs Division, Congressional Research Service.) Washington, U.S. Government Printing Office, 1974, 230 pp.

[2] The other donors had largely completed their contributions to IDA IV, while the United States had cut $55 million from its first payment and was also 2 years out of phase in its payments schedule, because it had exercised both the options in the IDA IV agreement letting it delay its first payment a year and allowing it to spread its payments over 4 rather than the regular 3 years. The Carter administration agreed to seek a supplemental appropriation restoring the $55 million and to bring the United States back into phase with the other donors by "doubling up" the U.S. payments for IDA IV and IDA V in fiscal years 1978 and 1979.

and Argentina, Congress passed amendments requiring the administration to oppose loans to countries that violate citizens' human rights and to encourage more lending to countries that channel additional aid to the poor. Other amendments were designed to discourage bank lending to countries like Vietnam, Angola, Mozambique, and Cuba and to stop loans for certain crops that compete with U.S. commodities. After a protracted struggle, Congress stopped just short of requiring restrictions that would have prohibited the banks from lending to seven countries or lending for palm oil, sugar, or citrus production projects, an action that would have risked the refusal of the banks to accept any U.S. contributions.

DISCUSSION

This discussion of congressional action affecting the multilateral assistance program in 1977 consists of two sections. The first analyzes the congressional debates about the proper size and level of U.S. contributions to the banks. The second reviews the issues in debate concerning the way the Congress can best influence the banks' operating policies.

Congress and U.S. contributions to the multilateral banks

Congress considered three major bills in 1977 dealing with U.S. contributions to the multilateral development banks): the Fiscal Year 1977 Supplemental Appropriations Act, the Omnibus International Financial Institutions Authorization Act, and the regular Fiscal Year 1978 Foreign Operations Appropriations Act.

Fiscal Year 1977 Supplemental Appropriations Act.—The Carter administration submitted its fiscal year 1977 supplemental request for the multilateral banks soon after taking office, in hopes that Congress might restore some of the cuts the program had sustained in the fiscal year 1977 and earlier appropriation measures. Most of the money in the request—$460 million of the $540 million—was for the Inter-American Development Bank (IDB).[3] The most important single item, though, was probably the request for $55 million to restore the cuts in IDA IV appropriations, as discussed earlier.

After examining the administration's proposal and eliminating $138 million for the IDB—over half of it callable capital—Congress agreed to provide $396 million to bring the United States up to date in its commitments to all the institutions except the IDB. The House Appropriations Foreign Operations Subcommittee initially approved a deeper cut in IDB funds, but its chairman, Representative Clarence Long, later arranged a compromise floor amendment when the bill came up March 16, restoring half the deleted IDB soft loan funds. The House tentatively passed another amendment dropping the $55 million in IDA IV money from the bill, but it reversed itself on a separate vote after IDA's supporters argued that this appropriation was very important to IDA's future.[4]

1977 Omnibus Multilateral Bank Authorization Act.—The administration submitted a series of requests for legislation authorizing over

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[3] See table 1.

[4] Public Law 95-26. Amendment by Representative Clarence Long. Congressional Record (daily ed.), vol. 123, Mar. 16, 1977, pp. H2147-8. Amendment by Representative Bill Young, ibid., p. H2148. Debate on Young amendment and separate vote, ibid., pp. H2170-3.

$5.07 billion for the new U.S. contributions to the multilateral banks. Some of the proposals were introduced initially as separate bills (S. 871, S. 872) in the Senate. House Banking, Finance and Urban Affairs Committee Chairman Henry Reuss combined them all into H.R. 5262, the first omnibus multilateral aid authorization proposal since 1970. That bill became the focus of congressional action on the subject. The administration request was for the following: $2,400 million for IDA; $1,568.9 million for the International Bank for Reconstruction and Development (IBRD); $111.5 million for the International Finance Corporation (IFC); and $814.3 million for the Asian Development Bank (ADB) and $180 million for the Asian Development Fund (ADF), its concessional affiliate.

The House Banking Committee voted 35–7 on March 29 to report the omnibus bill favorably with several amendments, related mainly to policy issues which are discussed in the next section. A new title was added, responding to congressional concerns about U.S. Africa policy by authorizing $150 million (not requested by the administration) for U.S. contributions to the next African Development Fund (AFDF) replenishment.[5]

The House considered the omnibus multilateral bank proposal April 6 and passed it 194–156. There was virtually no debate on the sections authorizing over $5.2 billion over the next 3 years for new U.S. contributions replacing the $150 million figure with authority for "such sums as may be necessary, consistent with, and after consultations with, the other nations involved" and requiring the Treasury Secretary to seek changes making the AFDF voting system reflect actual contributions by member countries.[6]

The Senate Foreign Relations Committee added issues of its own concern to the bill and voted 12–0 on May 10 to favorably report the new legislation.[7] Its new version of the bill differed in many respects from the measure passed earlier in the House, with most of the again revisions relating to policy issues. The Senate panel retained the $150 million figure for the AFDF.

The Senate voted 59–30 on June 14 to approve the omnibus multilateral bank authorization bill. Most of the floor amendments dealt with policy questions, but a few did focus on contributions issues.

Senator Harry F. Byrd, Jr., proposed an amendment to cut the authorizations in the bill from $5.2 billion to $2.9 billion, with most of the reduction coming from IBRD, IDA and AFDF funds. After a lengthy debate on the merits of the multilateral agencies, the Senate voted 29–63 to reject the Byrd amendment.[8] The proposed $150 million AFDF contribution was cut to $50 million, but the requirement for U.S. efforts to change the AFDF voting system was retained.[9]

The Senate also accepted an uncontroversial amendment stating that the multilateral programs were important to the United States, but that future U.S. contributions to these agencies should not exceed 25 percent of total contributions. Senator Schweiker said his amend-

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[5] U.S. Congress, House. Committee on Banking, Currency and Urban Affairs. International Financial Institutions. H. Rept. 95–154, accompanying H.R. 5262, Mar. 31, 1977, pp. 32, 38–9.

[6] Amendment by Representative Paul Tsongas. Congressional Record (daily ed.) vol. 123, Apr. 6, 1977, pp. H3118–9. Amendment by Representative Chalmers Wylie, ibid., pp. H3119–20.

[7] U.S. Congress. Senate. Committee on Foreign Relations. Omnious Multilateral Institutions Act of 1977. S. Rept. 95–159, accompanying H.R. 5262, May 13, 1977, pp. 10–11.

[8] Debate on amendment by Senator Harry F. Byrd, Jr., ibid., pp. S9718–34.

[9] Debate on amendments by Senators Dennis DeConcini and James Allen, ibid., pp. S9734–40.

ment was a "guide, goal and objective," not a rigid limit on U.S. negotiators, and it did not apply to the IDB.[10]

All the major controversies in the House and Senate conference committee had to do with policy questions. The conferees agreed to include the Schweiker amendment in the final bill and authorized $50 million as an additional U.S. donation to the last AFDF replenishment. They also instructed the administration to begin talks with other contributors about a new AFDF replenishment and suggested that the total U.S. contribution would probably be in the $150 million range.[11]

Fiscal Year 1978 Appropriations Act.—The administration's fiscal year 1978 foreign assistance appropriations request included proposed payments for the first annual share of the funds authorized in the 1977 omnibus act, along with other payments for contributions authorized in earlier legislation. (See table 1.) The $1,175 million IDA figure included $375 for the third tranche of the 1974 IDA IV and $800 million for the first payment of the 1977 IDA V.

TABLE 1.—1977 APPROPRIATIONS FOR MULTILATERAL DEVELOPMENT BANKS

[Dollar amounts in millions; amounts in parenthesis are share of ordinary capital to be paid in]

Bank	Request	House	Senate	Final
Fiscal year 1977 supplement (H.R. 8477):				
ADB/ADF	$25.00	$15.00	$25.00	$25.00
IDB/OC	(60) 260.00	(36) 156.00	(46) 166.00	(36) 156.00
IDB/FSO	200.00	[1] 160.00	160.00	160.00
IDA	55.00	55.00	55.00	55.00
Fiscal year 1978 (H.R. 7797):				
AFDC	10.00	10.00	10.00	10.00
ADB/OC	(20) 203.57	(16) 140.00	(20) 203.00	(17) 165.99
ADB/ADF	60.00	60.00	60.00	49.51
IDB/OC	(40) 400.00	(40) 398.00	(40) 398.00	[2] (37) 365.28
IDB/FSO	200.00	125.00	125.00	[2] 114.72
IBRD	(52) 522.95	(40) 400.00	(40) 400.00	[2] (38) 380.00
IDA	1,175.00	950.00	[3] 800.00	800.00
IFC	44.60	40.00	44.60	[2] 38.00

[1] Committee recommended $120; raised by floor amendment.
[2] Reduced as a consequence of House amendment cutting total budget authority of all programs in bill by 5 percent.
[3] Committee recommended $950; cut by floor amendment.

The House Appropriations Committee made substantial cuts in the fiscal year 1978 appropriations figures for the multilateral programs, as table 1 reveals, because of its stated concerns about the level of lending to countries with human rights problems,[12] its anxieties about the rapidity of growth in these organizations, its disapproval of the banks' salary levels and administrative costs, and its concerns about a need for more congressional control and oversight on these international programs.[13] Its bill (H.R. 7797) said the proposed $950 million IDA contribution should be used to pay the amounts due for both the fourth and fifth replenishments, but it gave no indication as to how the $225 million shortfall should be allocated.[14] The House largely endorsed the committee's proposed contributions figures when it considered the bill June 22 and 23, rejecting an amendment

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[10] See also the discussion of Latin America on pp. 180–189 in this volume. (Ed.)
[11] U.S. Congress. House. Committee of Conference. International Financial Institutions. Conference Report. H. Rept. 95–544, accompanying H.R. 5262, July 28, 1977, pp. 9, 12.
[12] Also see the discussion of Human Rights on pp. 142–152 in this volume. (Ed.)
[13] U.S. Congress. House. Committee on Appropriations. Foreign Assistance and Related Programs Appropriation Bill, 1978. H. Rept. 95–417, to accompany H.R. 7977, June 15, 1977, pp. 45–48.
[44] Ibid., p. 50–1, H.R. 7977, p. 21, lines 6–12 (House version).

which would have cut the IDA contribution to $473 million.[15] In its last action before the final 208–174 vote, however, the House approved an amendment which trimmed the total budget authority in the bill by 5 percent.[16]

The Senate Appropriations Committee also made significant reductions in the multilateral aid contribution figures, as table 1 indicates, because of its stated concern that the banks' salary level and administrative costs were too high, its conviction that insufficient disclosure of bank information hampered congressional oversight, its dissatisfaction with levels of lending for mutual credit institutions, and its belief that the current U.S. share was too large in all these institutions.[17] Like its House counterpart, it also recommended $950 million for the IDA, with no stipulation as to how it should be divided between the two replenishment accounts.[18]

The Senate made a significant change, however, in the fiscal year 1978 appropriations bill on the floor agreeing to an amendment by Senator Harry Byrd, Jr., cutting the IDA figure to $800 million and earmarking it all for the fifth replenishment. The bill came to the floor on August 5, the day before the beginning of the August congressional recess, and some Senators indicated that they would propose a number of amendments and request unlimited debate unless the leadership supported the Byrd amendment and certain other changes in the bill.[19] An informal agreement was arranged to expedite action on the bill, and Senator Allen said in defense of the Byrd amendment that "* * * if this amendment is defeated, it would be the loss of an integral cog in the informal understanding that may well result in the passage of this bill before nightfall here in the Senate. But we go back to a catch-as-can basis if this amendment is defeated." [20]

Speaking in support of his motion, Senator Byrd claimed that $800 million was more than enough for IDA and the United States had no real commitment to make any further contributions to IDA IV. "The fourth replenishment has already gone by the boards. A new replenishment * * * has now come to the fore and is before Congress for appropriation. The amendment * * * would eliminate $150 million for the fourth replenishment." [21] Senator Inouye said his committee had intended that $800 million of its proposed $950 million would be used for the fifth replenishment, and he accepted the Byrd amendment, saying that "if the Secretary of the Treasury * * * should feel sufficiently strong on insisting upon our contributing further to the fourth IDA replenishment, he has every right and authority to submit a supplemental request." [22] Senator Schweiker said the amendment showed the administration it must consult more carefully with Congress before agreeing to contribute money to the banks. "I think this is one way of giving a clear warning without wrecking anything because IDA V continues, IDA V we agree to, and every dollar of

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[15] Amendment proposed by Representative Bill Young. Congressional Record (daily ed.), vol. 123, June 23, 1977, pp. H6388–96.

[16] Amendment proposed by Representative Clarence Miller, ibid., pp. H6422–3.

[17] U.S. Congress. Senate. Committee on Appropriations. Foreign Assistance and Related Programs Appropriation Bill, 1978. S. Rept. 95–352, accompanying H.R. 7797, July 18, 1977, pp. 121–6.

[18] Ibid., p. 135.

[19] Remarks by Senator Schweiker on the large number of amendments being proposed on the bill. Congressional Record (daily ed.), vol. 123, Aug. 5, 1977, p. S13884. Remarks of Senator Jacob Javits, ibid., p. S13889.

[20] Remarks by Senator James Allen, ibid., p. S13884. Remarks of Senator Edward Brooke, ibid., p. S13888.

[21] Remarks of Senator Harry F. Byrd, Jr., ibid., p. S13883.

[22] Remarks by Senator Daniel Inouye, ibid.

IDA V is in there. So we are meeting the good faith of the administration." [23]

Senator Javits said, objecting to the amendment, that it would gravely damage U.S. credibility and injure the multilateral program if the United States defaulted on its pledge for IDA IV. "I think this is highly unwise for the United States." [24] The amendment passed 49–32. The Senate later removed the House's overall 5-percent cut from the bill.[25]

The House and Senate Conference Committee was deadlocked on many of the differences in policy questions in the legislation. The contributions issues were more easily resolved, however, as the conferees agreed to and the Congress eventually passed, the compromise appropriation figures shown in table 1.[26] All of the $800 million for IDA was earmarked for the fifth replenishment, as the Senate bill required. An overall 5-percent reduction was also levied, as the House bill demanded, and the cuts were distributed among the multilateral programs on a relatively even basis.

Congress and multilateral bank policy

As the multilateral banks have taken a more prominent role in world economic development and U.S. contributions have grown from a $990 million appropriation request for fiscal year 1975 to a $2,616 million proposal for fiscal year 1978, congressional interest in the multilateral agencies has correspondingly increased. Congress dealt with four basic policy issues in 1977 as it considered multilateral bank legislation: human rights, loans for the production of certain crops and other items that compete with U.S. products, loans to countries in current disfavor with the U.S. Government, and salary levels and administrative practices in the banks. All were questions that Congress had dealt with in some manner the previous year. The Congress also debated the proper techniques it should use in seeking to influence the banks on these issues. Three mechanisms were proposed: prohibitions blocking the banks from using U.S.-contributed funds for specific purposes, directives requiring the U.S. representatives to advocate certain policies in the banks, and requirements obliging the U.S. delegates to cast automatic "no" votes against certain types of loans.

The House and Senate deadlocked in both their conferences on the omnibus authorization and the fiscal year 1978 appropriation bills, as each insisted on policy amendments the other could not accept. Ultimately, the conferees traded off these issues as they sought to devise compromise language to get the legislation passed. The basic issues were the same in both cases, and the intensity of the protracted deadlock on the second appropriations bill can be attributed partly to the results of the first conference.

1977 Omnibus Authorization Act.—The House Banking Committee added two new titles (in addition to the AFDF contribution) as it marked up the administration's new authorization requests for the banks, directing the U.S. executive directors to use the U.S. "voice

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[23] Remarks of Senator Richard Schweiker, ibid., p. S13884.
[24] Remarks of Senator Jacob Javits, ibid., p. S13889.
[25] Motion to table by Senator James Allen and vote on amendment ibid., pp. S13900–02.
[26] U.S. Congress. House. Committee of Conference. Making Appropriations for Foreign Assistance and Related Programs for the Fiscal year Ending Sept. 30, 1978, Conference Report. H. Rept. 95–701, accompanying H.R. 7797, Oct. 12, 1977.

and vote" in the banks to encourage more emphasis on light capital technology—including energy-related technologies—in their loan programs. The other title directed the U.S. delegates to use the U.S. voice and vote to advance the cause of human rights, discourage lending to countries with poor human rights records, and encourage more lending for projects which addressed basic human needs of people in recipient countries. The bill provided criteria for identifying human rights violators and added a measure repealing the Harkin amendment to the 1976 Inter-American Development Bank Act [27] after rejecting a motion by Representative Badillo to retain the Harkin amendment and extended it to the other multilateral banks.[28] Human rights policy and the best approach the United States should take in attempting to get the banks to limit their lending to countries with poor rights records was a major issue in floor debate on H.R. 5262. Chairman Reuss and others claimed the committee bill would actually be more effective than the Harkin-Badillo approach, for the United States would have more impact on the international agencies if it set positive goals and required its delegates to actively discourage lending to rights violators than if it simply required the U.S. representatives to vote "no." They also claimed there were too many possibilities for abuse in the Harkin approach, for the administration could support loans to countries with poor rights records if the specific project was designed to mainly help the poor.

Representative Badillo and others insisted, however, that Congress must take a strong position on human rights and not give the executive branch the flexibility to ignore congressional concerns in this area. After an extended debate, the House agreed on a voice vote to pass an amendment by Representative Badillo which substituted his revised Harkin amendment for the Reuss human rights language and directed the U.S. delegates at all the banks to oppose loans to human rights violators unless the aid was directed specifically to programs serving the basic human needs of people in the recipient country. After a brief discussion, the House also adopted a second Badillo amendment (endorsed by Chairman Reuss) directing the Treasury Secretary to begin consultations with other major democracies in order to bring about an international consensus on standards and methods for using economic interdependence to promote human rights around the world.[29]

The second major group of issues involved amendments proposed by Congressmen seeking to block certain types of multilateral bank loans. Chairman Dawson Mathis and Representative Henson Moore, of the Agriculture Committee's Subcommittee on Oilseeds and Rice, proposed an amendment—titled "Human Nutrition in Developing Countries"—which declared it U.S. policy that the banks should emphasize nutrition, the reduction in hunger and agricultural self-sufficiency, and required the U.S. executive directors to oppose any loans for palm oil, citrus, or sugar production if the United States produces a similar or competing agricultural product.[30] The proponents

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[27] The Harkin amendment directed the U.S. delegates at the IDB and AFDF to vote against loans for countries with records of consistent gross violations of internationally recognized human rights, unless the aid specifically benefited needy people.

[28] House Banking Committee, H. Rept. 95-154, Mar. 31, 1977, pp. 33-37.

[29] Debate on amendments proposed by Representative Herman Badillo, Congressional Record, Apr. 6, 1976, pp. H3121-30.

[30] See also the discussion of U.S. international food policy on pp. 123-128 in this volume. (Ed.)

argued the amendment was needed to protect American farmers from overseas competition. The opponents claimed it would seriously hamper U.S. participation in the multilateral program without materially benefiting U.S. farmers. The House voted 218–145 to include the Mathis-Moore amendment in the bill.[31] The House defeated (133–189) an amendment by Representative Clarence Miller that would have required the multilateral agencies to return any funds appropriated on account of this authorization bill if they made any loans to Cambodia, Cuba, Laos, or Vietnam.[32] It also rejected an amendment by Representative Garry Brown that would have required the U.S. executive directors to oppose any loan which was not certified by the U.S. President as going to a country that met U.S. criteria for human rights and did not engage in discriminatory boycotts against other nations or people on the basis of race, creed, color, or religion (i.e., the Arab boycott of Israel).[33]

The Senate Foreign Relations Committee rewrote H.R. 5262 and reported a bill whose policy sections were more like those in the original House Banking Committee bill than those in the final House measure. It rescinded the Harkin amendment from the 1976 IDB Act and deleted the Long amendment—which required U.S. representatives to vote against credits for countries that explode nuclear devices without signing the Nuclear Non-Proliferation Treaty (NPT) [34]—from the 1974 IDA Act. Instead, it directed the U.S. delegates at the banks to use the U.S voice and vote to channel aid to countries that do not engage in consistent gross violations of internationally recognized human rights. It also directed the U.S. executive directors to consider four other criteria in the conduct of their duties: U.S. bilateral actions on human rights, the extent that needy people benefit from economic aid,[35] the fact that a recipient country has exploded a nuclear device and not signed the NPT, and whether aid for palm oil, cane sugar, or citrus crops competes with similar U.S. products so as to cause injury to U.S. producers.[36]

When it considered the omnibus measure, the Senate dealt with several policy issues in addition to the commitment issue and U.S. contribution levels. The first involved human rights. After a lengthy debate, the Senate voted 43–50 to reject an amendment by Senator James Abourezk which would have substituted the requirements of the House bill—the broadened Badillo-Harkin language—for the provisions of the Senate Committee bill.[37] It did adopt another amendment, though, directing the Secretary of the Treasury to begin talks with other democracies on ways for using economic cooperation to create viable standards for protecting human rights and meeting human needs.[38]

The second group of issues in the Senate debate involved efforts to restrict multilateral lending to specific countries. After tabling (58–34) a motion which would have required U.S. representatives to oppose loans for Cambodia, Cuba, Laos, and Vietnam until their governments

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[31] Amendments proposed by Representatives Dawson Mathis and Henson Moore, ibid., pp. H3130-5.
[32] See also the discussion of Asia: Korea and Vietnam on pp. 190–195 in this volume. (Ed.)
[33] Amendment proposed by Representative Garry Brown, ibid., p. 3137. See also the discussion of the Middle East on pp. 196–204 in this volume. (Ed.)
[34] See also the discussion of nuclear nonproliferation on pp. 83–88 in this volume. (Ed.)
[35] See also the discussion of bilateral foreign economic and food assistance on pp. 97–102 in this volume. (Ed.)
[36] Senate Foreign Relations Committee, S. Rept. 95–159, May 13, 1977, pp. 16–19.
[37] Amendment proposed by Senator James Abourezk, Congressional Record, June 14, 1977, pp. S9706-13.
[38] Amendment by Senator Mark Hatfield and remarks by Senator Clifford Case, ibid., pp. S9747-8.

show they are not violating their peoples' basic rights,[39] the Senate voted 58–32 for an amendment by Senator Dole instructing them to oppose all multilateral loans to Vietnam, Laos, or Cambodia and cutting the authorization for future U.S. contributions by whatever amount the banks lent the Indochinese states.[40] It also passed a motion by Senator Humphrey expressing the Senate's "sense of disgust for Idi Amin Dada," in lieu of a motion by Senator Helms to prohibit the banks from lending to Uganda.[41]

The last category of issued raises in the Senate related to management and salaries at the multilateral banks. Senator Helms proposed an amendment instructing U.S. representatives "to seek to reduce bank employee salaries comparable to those paid employees of the U.S. Government in comparable positions," on the grounds the American people should not pay their indirect employees in the banks more than they pay their direct employees in U.S. agencies. After Senator Case observed that the international agencies usually compete with private banks and industry, not the U.S. Government, as they search for good employees, though, Senator Helms altered his amendment to direct the U.S. delegates instead to seek salary limits similar to those paid "employees of private business and the U.S. Government in comparable positions," and the revised amendment was adopted without further debate.[42]

House and Senate conferees met several times to resolve their differences on the omnibus legislation. On June 17, the House defeated a motion (161–200) to instruct its conferees to insist on its own human rights language.[43] The conferees were then deadlocked on the bill, with each side insisting on its approach to the human rights and agricultural commodities issues and the House delegates pressing the Senate to drop its measure limiting multilateral loans to Indochina.

The conferees agreed July 26 to a compromise bill which contained the following terms on disputed policy questions: (1) It recommended adoption of the Senate approach to human rights, directing the U.S. executive directors to vote in the banks to advance human rights. A negative vote on loans to human rights violators was required only "where other means have proven ineffective," unless the President certified that the cause of human rights would be better served by not voting against the loan or the loan was specifically designed to serve basic human needs in the recipient country. (2) The requirement that consultations be held on international standards protecting human rights was broadened from consideration of only industrial democracies (House version) or democracies (Senate version) to include all foreign nations. (3) The Senate requirement for negative U.S. votes and reduced U.S. contributions if the banks lent to Vietnam, Cambodia, or Laos was dropped and replaced by compromise language directing the U.S. delegates to consider whether those countries were being responsive to American efforts to get an accounting for the MIA's. (4) The House requirement that U.S. executive directors use their voice and vote in the banks to channel more aid to projects addressing

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[39] Amendment proposed by Senator Orin Hatch, ibid., p. Q9714–16.
[40] Amendment proposed by Senator Robert Dole, ibid., pp. S9742–7.
[41] Amendment proposed by Senators Jesse Helms and Hubert Humphrey, ibid., pp. S9696–9701. See also the discussion of Africa on pp. 172–178 in this volume. (Ed.)
[42] Amendment by Senator Jesse Helms and remarks by Senator Clifford Case, ibid., pp. S9071–6.
[43] Debate in House on instructing its conferees. Congressional Record (daily ed.) vol. 123, June 17, 1977, pp. H6077–81.

basic human needs was dropped in favor of the Senate language, which made direct benefits for the needy a criterion the U.S. delegates should consider in performing their duties. (5) The Senate condemnation of Idi Amin Dada was dropped because it had already been passed in other legislation. (6) The conferees agreed to the Senate language rescinding the Long amendment's requirement that the U.S. delegates automatically vote "no" on IDA loans to countries which explode nuclear devices without signing the Nuclear Non-Proliferation Treaty (NPT) and simply making this a criterion they should consider in performing their duties. (7) They agreed to the House proposal directing the U.S. representatives to emphasize light capital technologies in the multilateral institutions.

(8) They accepted the Senate amendment requiring the U.S. delegates to seek limits on bank salaries comparable to those paid in private industry and the U.S. Government. (9) The Senate conferees dropped their requirement that U.S. delegates need only consider the impact agricultural loans might have on U.S. production, and they accepted the House language stressing human nutrition, self-sufficiency, and U.S. opposition to loans for palm oil, sugar, and citrus. The conferees agreed in their report that U.S. opposition could include votes of "present" or "abstain," as well as "no" votes.[44]

The Senate considered and agreed to the conference report July 26.[45] The House considered the conference report September 16 and rejected it 153–230. Representative Tom Harkin then proposed a preferential motion that the House recede from its disagreement if its original position on human rights were included in the measure. Specifically, he moved that the House drop the provision requiring the U.S. directors to oppose loans to rights violators only "where other means have proven ineffective" and eliminate the Presidential waiver on some negative votes. Responding to a question by Representative John Rousselot, Mr. Harkin said he thought there was no flexibility in the requirement for U.S. opposition to loans to rights violators,[46] and he agreed with Mr. Rousselot that "oppose" meant a "no" vote.

The Senate considered the House change in the conference report September 21. Foreign Relations Committee Chairman Senator John Sparkman said the new House language was acceptable and the Senate should agree to the proposed changes in the text. He then observed that the requirement for U.S. opposition to loans to gross human rights violators did not necessarily mean a requirement that the U.S. representatives actually vote against those loans. "The distinction is a fine one but important because it provides the executive directors with some flexibility as they represent the United States in the international financial institutions. The term 'oppose' is both broader and more flexible than a simple directive to vote against assistance." [47] There was no objection to this interpretation of the measure, and the Senate voted by voice vote without further debate to approve the House amendments to the conference report.

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[44] Conference Committee report on H.R. 5262, H. Rept. 95–544, pp. 10–12.
[45] Debate and vote in the Senate on conference report, Congressional Record (daily ed.) vol. 123, July 27, pp. S12971–2.
[46] Comments by Representatives Tom Harkins and John Rousselot. Congressional Record (daily ed.) vol. 123, Sept. 16, 1977. pp. H9564–5, then agreed to the Harkin preferential motion by voice vote.
[47] Remarks of Senator John Sparkman. Congressional Record (daily ed.) vol. 123, Sept. 21, 1977, pp. S15247–8.

Fiscal Year 1978 Appropriations Act.—The House Appropriations Committee recommended deep cuts in the administration's fiscal year 1978 multilateral bank request, as noted earlier. The committee also reiterated in its report its strong support for light capital technologies and urged that "projects emphasizing rural, small-scale decentralized energy technologies be undertaken as rapidly as possible." The committee also said it expected the administration to channel additional bank funds toward projects and policies that would directly benefit the needy.[48]

The House added a number of policy requirements to the fiscal year 1978 appropriation bill when it came to the floor. Representative Bill Young moved to add to the language prohibiting direct aid to Uganda, Cambodia, Loas, or Vietnam a stipulation prohibiting appropriated funds from being used indirectly for such aid. Proponents of the Young amendment claimed it was needed to withhold U.S. funds from repressive regimes and to stop the administration from channeling money to them through international agencies. Opponents said the proposal violated the multilateral banks' basic rules and would prevent the banks from accepting U.S. contributions if Congress insisted on restricting use of those funds. The House voted 295–115 to endorse the amendment.[49] It then passed (359–33) another motion by Representative Lester Wolff prohibiting use of any funds for reparations to Vietnam.[50]

Later, the House also agreed by voice vote to his amendment barring direct or indirect use of U.S. funds for aid to Mozambique and Angola because of the presence of Cuban troops in those lands.[51] It also voted 274–112 for a motion by Representative John Ashbrook prohibiting any direct or indirect aid or trade for Cuba.[52] It also voted (209–179) for an amendment by Representative Henson Moore prohibiting the banks from using any U.S. funds for loans for sugar, palm oil, or citrus crops, overseas, if the United States produces the same, similar, or competing crops.[53]

The Senate Appropriations Committee eliminated all the House-passed policy amendments from its version of the bill, dropping "indirectly" from the prohibition on aid to the seven countries and eliminating the amendment prohibiting multilateral loans for certain crops. It printed language commending and encouraging the President for his stated determination to "reform * * * the policies which have, on occasion, awarded liberal grants and loans to repressive regimes which violate human rights." [54] To underscore its strong conviction that multilateral bank salaries were unjustifiably high, the Senate Committee put a limitation in the appropriation language for each bank, so that "no such payment may be made while the U.S. executive director is compensated by the bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the executive schedule." [55]

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[48] House Appropriations Committee report, H. Rept. 95–417, June 15, 1977, pp. 45–6.
[49] Debate on amendment proposed by Representative Bill Young, Congressional Record (daily ed.) vol. 123, June 22, 1977, pp. H6346–51.
[50] Amendment proposed by Representative Lester Wolff, ibid., pp. H6352–54.
[51] Amendment proposed by Representative Philip Crane, Congressional Record, June 23, 1977, pp. H6385–88.
[52] Amendment proposed by Representative John Ashbrook, ibid., pp. 6421–2. Cuba is not currently a member of any multilateral bank.
[53] Amendment proposed by Representative Henson Moore, ibid., pp. 6413–14.
[54] Ibid., p. 21.
[55] Ibid., pp. 148–9. It also required the U.S. Alternate Executive Directors to received salaries no higher than level V of the Executive Schedule.

The Senate endorsed the appropriating committee's policy amendments when it considered the fiscal year 1978 appropriation bill, agreeing on a separate vote (47–29) to accept the committee amendment dropping the "indirect" restriction on loans to Uganda and the Indochinese countries [56] and accepting the amendments allowing "indirect" aid to Mozambique, Angola, and Cuba without debate.[57] It later voted 11–56 to reject a motion by Senator Helms that would have barred any use of the funds for activities which adversely affected U.S. industry, agriculture, or employment.[58]

The House and Senate conferees resolved most of their major differences in the fiscal year 1978 appropriations bill but deadlocked on the question of prohibiting indirect loans through the multilateral banks to the seven countries and to producers of sugar, palm oil and citrus crops. The House delegates insisted that the House would never allow U.S. money to be used for those purposes.[59] The Senate delegates insisted that the banks could never accept such restricted funds and that such an action would effectively terminate U.S. participation in these international organizations. They cited a memorandum from the White House saying the President would veto the bill and a letter from World Bank President Robert McNamara saying his agency could not accept the money if the restrictions stayed in the final bill.[60] After almost 2 months of discussion, the conferees issued a conference report that dropped the House-passed restrictions but included a note pledging the House conferees to move disapproval of those changes.[61] Two weeks later, the House summarily rejected the conference report by recommitting it without debate.[62]

Out of this seemingly irreconcilable conflict, a compromise was evolved through consultations between the executive branch and the House Appropriations Foreign Operations Subcommittee. As President Carter wrote in his subsequent letter to Chairman Long, he agreed to "instruct the U.S. executive directors in the banks to oppose and vote against, throughout fiscal year 1978, any loans to the seven countries * * * [and] loans for the three commodities where such production is for export and could injure producers in the United States.[63] Chairman Long then filed a new conference report October 12, dropping the House conferees' objection to the elimination of prohibitions on "indirect" loans.[64] The House agreed to the new conference report October 18 on a 229–195 vote [65] and the Senate accepted it October 19 by a 53–33 margin.[66]

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[56] Debate and separate vote on Committee amendment deleting "indirectly" from prohibitions on aid to Uganda, Cambodia, Laos, and Vietnam. Congressional Record, Aug. 5, 1977, pp. S13891–6.

[57] Senate action on Committee amendments deleting "indirectly" from prohibitions on aid to Mozambique, Angola and Cuba, ibid., p. S13899.

[58] Amendment proposed by Senator Jesse Helms, ibid., pp. S13917–19.

[59] See the colloquy between Representatives Clarence Long and Bill Young. Congressional Record (daily ed.) vol. 123. Sept. 15, 1977, p. H9486.

[60] Remarks of Senator Daniel Inouye, Congressional Record, Aug. 5, 1977, p. S13894. The White House memorandum is cited by Senator Robert Dole, ibid., p. S13892, and the letter from President McNamara to Treasury Secretary Blumenthal cited by Senator Dick Clark, ibid., p. S13895.

[61] U.S. Congress. House. Committee of Conference. Making Appropriations for Foreign Assistance and Related Programs for the Fiscal Year Ending Sept. 30, 1978. H. Rept. 95–633, Sept. 26, 1977, pp. 11, 17.

[62] Motion to commit conference report. Congressional Record (daily ed.) vol. 123, Oct. 12, 1977, pp. H10814–15.

[63] Text of the President's letter to Chairman Clarence Long. Congressional Record (daily ed.) vol. 123, Oct. 18, 1977, pp. H11191, H11203, and H11204.

[64] U.S. Congress. House. Committee of Conference. Making Appropriations for Foreign Assistance and Related Programs for the Fiscal Year Ending Sept. 30, 1978. H. Rept. 95–701, Oct. 12, 1977, pp. 10–11, 16–17.

[65] House action on the conference report. Congressional Record, Oct. 18, 1977, pp. H11190–11205.

[66] Senate action on the conference report, Congressional Record (daily ed.), vol. 123, Oct. 19, 1977, pp. S17351–58.

Several Republican Senators objected strongly to what they termed the President's "incredible" letter and his intervention in the conference process. "I cannot cast a vote against a letter from the President of the United States to the chairman of a House committee," said Senator Case. "So I will vote for this conference report. However, if that agreement were part of the legislation which we consider today, I would vote against that legislation." [67] Some of the Senate conferees expressed their judgment that the Senate might have eventually gotten its way if they had been able to continue bargaining with the House.[68]

1978 prospects

Reports from executive branch leaders and committee aides suggest that most or all of these issues will arise in 1978 when Congress again considers appropriations for the multilateral banks. Two major issues likely to be centers of debate are: (1) whether to reverse the fiscal year 1978 action terminating (or defaulting on) U.S. payments to IDA IV and (2) whether to impose restrictive amendments barring indirect use of U.S. bank contributions for loans to certain countries and relating to certain agricultural crops. The relationship between the U.S. Government and these banks could be fundamentally altered as a result of congressional action on these and related policy issues that are likely to arise in 1978.

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THE INTERNATIONAL ECONOMY

Congress and North-South Negotiations*

OVERVIEW

At the Sixth Special Session of the United Nations General Assembly in May 1974, the Group of 77 less developed countries (LDC's) approved two major documents on economic relations between developed and less developed countries. A declaration on the establishment of a new international economic order, and a programme of action. In December 1974, the United Nations General Assembly approved a Charter of Economic Rights and Duties of States. The demands for a new international economic order incorporated in these documents involved far-reaching claims by LDC's relating to sovereignty over natural resources, preferential trade and monetary arrangements, increased aid flows, debt moratoria or cancellations, commodities arrangements, and an increased role in world economic decisionmaking.

Since December 1974, many conferences and meetings dealing with new international economic order issues have taken place both among LDC's and between LDC's and developed countries. In 1977, the north-south dialog consisted of the last of the series of Conferences on International Economic Cooperation (CIEC) and the first two of a scheduled three U.N. Negotiating Conferences on a Common Fund for Commodities.

DISCUSSION

Conference on International Economic Cooperation

The first Conference on International Economic Cooperation (CIEC) was held in December 1975.[1] At that time, four functional commissions were established to discuss, respectively, energy, raw materials and trade, development, and finance. Twenty-seven countries participated in the conference—19 developing countries and 8 representatives of the industrialized countries. The participants were chosen to give a wide geographic representation and to reflect different economic situations.

Beginning in February 1976, commission working groups met approximately every month. The sessions of the first months were devoted to an analysis of the issues outstanding in each of the functional areas, while the end of the year was devoted to the formulation of specific proposals which would be presented to senior ministers for consideration and approval. The concluding CIEC ministerial meeting was orginally planned for December 1976, but was postponed to allow more work to be done on possible final proposals and also to allow the Carter administration to participate—since many LDC diplomats believed that the new administration would be more sympathetic to their claims.

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[1] For background on the first conference, see Congress and Foreign Policy—1975, pp. 92-94.

The final CIEC conference was held in Paris from May 30 to June 2, 1977. A joint communique was issued following the final session setting out 20 topics on which the participants were able to agree and 21 topics on which they could not agree. The major points of agreement and disagreement are set out below.

(1) In the Energy Commission, it was recognized that adequate and stable supplies were necessary for global growth and that all nations had a responsibility to insure that such supplies were made available. The depletable nature of oil and gas was recognized. It was agreed to recommend that the World Bank increase priority for energy development loans in LDC's. Agreement was also reached on the need for increased conservation, for a new bilateral and multilateral effort to transfer energy technology to LDC's, and to increase energy research and development cooperation between developed and less developed countries.

The Energy Commission did not agree to continue consultations between energy producers and consumers—a major U.S. goal in the entire CIEC process. Agreement was also not reached on guaranteeing the value of the accumulated financial reserves of the oil producers or on indexation of energy prices to LDC import prices—two goals of the oil producing countries.

(2) In the Commission on Raw Materials agreement was reached to undertake negotiations to establish a Common Fund for Commodities. The purpose of the Common Fund would be to finance, potentially, 18 separate commodity agreements. It was agreed that the purposes, constituent elements, and objectives of the Common Fund would be further negotiated at UNCTAD in Geneva. Reaching an agreement to negotiate the Common Fund had been a major goal of the LDC's. Previously, the Ford administration had refused, preferring instead to examine each proposed international commodity agreement and its financing on an ad hoc basis. Agreement was also reached on certain measures to assist LDC's in diversifying from heavy reliance on a few indigenous natural resource exports, and on the importance to LDC's of natural raw materials that were in competition with synthetics. Agreement to encourage the international financial institutions to intensify their efforts in the raw materials area was also reached.

The Raw Materials Commission did not reach agreement on the same language for further measures of compensatory finance for shortfalls in LDC export receipts due to price fluctuations in raw materials, to control further synthetics production in developed countries, or to the same language on the degree of nonreciprocity for LDC's in the Multilateral Trade Negotiations in Geneva. The Commission also did not agree upon the appropriate regime for controlling further investment in raw materials in LDC's, or on indexation of raw materials prices.

(3) In the Development Commission, donor countries agreed to substantially increase their levels of official development assistance. It was also agreed that negotiations for a general capital increase in the World Bank should begin. A $1 billion special action program of assistance to the poorest LDC's was agreed to, as was the need for creation of a 500,000-ton emergency grain reserve and for early negotiations on an international grain reserves system. Finally, it was agreed to

recognize the importance to the LDC's of progress in the Multilateral Trade Negotiations (MTN). Related to this was recognition of (*a*) the need for special treatment for LDC's in certain areas of the MTN negotiations, (*b*) improvement of the system of generalized tariff preferences, and, (*c*) recognition of the importance of the Multifiber Agreement to the LDC's.

The Development Commission did not agree on a debt moratorium for all LDC's, on guaranteed access measures to developed country markets for LDC manufactures and semi-manufactures, on the treatment of multinational corporations, or on setting goals for the transfer of industry from developed to less developed countries.

(4) The Finance Commission agreed to general language on the role that private capital could play in the development process, on the relationship between investment flows and the investment climate, and on outlines of language on the essential elements of what constituted a favorable investment climate. All parties pledged to support efforts to expand LDC access to private capital markets. The Finance Commission also agreed to strongly support the creation of the IMF Supplementary Financing Facility and to recognize that control over inflation was an important condition for steady economic growth.

The Finance Commission did not agree on criteria for compensation, transferability of capital and income, or standards for settlement of disputes which might arise between LDC's and foreign investors. It also did not agree on what measures to take against inflation—the LDC's insisted that the only matter of concern was inflation caused by increasing import prices while the developed countries insisted that inflation was largely of domestic origin and required appropriate monetary and fiscal policies as demand management measures.

Role of Congress.—Of the measures agreed to at CIEC, those of particular interest to Congress were the proposal to create a Common Fund for Commodities, promises to increase bilateral and multilateral aid, and support for the Supplementary Financing Facility of the IMF. All of these initiatives would require congressional approval or appropriations.

Hearings on north-south issues by JEC.—On April 23, prior to the final CIEC session, the Joint Economic Committee devoted the last of 3 days of hearings to issues arising from the North-South dialog.[2] Public witnesses included Lawrence Krause of the Brookings Institution, Annie Krueger of the University of Minnesota, John P. Lewis of Princeton University, and Shridath Ramphal, Commonwealth Secretary General from London. The entire range of new international economic order issues was discussed, with particular attention devoted to commodities matters. No administration witnesses testified.

Following conclusion of the CIEC, the Subcommittee on International Economics of the Joint Economic Committee held a hearing on the results of the conference.[3] Under Secretary of State Richard

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[2] U.S. Congress. Joint Economic Committee. Issues at the Summit. Hearings. 95th Cong., 1st sess. Apr. 20, 21, and 22, 1977. Washington, U.S. Government Printing Office, 1978. 226 pp.

[3] U.S. Congress. Joint Economic Committee. Subcommittee on International Economics. Issues in North-South Dialog. Hearing. 95th Cong., 1st sess. June 21, 1977. Washington, U.S. Government Printing Office, 1977. 110 pp.

N. Cooper testified on what was accomplished—and not accomplished—at CIEC. Secretry Cooper discussed the continuity and change between the Carter and Ford administrations regarding north-south matters and the locus and future U.S. expectations regarding north-south negotiations. On the latter, he noted that the wide range of matters covered under the CIEC umbrella would now be taken up by other, preexisting, forums. Raw materials and commodities would be dealt with in the U.N. Conference on Trade and Development (UNCTAD). Trade matters would be discussed in the Multilateral Trade Negotiations in the General Agreement on Tariffs and Trade (GATT). The IMF/World Bank Development Committee would be expected to examine many of the issues raised by the Development Commission, and monetary matters raised at CIEC would be considered by the IMF Interim Committee.

However, there did not exist—just as was the case before CIEC—any continuing body responsible for discussion between producers and consumers of energy. Included in the record of the JEC hearing was the text of the annex to the final report of the CIEC, setting out in detail what had been resolved—and not resolved—in each Commission.

Negotiations on a Common Fund for Commodities.—In December 1974, the Secretariat of UNCTAD released a proposal which, in all essential respects, was the basis for the UNCTAD Integrated Programme for Commodities (IPC). The goal of the IPC was to mitigate wide fluctuations in commodity prices and supplies. Creation of the IPC was adopted as a key policy goal by the Group of 77 LDC's at the UNCTAD IV conference held in Nairobi, Kenya in May 1976.

The core of the IPC is the establishment of a series of international commodity agreements holding buffer stocks to absorb commodities during periods of surplus and to dispose of them in times of scarcity. A total of 18 commodities is included in the current version of the IPC, The 10 "core" commodities—cocoa, coffee, cotton, hard fibers, jute, sugar, tea, rubber, copper, and tin—are the most suitable for stockpiling. Eight other commodities—bauxite, iron ore, manganese, phosphate, tropical timber, vegetable oil and oil seeds, meat, and bananas—would require additonal or other control measures.

According to the IPC, creation of the buffer stocks of commodities in the program would be financed from a Common Fund established by contributions from member government capital subscriptions, contributions from international organizations, and borrowings from private capital markets. In the first phase of the Common Fund program, it was expected that available capital would be $1 billion in subscription capital and $2 billion in borrowing authority. A provision made for an additional $1 billion in subscription capital and $2 billion in borrowing authority brought the total financing available for the Common Fund to $6 billion. A proposal submitted by the Group of 77 recommended a financing formula that would put about 30 percent of the financial burden on the LDC's and 70 percent on the developed countries. While unspecified in their draft proposals, the position of the Group of 77 has been that decisionmaking should be based on the principle of one nation/one vote—giving control over the Common Fund to the LDC's.

The first U.N. Negotiating Conference on a Common Fund Under the Integrated Program for Commodities was held in March 1977. The

United States and other industrialized nations were unwilling to enter into any substantive negotiations unless the demands of the Group of 77 were spelled out in much greater detail. The United States was not prepared to make any commitments before knowing what form the Common Fund might take and which commodity agreements might be included. Following the London Economic Summit Conference held May 7–8, 1977, the United States and other major industrialized countries modified their position to support negotiations intended to create a Common Fund. As noted above, this decision was announced at the final CIEC session.

The Second Negotiating Conference on the Common Fund was scheduled to be held from November 7 through December 2, 1977. Though no final agreement was expected at the second conference, it was hoped by some that most of the basic principles would be agreed upon. A third, and final, conference on the Common Fund would then negotiate a detailed agreement in 1978. However, the second conference was suspended by the LDC's the day before its scheduled conclusion without any specific date set for resumption of negotiations. Spokesmen for the Group of 77 claimed that the industrialized countries lacked the political will to negotiate a Common Fund agreement.

At the November meeting, the LDC's presented a more detailed version of their earlier proposal, while the industrialized countries—for the first time—presented a formal proposal for a Common Fund.

The proposal of the developed countries stated that any Common Fund had to be economically and financially viable. Its primary purpose would be to facilitate the financing of buffer stocks operated by the individual international commodity agreements. Each commodity agreement would be responsible for obtaining its own financing. Use of the Common Fund would be only for the purpose of buying commodities, and not for marketing, diversification, or other measures. The industrialized countries' Common Fund would be financed by individual commodity agreements depositing stated maximum amounts of cash. The commodity agreements could than draw from the Fund that amount plus a specified amount of additional credit. If needed, the Common Fund could obtain additional financing in world capital markets.

The main points of disagreement at the November negotiating session between the developed countries and the Group of 77 concerned how the Common Fund would be financed, what tasks the Fund would undertake, who should participate, and its relationship to whatever commodity agreements were created. There were other points of disagreement—notably decisionmaking—but because even the initial points of disagreement were never resolved, the others were not addressed at all.

Congress and the Common Fund For Commodities

The Subcommittee on Economic Stabilization of the House Banking Committee held a hearing in June 1977 on international commodity agreements.[4] Assistant Secretary of Treasury for International Affairs

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[4] U.S. Congress. House. Committee on Banking, Finance and Urban Affairs. Subcommittee on Economic Stabilization. International Commodity Agreements. Hearing. 95th Cong., 1st sess. June 8, 1977. Washington, U.S. Government Printing Office, 1977. 89 pp.

C. Fred Bergsten, and Assistant Secretary of State for Economic and Business Affairs Julius L. Katz testified on U.S. policy toward commodity agreements. The hearing focused on the nature of the changes in U.S. policy under the Carter administration (as compared with the Ford administration), the rationale for the changes, and the future expectations of the administration in the commodities field. Because the hearing was held immediately after the end of the last CIEC session, and the change in an administration policy favoring commodity agreements had just been announced, there was no discussion of possible United States positions for the second Common Fund negotiations.

The House International Relations Committee issued a comprehensive committee print which contained the report of a staff study mission that had attended the second Common Fund negotiating conference in Geneva.[5] The first part of the staff study contained a historical background on the Common Fund, a description of the proposals of the Group of 77 and the industrialized countries, and an explanation of the reasons for these proposals. The second part of the report examined in some detail the 18 commodities proposed for financing by the Common Fund. The major producers, the size of the export market, United States interest in the commodity, and the status of any commodity agreement negotiations were presented for each commodity.

Future north-south negotiations and the role of Congress

As indicated by Assistant Secretary of State Cooper in the Joint Economic Committee hearing, north-south negotiations will now continue in preexisting institutions—GATT, UNCTAD, the IMF/World Bank Development Committee, etc. The Law of the Sea Conference due to resume in the spring of 1978 should also be considered part of the north-south dialog. In the wake of the collapse of the Common Fund negotiations, the exact status of relations between the industrialized countries and the LDC's on economic issues is unclear. The outcome of the Multilateral Trade Negotiations and the Law of the Sea Conference will provide major indicators of the state of relations between the two groups of countries. Because the Senate will have to approve any Law of the Sea treaty and Congress will have to appropriate funds to finance creation of a Common Fund, congressional interest will most likely be high.

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[5] U.S. Congress. House. Committee on International Relations. Progress report on the north-south dialog: the Common Fund and commodities, report of a staff study mission to the November 1977, meeting of the Second United Nations Negotiating Conference on a Common Fund Under the Integrated Program for Commodities. Committee Print. Washington. U.S. Government Printing Office, January 1978. 61 pp.

Congress and U.S. International Food Policy*

OVERVIEW

The United States experienced near record harvests of wheat, feed grains, and soybeans in 1977. Exports of U.S. agricultural commodities exceeded $21 billion for the fourth year in a row. And, except for the Soviet Union and the People's Republic of China, foreign producing areas also experienced good yields. U.S. carryover stocks of wheat and feed grains increased again in 1977. It was against this background of relative abundance in international food markets that Congress dealt with certain aspects of U.S. international food policy.

DISCUSSION

International grain reserves

The main focus of congressional activity was the Food and Agriculture Act of 1977 (Public Law 95–113). As noted earlier in this committee print, the Food and Agriculture Act was the vehicle for extension of basic Public Law 480 authority through 1981, while the International Development and Food Assistance Act of 1977 made several changes in Public Law 480 policy.

Section 102 of the Food and Agriculture Act, Emergency International Food Reserve, added a new section 111 to the Agricultural Act of 1949 encouraging the President to enter into negotiations with other nations to develop an international system of food reserves for humanitarian food relief needs.

The language in the Food and Agricultural Act was the result of a conference committee compromise between a much more extensive version of grain reserves language in the Senate bill (S. 275) and the House bill (H.R. 7171) which, as reported from the House Agriculture Committee, had no grain reserves language at all.

In the Senate, Title X: Grain Reserves, of S. 275 as reported by the Senate Agriculture, Nutrition and Forestry Committee on May 16, 1977, authorized three distinct reserve facilities.[1] The bill would have established: (1) a producer storage program for wheat, (2) the creation of a domestic disaster reserve, and (3) an International Emergency Farm Reserve.

Section 102 of the committee bill authorized the President to negotiate an international system of food reserves for humanitarian relief and to maintain a food reserve in the United States as a contribution to the system. The Secretary of Agriculture was authorized to acquire a minimum of 2 million tons of food for the International Emergency Farm Reserve, and to increase that minimum to not more than 6 million tons under the terms of any international agreement

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* Prepared by Theodor W. Galdi, Analyst in International Relations.

[1] U.S. Congress. Senate. Committee on Agriculture, Nutrition and Forestry. Food and Agriculture Act of 1977. May 16, 1977. Report to accompany S. 275. 95th Cong., 1st sess. S. Rept. 95–180. Washington, U.S. Government Printing Office, 1977, 431 pp.

on food reserves that might be negotiated. Use of food from the reserve was to be limited to foreign countries which suffered major disasters and to assisting less developed countries that experienced shortfalls in production.

During the debate on the Senate floor, Senator Bellmon, concerned that transactions by the Secretary of Agriculture related to the International Farm Reserve would depress grain prices in the United States, moved to strike all of section 106. However, after discussing his amendment with Senator Humphrey, Senator Bellmon agreed to language that made clear the Senate's intention that any grain included in the international reserve would not be withdrawn except for emergency use overseas unless the exact amounts removed were immediately replaced—thereby leaving grain prices unaffected. No other changes were made in the food reserves section of S. 275 on the Senate floor.

Though H.R. 7171, as reported from the Agriculture Committee, contained no grain reserves provisions at all, two amendments related to grain reserves were proposed on the floor.[2] One by Representative Weaver of Oregon directed that the Secretary of Agriculture "shall establish" a domestic grain reserve of 25–35 million tons of wheat and feedgrains. The second, by Representative Foley, contained exactly the same language as the Weaver amendment except that it gave the Secretary of Agriculture the option ("may establish") of establishing a grain reserve of 25–35 million tons. Neither House amendment referred to an international grain reserve system and, in fact, in offering his amendment, Representative Weaver noted that it did not deal at all with the question of international reserves. Interestingly, both amendments were accepted in order, it was claimed, to give the House conferees latitude in conference.

As the Food and Agriculture Act emerged from conference on September 12, 1977, Title XI: Grain Reserves, contained most of the Senate version of the producer storage program for wheat and food grains and also the Senate provision for a domestic disaster reserve.[3] However, the House conferees were opposed to the international grain reserve provisions of the bill and, as a result, the general language encouraging the President to enter into negotiations with other nations to develop an international food reserve system was agreed to. Some of the House conferees were opposed to the Senate provision, not because they were against the idea of international grain reserves—just the opposite in fact—but because the question had not thoroughly been examined in hearings. They felt that such a far-reaching proposal ought to be examined closely by Congress before it was implemented.

U.S. proposal for an international grain reserve system.—In October, 1977, the House International Relations Committee issued a committee print, "The U.S. Proposal for an International Grain Reserve System–II." [4] The print contained the report of a committee

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[2] U.S. Congress. House. Committee on Agriculture. Agricultural Act of 1977. May 16, 1977. Report to accompany H.R. 7171. 95th Cong., 1st sess. H. Rept. 95–348. Washington, U.S. Government Printing Office, 1977. 372 pp.

[3] U.S. Congress. Conference Committee. Food and Agriculture Act of 1977. Sept. 21, 1977. Report to accompany S. 275. 95th Cong., 1st sess. H. Rept. 95–599. Washington, U.S. Government Printing Office, 1977. 247 pp.

[4] U.S. Congress. House. Committee on International Relations. The U.S. proposal for an international grain reserves system-II; report of a staff study mission to the Sept. 28–Oct. 3, 1977, meeting of the International Wheat Council preparatory group. Committee Print. [Washington, U.S. Government Printing Office] October 1977. 18 pp.

staff study mission to the International Wheat Council (IWC) Preparatory Group meeting held from September 28 to October 3, 1977 in London. The purpose of the meeting had been to receive the most recent U.S. proposal for the creation of an International Grain Reserve System.

Under the proposed system, nations which agreed to participate in it would agree to establish and manage certain identifiable wheat stocks as reserves. The amount of reserves to be held would depend upon such factors as the volumes of wheat production, consumption, and trade, and per capita GNP. One of the most important characteristics of the proposed system is that it was designed to discourage wheat prices from rising above a specified high trigger level, or from dropping below a specified low trigger level. At the high trigger price, participating countries would sell wheat from reserves on commerical markets to drive down prices. At the low trigger price, they would buy wheat for their reserves. The U.S. proposal also specified further temporary measures to be taken if world market prices went above or below the trigger levels. Specific details of a possible reserve system were left open for subsequent discussion. Thus, recommendations concerning the overall size of the system, individual national holdings, specific trigger prices, and the cost of the system, were not made by the United States.

Compared to the 1975 U.S. grain reserves proposal to the International Wheat Council, the 1977 proposal relied upon prices, not quantities, as the trigger for action by the reserve system. And the 1977 proposal emphasized curbing excessive prices swings, whereas the earlier proposal emphasized the physical availability of grains in times of shortage.

According to the staff report, the preliminary reaction of the other members of the IWC was not enthusiastic. The staff report concluded that the U.S. proposal faced many difficulties, not least of which was negotiation of the many details that would be crucial to the success of the proposal.

As of the end of 1977, the Carter administration had not submitted any draft legislation to Congress to establish an international grain reserve system. And, while the President had been given the authority by the Food and Agriculture Act of 1977 to enter into negotiations to create such a system, formal negotiations had not been started.

Commission on Domestic and International Hunger and Malnutrition

On September 27, 1977, Representative Richard Nolan of Minnesota introduced House Resolution 784, expressing the sense of the House that the President should establish a temporary Commission on Domestic and International Hunger and Malnutrition. The resolution was cosponsored by over 250 other Members of the House, including 38 members of the House Agriculture Committee. House Resolution 784 was jointly referred to the Committees on International Relations and Agriculture.

A hearing was held on the measure by the House Agriculture Committee on October 20, 1977. In addition to receiving testimony from seven House Members, the National Farmers Organization, the National Farmers Union, and other public witnesses, administration officials representing the Departments of State and Agriculture testified on U.S. efforts at combating world hunger and malnutrition.

In the Agriculture Committee report [5] on the measure, it was stated that the sponsors expected the Commission would not simply study the problem of world hunger in general, but rather compare and evaluate the numerous studies and reports which had already been done on the subject. One goal of the Commission would be to develop for the President and Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition. The Commission was expected to make an interim report after 6 months and a final report after 1 year. Following the transmittal of the final report, the Commission was to assist for 1 year in the implementation of its recommendations and in conducting an educational program disseminating its findings to the public.

The measure was considered by the House Agriculture Committee and reported out on October 26, 1977. The House International Relations Committee considered the resolution the next day, made two minor amendments, and reported it favorably to the floor.[6] On November 1, 1977, House Resolution 784 was passed in the House by a vote of 364 to 38.

Agricultural exports and the Export Control Amendments of 1977

As a result of the reaction to the 1973 soybean embargo and the grain sales moratoriums against the Soviet Union and Poland in 1974 and 1975, there was a good deal of support in Congress for changes in the Export Administration Act. The 1974 extension of the Export Administration Act of 1969 was to expire on September 30, 1976. Both the Senate and the House had passed extension bills during the 94th Congress, but both bills died when no Senate conferees were appointed before final adjournment.

In the first session of the 95th Congress, the House and Senate considered and passed Export Administration extension bills in April and early May respectively. A conference report[7] was issued in mid-May, and the extension became Public Law 95–52 on June 22, 1977.

Two provisions of the bill are of particular importance to U.S. international food policy. Both, in some form, had been in the bills that died at the adjournment of the 94th Congress.

Congressional review of export controls of agricultural commodities.—As reported by the International Relations Committee, section 105 of the House bill extending export controls, H.R. 5840, provided for a congressional veto of any export controls placed on agricultural commodities for foreign policy reasons.[8] The vehicle for the exercise of this veto was to be a concurrent resolution of disapproval passed by Congress during a 30-day period following receipt of the President's report on instituting the controls.

On the floor of the House, Representative Skubitz of Kansas proposed an amendment which stated that any controls placed on the

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[5] U.S. Congress. House. Committee on Agriculture. Commission on Domestic and International Hunger and Malnutrition. Oct. 28, 1977. Report to accompany H. Res. 784. 95th Cong., 1st sess. H. Rept. 95–780 pt. 2. Washington, U.S. Government Printing Office, 1977. 5 pp.

[6] U.S. Congress. House. Committee on International Relations. Commission on Domestic and International Hunger and Malnutrition. Oct. 31, 1977. Report to accompany H. Res. 784. 95th Cong., 1st sess. H. Rept. 95–780 pt. II. Washington, U.S. Government Printing Office, 1977. 5 pp.

[7] U.S. Congress. House. Conference Committee. Export Administration Amendments of 1977. May 18, 1977. Report to accompany H.R. 5840. 95th Cong., 1st sess. H. Rept. 95–354. Washington, U.S. Government Printing Office, 1977. 58 pp.

[8] U.S. Congress. House. Committee on International Relations. Export Administration Amendments of 1977. Apr. 6, 1977. Report to accompany H.R. 5840. 95th Cong. 1st sess. H. Rept. 95–190. Washington, U.S. Government Printing Office, 1977. 58 pp.

export of agricultural commodities for foreign policy reasons would expire at the end of 30 days unless Congress adopted a concurrent resolution approving the controls. The Skubitz amendment was agreed to by voice vote.

In the Senate, section 105 of the export control extension as reported by the Senate Banking, Housing, and Urban Affairs Committee (S. 69), contained exactly the same language as section 105 of H.R. 5840 as reported from the International Relations Committee.[9]

On the Senate floor, Senator Dole offered an amendment to section 105, the effect of which would be to allow a congressional veto of export controls imposed on agricultural commodities for short supply as well as foreign policy reasons. The Dole amendment was agreed to by a voice vote.

In conference, the conferees adopted the Senate version of section 105; that is, export controls for either foreign policy or short supply reasons would cease to be effective within 30 legislative days after they were reported to Congress if Congress adopted a concurrent resolution of disapproval.

Storage of agricultural commodities in the United States.—The second relevant provision of the Export Administration Act extension concerns allowing storage of U.S. agricultural commodities purchased by foreigners for eventual export. This issue was felt to be particularly important in light of U.S. actions during the 1973 soybean embargo when the Japanese, who had purchased significant amounts of soybeans for food, were unable to export their soybeans from the United States because of the embargo.

In H.R. 5840 as reported from the International Relations Committee, section 104 provided that U.S. agricultural commodities that had been purchased by foreigners, but stored in the United States, would be exempt from any future export controls on agricultural commodities upon findings by the Secretary of Commerce that the commodities would eventually be exported and that storage in the United States would not unduly limit the space available for domestically owned stocks. The International Relations Committee bill required the Secretary of Commerce to make his findings within 30 days of application, failing which, approval would be deemed to have been given.

Section 104 of S. 69 as reported by the Senate Banking Committee contained similar language except that no time limit was imposed upon the Secretary of Commerce and, in addition to the findings required in section 104 of H.R. 5840, the Senate bill required the Secretary of Commerce to find that neither the sale nor the export of the agricultural commodities would result in an excessive drain of scarce materials or have a serious domestic inflationary impact. In addition, the Secretary of Commerce had to find that the purpose of the storage in the United States was to establish a reserve for later use, which use did not include resale by the original buyer or sale to a third country. Neither the House nor Senate committee version of section 104 was amended on the floor. In conference, the conferees accepted the Senate version of this section of the export administration extension amendments.

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[9] U.S. Congress. Senate. Committee on Banking, Housing, and Urban Affairs. Export Administration Amendments of 1977. Apr. 26, 1977. Report to accompany S. 69. 95th Cong., 1st sess. S. Rept. 95-104. Washington, U.S. Government Printing Office, 1977. 82 pp.

Hearings on U.S. agricultural trade.—Two oversight hearings were held during the year on U.S. international agricultural trade. In the House, the Subcommittees on Oilseeds and Rice, and Livestock and Grains of the House Agriculture Committee held joint hearings on the export of U.S. agricultural commodities.[10]

Testimony was received from two administration witnesses, Agriculture Secretary Bergland and James Starkey, Senior Agricultural Adviser of the Office of Special Trade Representative, as well as public witnesses representing corn, rice, wheat, peanut, cotton, citrus and soybean producer groups. Major issues covered included the reaction of the witnesses to the agricultural issues at the Multilateral Trade Negotiations in Geneva, and specific foreign competitive situations.

In the Senate, the Subcommittee on International Trade of the Senate Finance Committee held hearings on problems in international agrilcultural trade.[11] For the administration, Agriculture Secretary Bergland and Assistant Secretary of State Katz testified. Public witnesses from groups representing the entire range of agricultural commodities exported by the United States gave the committee their views on agricultural trade problems.

Prospects for 1978

Of the issues facing Congress for 1978 in the area of U.S. international food policy, the most immediate would involve implementing any international grain reserves system that had been negotiated by the executive branch. U.S. accession to such a system and the establishment of the system domestically would require action by Congress. A second issue of concern for 1978 is likely to be over how U.S. agricultural interests fare at the Multilateral Trade Negotiations (MTN) presently underway in Geneva. A favorable MTN outcome would help insure high levels of U.S. agricultural exports. An unfavorable outcome could have very serious consequences for U.S. farmers, who are heavily dependent on income from exports.

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[10] U.S. Congress. House. Committee on Agriculture. Subcommittees on Oilseeds and Rice and Livestock and Grains. Export of U.S. Agricultural Commodities. Hearing. 95th Cong., 1st sess. Oct. 12, 1977. Washington, U.S. Government Printing Office, 1977. 130 pp.

[11] U.S. Congress. Senate. Committee on Finance. Subcommittee on International Trade. Problems in International Agricultural Trade. Hearings 95th Cong., 1st sess. July 13, 1977. Washington, U.S. Government Printing Office, 1977. 107 pp.

U.S. International Energy Policy*

OVERVIEW

During the year under review, in effect, the larger international energy problems were not decisively affected by either Presidential policy or congressional action. OPEC continued to control the price and supply of oil, monetary problems created by high oil costs were unresolved, the threat of nuclear weapons proliferation was not further checked, and the hope for international cooperation in energy affairs faded with the closing of the Conference on International Economic Cooperation in June 1977. Some of these problems were beyond the powers of the President and/or the Congress to solve—oil prices, for example—while others—such as international cooperation—were not addressed by either the executive or the legislative branches.

DISCUSSION

Congressional interest in energy matters focused on the President's National Energy Plan, announced on April 20, 1977, and the legislation introduced subsequently to implement the plan. The President called for an energy conservation program that ultimately would reduce oil imports to a level of 6 million barrels per day (MMb/d) by 1985 (the April 1977 rate was 8.4 MMb/d projected at current rates to rise to 12 MMb/d by 1985). Most energy experts, both in the United States and overseas, expected such a drop in U.S. oil imports to reduce demand pressures for future price increases, to ease international supply constraints since the United States would not be taking such a large proportion of the world's available oil, to reduce the U.S. vulnerability to embargoes or other politically motivated supply interruptions and consequently ease the political pressures on all the oil consumers, and to reduce the U.S. deficit in its balance of payments, a factor which was weakening the dollar and the world's monetary system. But those same energy experts also expressed doubt that the President's energy plan would be passed by the U.S. Congress. The House of Representatives considered and passed the National Energy Act, H.R. 8444, which included most of the President's proposals. The Senate divided the President's proposals among several bills. Congressional conferees began meeting in October 1977 to resolve differences between the House bill, H.R. 8444, and several Senate bills, which would implement the President's plan, but the first session ended without agreement.

Neither the executive branch nor Congress took direct action to lower energy resource imports. The proposed conservation program included in the National Energy Plan would indirectly reduce imports of oil and natural gas. One proposal included in H.R. 8444 and the Senate bills was a crude oil equalization tax, which would raise the

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* Prepared by Clyde R. Mark, Analyst in Middle Eastern Affairs.

price of domestically produced crude oil to the world price level by adding a tax equal to the difference between the two prices. In theory, the higher price of all oil would be an incentive to conserve oil. The equalization tax is one of the proposals that was still at issue in House-Senate conference negotiations at year's end.

The Outer Continental Shelf Lands Act (S. 9/H.R. 1614), held in the House Rules Committee awaiting passage of H.R. 8444, will, if passed into law, establish Federal procedures for siting, construction, and operation of terminals for importing liquefied natural gas (LNG). The bill does not specify whether the Department of Transportation, the Department of Energy, or some other agency would regulate the LNG ports. Such regulation at present is left to local authorities.

The Alaskan Natural Gas Transportation System Approval (Public Law 95–158, November 8, 1977) authorized the trans-Canada pipeline route for transporting natural gas to the lower 48 States from the North Slope fields of Alaska. Design, construction, financing, regulation, and other problems are still to be resolved.

The 95th Congress dealt with several other international energy issues during the first session. The Department of Energy was created with the passage of the Department of Energy Organization Act (Public Law 95–91, August 4, 1977). Under the law, the new Department is charged with formulating U.S. policy in international energy affairs, although it is apparent that the Departments of State, Defense, Transportation, Treasury, and other executive agencies would continue to be involved in international energy policy matters. For example, in November 1977, it was the Department of State that arranged and announced the sale of nuclear fuel to Brazil. Also under the law, the Department of Energy is charged with managing the Naval Petroleum Reserves, formerly under the jurisdiction of the Department of Defense.

U.S. policy toward nuclear power remained cloudy and confused, both in its domestic application and for the export of nuclear fuels, powerplants and associated technology and materials. At issue for domestic nuclear power were questions about nuclear powerplant safety, nuclear waste disposal, nuclear powerplant efficiency, and the possible theft of enriched uranium or plutonium for weapons fabrication. At issue for international nuclear power was its relation to the further spread, or proliferation, of nuclear weapons and the control of U.S. nuclear exports.[1] On April 7, 1977, the President announced that the Clinch River, Tenn. plutonium breeder demonstration would be terminated and that the United States would impose new non-proliferation conditions on future exports of enriched uranium. Apparently, the President reasoned that commercial use of breeder reactors and loosely regulated exports of enriched uranium increased the risk of proliferation.

Congress disagreed with the President's decision on the breeder reactor and passed the Energy Research and Development Authorization Act of 1977 (S. 1811) which contained funding for the Clinch River project. The President vetoed S. 1811 on November 5, 1977. But the appropriation for the Energy Research and Development Administration (ERDA) contained $80 million to continue the Clinch River demonstration plant, money which the Comptroller General of

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[1] See the discussion of nuclear nonproliferation on pp. 83–88. (Ed.)

the United States has advised cannot be used for terminating the project. Thus, the future of Clinch River, and the issue of breeders and nonproliferation, remains uncertain.

The House of Representatives passed the Nuclear Anti-Proliferation Act of 1977 (H.R. 8638) in September which would have permitted U.S. nuclear exports subject to several conditions, including an ultimate requirement for the recipient nation to place all of its nuclear facilities under International Atomic Energy Agency safeguards. The conditions would have been imposed by the renegotiation of agreements for cooperation and as regulatory criteria for individual nuclear exports. The Senate had not completed action on a companion bill by the end of the first session.

Meanwhile, other U.S. actions appeared to be inconsistent with the policy directions being considered by Congress and the executive branch. On September 22, 1977, the United States participated again in the so-called London nuclear suppliers group of 15 nations in establishing a "code" for the international transfer of nuclear materials. On the surface, the London nuclear suppliers group has the appearance of a cartel, which in theory the United States should oppose in the same manner that it opposes OPEC. How the "code" will compliment the IAEA or the nuclear export controls under consideration in the United States remain to be seen.

On October 19, President Carter proposed the creation of an international nuclear fuel bank, which while apparently inconsistent with his intention to reduce the use of nuclear power was consistent with his nonproliferation policies. The international fuel bank is designed to prevent the diversion of nuclear materials for weapons manufacture. On November 16, the State Department announced that the United States would furnish enriched uranium to Brazil. Previously, the United States opposed the expansion of the Brazilian nuclear program to include reprocessing and held a series of diplomatic meetings with the West Germans, Brazil's partner, to dissuade the Germans from supplying sensitive enrichment and reprocessing technology to Brazil. At year's end, the President and the Shah of Iran reached an agreement that would allow the sale of six to eight nuclear powerplants to Iran,[2] and the President signed an agreement in India to supply that country with nuclear fuel despite the U.S.-Indian disagreement over application of nuclear safeguards.

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GLOBAL INSTITUTIONS AND ISSUES

U.S. Participation in the United Nations System*

OVERVIEW

Congressional attitudes in 1977 toward the U.N. system continued generally to be supportive of U.S. participation in the United Nations and its agencies and programs. However, Congress was concerned with certain specific practices and agencies and in a few instances reduced the requested funds for U.S. contributions.

Thus, Congress

—voted down amendments that would have reduced U.S. contributions to the U.N. system;

—appropriated contributions to UNESCO for only 2½ years, instead of the 4 years requested, urging that the executive branch strengthen U.S. participation on UNESCO and work to counter politicization of actions taken by UNESCO bodies;

—authorized $10 million more than requested for the U.N. development program (UNDP) but appropriated $15 million less, rejecting an amendment to reduce the amount further;

—rejected amendments to remove the technical assistance portion from U.S. regular budget contributions in spite of its concerns over increasing U.N. agency budgets and their use for technical assistances;

—continued its refusal to fund U.S. contributions to United Nations University (UNU) and reduced by half the U.S. contribution to the U.N. Fund for Drug Abuse Control (UNFDAC);

—supported Carter administration initiatives in support of the U.N. system, including naming of Andrew Young as U.S. representative, but also supported U.S. withdrawal from the International Labor Organization (ILO).

In addition, Congress and its committees indicated support of United Nations reform by

—making recommendations for change during a review of U.S. participation in international organizations;

—requesting executive branch consideration and recommendation of proposals for reform of the United Nations.

DISCUSSION

Financing contributions to the U.N. system

During 1977, Congress appropriated approximately $204 million for U.S. 1978 contributions to the regular budgets of the United Nations and its agencies and approximately $251 million for U.S. 1978 voluntary contributions to the numerous special programs of the U.N. system. The first group of appropriations—for assessed contributions

*Prepared by Marjorie Ann Browne, Analyst in International Organizations.

to regular budgets—was authorized in the Foreign Relations Authorization Act, Fiscal Year 1978,[1] and appropriated in the Department of State Appropriations Act, 1978.[2]

During consideration of the Foreign Relations Authorization Act, the House, by a 149–257 vote, rejected an amendment that would have substantially reduced U.S. contributions to the regular budgets of the United Nations and its specialized agencies by basing that annual contribution on the ratio of the U.S. population to the total population of all members of the United Nations. Amendments similar to this proposal have been submitted, considered, and rejected, in Congress for a number of years.[3] Voluntary contributions were authorized in the International Development and Food Assistance Act of 1977 [4] and appropriated in the Foreign Assistance and Related Programs Appropriations Act, 1978.[5]

United Nations development program (UNDP)

The largest element in the international organizations and programs section of the authorization and appropriations legislation for voluntary contributions was for U.S. contributions to the UNDP. The following chart identifies the UNDP figures at various stages of congressional consideration:

	1977 estimates	1978 request	House committee	House	Senate committee	Senate	Public law
Authorization	$100	$130	$140	----------	$140	----------	$140
Appropriation	100	130	120	(1)	110	----------	115

1 On June 22, 1977, the House, by a vote of 232 against to 182 in favor, rejected an amendment cutting $31,000,000 from the $120,000,000 recommended by the Committee for UNDP.

While both policy committees approved spending for UNDP at a level $10 million higher than that requested by the executive branch, the appropriations committees viewed U.S. contributions to UNDP from a more negative perspective. The House International Relations Committee observed that the $140 million recommended would amount to 22 percent of contributions from all countries for 1978, less than the 25 percent limit established by Congress for U.S. assessed contributions.[6] The Senate Foreign Relations Committee recalled that the $140 million level would still "represent a reduction in the U.S. share from the 35 percent level in 1970." [7] On the other hand, the appropriations committees focused on the capabilities of the UNDP to operate efficiently. The House Committee report questioned whether "efficient administration" were possible with "such an immense operation" and expressed the belief that, "if the UNDP could slow down its operation and concentrate on a number of good projects, the needs of the poor would be better served." [8]

The Senate Appropriations Committee, in deleting $20 million from the UNDP request, criticized the so-called U.N. development system,

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1 Public Law 95–105, approved Aug. 17, 1977.
2 Public Law 95–86, approved Aug. 2, 1977.
3 See Congress and Foreign Policy—1976, p. 155.
4 Public Law 95–88, approved Aug. 3, 1977.
5 Public Law 95–148, approved Oct. 31, 1977.
6 H. Rept. No. 95–240, p. 38.
7 S. Rept. No. 95–161, p. 40.
8 H. Rept. No. 95–417, p. 27.

which is, according to the committee report, "under the control of 40 separate governing bodies." The committee asserted that—

> Almost ten years after the United Nations recognized the need for consolidation of control and direction of its assistance programs, there is still no effective coordinating unit. Indeed, if anything, there has been an increase in the fragmentation of the system. Within that system, the UNDP has lost much of its authority as the specialized agencies have increased their autonomy by increasing their assessed budgets. UNDP activities are now duplicated or supplanted by the specialized agencies in many instances.
>
> * * * The Committee recognizes the improvements made in UNDP programs and administration * * * [by] Mr. Bradford Morse, but we question whether the UNDP * * * can effectively implement * * * [so large an effort].
>
> * * * Until the UNDP becomes, in fact and not just in theory, the central coordinator and funder of UN development assistance, it will have neither institutional stability nor authority. In short, until the UN development system undergoes fundamental structural reform, the UNDP will not be able to manage its myriad technical assistance projects effectively and efficiently.[9]

Technical assistance

As mentioned in the previous discussion of UNDP, the practice of funding technical assistance through the regular budgets of the United Nations and its specialized agencies has been increasing. The Senate Appropriations Committee focused attention on this issue in its consideration of the State Department appropriations for contributions to U.N. agency regular budgets. In fact, the committee recommended deletion from the U.S. contribution to the budgets of the U.N. and its agencies of a portion estimated to fund technical assistance. This recommendation was accepted by the Senate but deleted by the conferees who noted that—

> Approval of such funding * * * does not mean that the conferees condone the present situation with respect to such funds.
>
> The conferees are concerned over the growing tendency of United Nations specialized agencies to increase their assessed budgets to finance technical assistance programs.
>
> * * * Technical assistance activities should be voluntarily financed by the United Nations Development Program.
>
> * * * The conferees instruct the Department to report on how it intends to deal with this problem in the next budget cycle.
>
> These comments should serve as a warning to the UN and other international agencies that the continuation of current funding trends threatens to call into doubt the basic understandings necessary to preserve the willingness of large donors to honor assessed contributions.[9a]

The State Department submitted such a report on March 3, 1978.

United Nations University

Another contribution that is becoming a perennial issue in Congress each year is that of U.S. money for the U.N. University (UNU), which became operational in 1975, has a U.S. national as rector, but has not received any U.S. funding for its endowment. While $10 million was authorized in 1977 for U.S. contributions to UNU, this money was not appropriated. The House supported appropriation of the $10 million but the Senate, by a vote of 50 in favor to 35 against, adopted a committee amendment prohibiting the use of funds for U.S. contributions to UNU. The Senate prohibition was retained in conference.

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[9] S. Rept. No. 95–352, pp. 59, 60.
[9a] H. Rept. No. 95–476, pp. 5–6.

United Nations Fund for Drug Abuse Control (UNFDAC)

In 1976, the Senate Appropriations Committee warned the executive branch that it would limit funds for U.S. contributions for UNFDAC if the U.S. share of funding was not reduced. The committee report even indicated the committee's willingness to "document the case for United States withdrawal from the fund." [10] Referring to its past views on UNFDAC, the committee in 1977, reduced the $6 million request for 1978 by half. "Since its inception in 1971, the Fund," according to the committee, "has received contributions from the international community totaling $22,550,168. The United States contributed $18,000,000 or 79.8 percent of that total." [11]

U.N. Educational, Scientific, and Cultural Organization (UNESCO)

As in previous years, Congress gave specific consideration to U.S. contributions to UNESCO.[12] On January 20, 1977, Congress received President Ford's December 29, 1976, certification that the actions of a "primarily political character" that had been taken by the UNESCO General Conference in 1974, leading to a congressional cutoff of funding for UNESCO, had been changed by the organization. Ford requested that Congress authorize and appropriate funds to pay arrearages as well as assessments for 1977 and 1978.[13] President Carter agreed with the Ford certification and a request for $69.3 million to pay for calendar years 1975, 1976, and 1977 contributions was considered by Congress in supplemental legislation. The Congress authorized funds for U.S. contributions for 1975 and 1976 and approximately half of 1977 ($60 million),[14] but appropriated funds only for the 1975 and 1976 assessments ($43.1 million).[15] During the House International Relations Committee's consideration of the supplemental authorization, the State Department enumerated "future steps the USG plans to counter those trends in UNESCO which remain objectionable to us." They included

—strengthened U.S. representation;
—a fair share of Americans in Secretariat;
—a balance in UNESCO expert bodies;
—promotion of further depoliticization;
—an end to interference by UNESCO with NGO's;
—cleaning the slate of arbitrary actions against Israel.[16]

Funding of contributions to UNESCO was also considered in the regular fiscal year 1978 Department of State authorization and appropriation legislation. Only a little more than half of the 1977 assessment ($17 million) was authorized and appropriated, leaving a total of $37.4 million unpaid for the rest of calendar year 1977 and all of calendar year 1978 contributions.

International Labor Organization (ILO)

On November 1, 1977, President Carter announced that the United States would withdraw from the International Labor Organization, effective November 5, 1977. This was the first time the United States

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[10] See Congress and Foreign Policy—1976, pp. 157–158.
[11] S. Rept. No. 95–352, pp. 78, 79.
[12] See Congress and Foreign Policy—1976, p. 156, and Congress and Foreign Policy—1975, p. 116.
[13] H. Doc. No. 95–63.
[14] Department of State. Appropriation authorization, fiscal year 1977, Public Law 95–45, approved June 15, 1977.
[15] Supplemental Appropriations Act, 1977, Public Law 95–26, approved May 4, 1977.
[16] H. Rept. No. 95–84, pp. 5–6.

had withdrawn from an agency of the U.N. system, a step some viewed as a dangerous precedent for the role of the United States in international organizations. Two years earlier, the United States had submitted its letter of intention to withdraw from the ILO as required by the ILO Constitution and, on the date of its withdrawal, the United States was current in its regular budget contributions to the organization, as also required by the ILO Constitution.[17]

On October 27, 1977, a few days before the November deadline, Senator Dole had introduced Senate Resolution 301, calling for termination of U.S. membership in the ILO, pending a congressional determination that the ILO had returned to its basic principles and purposes of promoting unity among workers, employees, and governments throughout the world. In the light of the President's action, this resolution was not considered.

Congressional recognition of U.N. conferences

It appears that Congress, in legislation, is recognizing some importance in U.N.-sponsored conferences and is requesting that the executive branch respond effectively in preparing for such conferences. At the same time, this is another way in which Congress may influence the foreign policy positions taken by the U.S. Government at these meetings. In the Foreign Relations Authorization Act of 1978, for example, Congress—

> (1) urged the President to take appropriate steps to insure that, at all stages of the U.N. Conference on Science and Technology for Development (to be held in 1979), representatives of the United States place important emphasis on the development and use of light capital technologies; and
>
> (2) requested the Secretary of State report to the appropriate committees on the procedures of the executive branch in preparation for the special session of the U.N. General Assembly on Disarmament in spring 1978.

Finally, the House and Senate each adopted a resolution urging the U.S. delegation to the U.N. General Assembly to promote the convening of a World Assembly on Aging and to schedule a World Year on Aging.[18] The General Assembly, on November 16, 1977, adopted a resolution requesting the views of U.N. member states on this proposal and the Assembly will consider such a year and conference in 1978.

Views of the new administration on U.S. participation in the U.N.

The nomination by President Carter of then Representative Andrew Young to be U.S. representative to the United Nations was and has continued to be controversial. The Foreign Relations Committee, after hearings on January 25, 1977, quickly voted in favor of Young's confirmation and he was sworn in by the end of the month. As the first black U.N. representative from the United States, Young played a role in opening contacts with the Third World and, in particular, with African nations. Young made substantive, though not overwhelming, changes in personnel at the U.S. mission to the U.N.

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[17] See Congress and Foreign Policy—1976, p. 156, and Congress and Foreign Policy—1975, p. 117.
[18] S. Res. 238 was agreed to by the Senate on Oct. 5, 1977, and H. Res. 736, by the House, on Oct. 31, 1977.

in New York, and created, for the first time a special staff in Washington, in the State Department's Bureau of International Organization Affairs. The Washington Office of the U.S. Ambassador to the U.N. is to work closely with the Department, in particular the Office of Congressional Relations and the Bureau of International Organization Affairs, and is to assist Young in his participation in Cabinet and National Security Council meetings.

However, some Members of Congress and the media have viewed Young, and more particularly some of the public statements he has made, as irresponsible and inappropriate. A House floor amendment to the Foreign Relations Authorization Act to delete the funding for the staffing of Young's Washington office was considered but rejected by a vote of 318 nays to 91 yeas.[19] Also pending in the House, but not considered, was a resolution to impeach Ambassador Young "for high crimes and misdemeanors." Thus, efforts to restrict or discredit Young were defeated in Congress and he continued to work in the United Nations and on the role of the United States in the United Nations.

The policy of strengthening the role of the U.S. in the U.N. was one which received Presidential backing when Carter chose to deliver his first major foreign policy address as President of the United States to a meeting in the United Nations General Assembly Hall before the delegations of the U.N. membership on March 17, 1977. Toward the end of the year, in October, during the 32d session of the General Assembly, President Carter spent 2 days at the United Nations meeting with delegates from other countries as well as with U.N. officials. He also signed two human rights treaties at U.N. headquarters. These face-to-face actions were apparently intended to illustrate both to other nations and to the U.S. public the President's commitment to the United Nations as a viable international organization.

United Nations reform

In February 1977, the Senate Governmental Affairs Committee released a report which reviewed U.S. participation in international organizations, especially the organizations of the United Nations system.[20] The report addressed in detail five broad areas of difficulty:

(1) political trends in international organizations;
(2) overlap between international organizations;
(3) assessing the effectiveness of international organizations;
(4) U.S. participation in international organizations;
(5) personnel in international organizations.

This report was the product of a year-long study [21] during which committee staff reviewed replies to questionnaires sent to 33 Federal agencies involved in the making of U.S. policy toward 65 international organizations (IO's), visited the headquarters of a number of organizations located in Geneva, Rome, and New York, and interviewed numerous other officials and outside experts.

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[19] The vote on this amendment was viewed by its proponents as a vote for or against Young and his statements.

[20] See end of section for citation.

[21] See Congress and Foreign Policy—1976, p. 160.

The committee's report identified challenges confronting these international organizations and problems facing U.S. policymakers in meeting these challenges. The "challenges" included:

—trends toward politicization;
—rapid and unsystematic growth in number of IO's, leading to duplication;
—absence of effective overall coordination within U.N. system;
—an increasing trend toward fragmentation;
—the slowness with which IO's have adopted procedures for independent and continual evaluation of their activities and programs;
—the failure to adopt modern management techniques;
—excessive salary levels.

The problems facing U.S. policymakers included—

—failure to determine specific reasons for U.S. participation in each organization or to establish specifically the goals the United States hopes to achieve in each. Need for periodic reassessments by Congress and executive branch of costs and benefits of U.S. participation in each IO;
—inability of the State Department to provide effective, overall coordination of U.S. participation in many IO's;
—inadequate level of resources devoted to U.S. evaluation of budgets and program effectiveness;
—limited diversity of people in private sector who serve on advisory committees and delegations utilized for formulation and implementation of U.S. policy toward IO's;
—deficiencies in system of laws governing U.S. participation in IO's;
—failure of U.S. to have as many nationals working as employees of IO's as it should.

The release of this report in February was followed in May 1977 by the release by the General Accounting Office of five reports prepared for the Senate Governmental Affairs Committee on U.S. participation in the World Health Organization, the ILO, the World Food Program, and Food and Agriculture Organization, and on U.S. Government efforts to recruit qualified candidates for employment by U.N. organizations.[22] Each of the reports identified areas for improvement both in the international organizations and by the U.S. Government.

Last, the committee, in June 1977, held a symposium on the role of the United States in specialized agencies.[23] A panel of six experts, including the new Assistant Secretary of State for International Organization Affairs, C. William Maynes, joined in an open exchange of views with the Senators and committee staff present on a number of issues addressed in the committee report.

In addition, Congress, in section 503 of the Foreign Relations Authorization Act of 1978, required the President to submit a report offering recommendations for reform of the United Nations. The legislation included a minimum listing of issues which the report should address. In the Senate, section 503 originated with a recommendation of Senators Howard Baker and George McGovern, as a result of their participation on the U.S. delegation to the U.N. General Assembly in 1976.[24] Both the House and Senate committees recom-

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[22] See pp. 140–141. for citation.
[23] See pp. 140–141. for citation.
[24] See p. 140 for citation to report of Senators Baker and McGovern on their participation on the U.S. delegation.

mended similar language on the U.N. reform section, thereby indicating a degree of consensus in Congress on the need for the United States to develop concrete proposals for reform and to promote these proposals at the United Nations.[25]

Future congressional concerns

On the broad question of continued U.S. participation in specific U.N. system agencies, opportunities are likely to arise in 1978 for congressional review of two organizations. First, Congress will have before it in 1978 a supplemental request for funding U.S. contributions to UNESCO for half of 1977 and all of 1978, as well as a fiscal year 1979 request for contributions to the calendar year 1979 budget. A UNESCO General Conference—the biennial policy-se ting meeting of the total UNESCO membership—will meet in Paris in October/November 1978. During its budget review, the appropriate committees of Congress may wish to inquire as to the progress made in implementing the steps identified to the House Committee on International Relations in early 1977. The General Conference may be a testing ground for the success of these steps.

The second agency that may be subject to congressional review is the International Labor Organization. While the administration has not requested funds for U.S. contributions to ILO, since the United States is no longer a member of that organization, the U.S. withdrawal might not necessarily be viewed as permanent. Some in Congress might consider it proper to review the organization and its operations, in the light of the reasons for the U.S. withdrawal, with some consideration given to a possible return to the organization by the United States.

The U.S. budget review will undoubtly include a reexamination of (1) the question of the capability of the UNDP to coordinate U.N. development assistance, and (2) the trend toward the use of regular budgets for the financing of the technical assistance. A State Department report on the second question was completed in March 1978. In addition, the sources of continued increases in the budgets of these organizations, and especially the salaries portion of these budgets, will continue to be an issue of concern to many in Congress.

Finally, several different reports and recommendations were made in Congress in 1977 or submitted to Congress in early 1978, on the question of reform of the United Nations and the U.N. system and of the participation of the U.S. Government in international organizations. If those in Congress are serious in their interest in working together with the executive branch to strengthen both the U.N. system and U.S. participation of the U.S. Government in international organizations, then extensive steps—both legislative and oversight—in this area may have to be taken.

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[25] The President transmitted the report required by sec. 503 to the Congress on Mar. 2, 1978.

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Human Rights*

OVERVIEW

During 1977 human rights was a pervasive theme in congressional debate on almost every topic relating to foreign affairs. It was raised as an issue to be considered in deciding whether to approve ratification of the Panama Canal Treaty; it was raised as an important factor in discussions of moves toward normalization of relations with Cuba, Vietnam, and the People's Republic of China; it was raised in debates over President Carter's granting of most favored nation trading terms to Romania; and it was an important component of the congressional debate on U.S. withdrawal from the International Labor Organization.

Discussions of human rights situations in given countries or of U.S. policy on human rights were daily occurrences in the Congressional Record during 1977. Provisions relating to human rights were incorporated into almost every major piece of legislation relating to foreign relations. Existing human rights legislation was amended, expanded, and tightened. Debate and action on human rights legislation revealed, however, sharp differences not only within the House and the Senate, and between the legislative and executive branches, but also between the two legislative bodies.

Congressional views on human rights and U.S. foreign policy

Congressional debates on human rights reveal views on human rights ranging from the position that the United States has no business meddling in the internal affairs of another country, to the other extreme that the United States should refrain from any relations with countries violating the basic rights of their own citizens. The majority of congressional views, seem, however, to lie between these two extremes—most members seem generally to favor some U.S. activity in the international human rights area.

There are, however, differences in congressional opinion about such activity. Some feel that U.S. human rights advocacy in 1977 has been too selective; that rightist governments often friendly to the United States—such as Chile, Brazil, the Philippines, and South Korea—have received a disproportionate share of criticism, while human rights violations in Communist countries—such as Vietnam, Cuba, the Soviet Union, and the People's Republic of China—have hardly been mentioned. In this view U.S. human rights policy has been preoccupied with relatively minor abridgements of certain rights in authoritarian states while overlooking massive violations in totalitarian states. Concern has also been expressed that U.S. policy has been so preoccupied with human rights violations in southern Africa, that little has been done about the reported gross violations in such countries as Uganda and Guinea.

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*Prepared by Vita Bite, Analyst in International Relations.

On the other side of this position are those who say that U.S. concern for human rights in particular countries is expressed in inverse proportion to the closeness of U.S. relationship or prospective relationship to that country. Thus, in this view, it is easy to express concern for the human rights of Jewish and other minorities in such a traditional "enemy" state as the Soviet Union, while little public concern is expressed about human rights situations in such friendly, client or allied states as the Philippines, South Korea, or Iran.

Congress differed as well on how much leeway the executive branch should be allowed in implementing human rights policy legislated by Congress. Some Members felt that Congress could give the executive branch no flexibility in implementing its intentions by requiring, for example, a mandatory "no" vote in the international financial institutions on loans to countries deemed human rights violators. Others satisfied with President Carter's expressions of commitment to human rights abroad felt that the Executive should be given some discretion in implementing the human rights policy set down by Congress.

DISCUSSION

Foreign assistance legislation

International Development and Food Assistance Act of 1978 (Public Law 95–88).—Addititional human rights provisions, incorporating both House and Senate versions, were added to U.S. foreign economic assistance programs by the International Development and Food Assistance Act of 1977 (Public Law 95–88).[1] Section 111 of this act amended section 116 of the Foreign Assistance Act of 1961 by revising subsections (c) and (d) and adding a new subsection (e). Revised subsections (c) and (d) required that in determining whether assistance was to be provided, the Administrator of the Agency for International Development (AID), in consultation with the State Department Coordinator for Human Rights and Humanitarian Affairs, was to consider "specific actions which have been taken by the President or Congress relating to multilateral or security assistance to a less developed country because of human rights practices or policies in such country."

The existing reporting requirement was also revised, mandating that the Secretary of State transmit by January 31 of each year a full report on the status of basic human rights in countries receiving U.S. development assistance, including the steps the Administrator has taken to alter U.S. programs in any country because of human rights considerations.

The new subsection (e) earmarked $750,000 of development assistance funds for studies to identify and carry out programs which will encourage or promote increased adherence to civil and political rights, as enunciated in the Universal Declaration of Human Rights. None of these funds were to be used directly or indirectly to influence elections in another country. A House International Relations Committee report (H. Rept. 95–240) pointed out that while the major emphasis of AID's programs was in the area of economic and social rights, this small amount was to be set aside to further civil

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[1] See Congress and Foreign Policy for 1975 and 1976 for discussion of existing human rights legislation.

and political rights. Moreover, unlike most other human rights legislation, it did not respond to human rights situations in terms of sanctions or threats, but rather affirmatively encouraged greater adherence to international human rights standards.

Section 203 as enacted added a new section 112 to title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480). It would prohibit entry into an agreement under that title to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of human rights violation, unless such agreement would directly benefit the needy people in that country. The new section also provided that the House International Relations Committee or Senate Committee on Agriculture, Nutrition and Forestry might require the President to submit in writing information demonstrating that a particular agreement would directly benefit the needy in a country.

As already provided in existing legislation, in determining whether a government was engaging in a consistent pattern of gross violations of human rights, consideration was to be given "to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations by various international organizations such as the Red Cross, the United Nations or the Organization of American States.

Finally the President was required annually to transmit to Congress a report on steps that had been taken to carry out the provisions of this section.

International Security Assistance Act (Public Law 95–92.)—Legislation enacted during the 94th Congress amending section 502B of the Foreign Assistance Act already required that serious consideration be given to human rights situations in implementing security assistance programs. The International Security Assistance Act enacted during 1977 added certain human rights provisions relating to specific countries.

An amendment offered by Senators Kennedy, Church, Abourezk, McGovern, and Anderson and modified by Senator Humphrey and the Conference Committee, prohibited the furnishing to Argentina after September 30, 1978, of any military assistance, security supporting assistance, international military education and training credits or loan guaranties, and sales of defense articles or services, and prohibited the issuance to or for the Argentine Government of export licenses under the Arms Export Control Act.[2]

Section 8(d) as finally adopted contained a Senate provision expressing the sense of Congress that the United States supports "an internationally recognized constitutional settlement of the Rhodesian conflict leading promptly to majority rule based upon democratic principles and upholding basic human rights." [3]

As reported by the Senate Foreign Relations Committee (S. Rept. 95–195) the measure had included a provision prohibiting any military assistance to Ethiopia because of consistent and gross violations of human rights,[4] among other reasons. The Conference Committte (H. Rept. 95–503) deleted this prohibition; authorization for funding for Ethiopia was deleted from the bill, however. The

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[2] See also the discussion of Latin America on pp. 180–189. (Ed.)
[3] See also the discussion of Africa on pp. 173–179. (Ed.)
[4] See also the discussion of conventional arms transfers on pp. 70–82. (Ed.)

Conference Committee also stated that it understood the policy of the United States to be that defense articles and defense services would not be provided to Ethiopia. Should such a policy change, the committee expected the executive branch to consult with Congress before implementation.

The House version of this bill also amended section 502 of the Foreign Assistance Act of 1961 to prohibit military assistance and sales which would directly or indirectly aid the efforts of foreign governments to repress the legitimate rights of their citizens contrary to the Universal Declaration of Human Rights. The provision was deleted by the Conference Committee, which felt that the language would have had such a broad application as to be "impractical and impossible to implement." In addition the committee felt that section 502B already provided for serious consideration of human rights situations in implementation of security assistance programs.

Authorization for international financial institutions (Public Law 95–118).—The Carter administration differed with Congress, and the two Houses of Congress differed with one another, on other human rights provisions enacted during the 95th Congress. The best U.S. approach to encouraging multilateral banks to limit lending to countries with poor human rights records was a topic of major congressional debate during consideration of authorizations for international financial institutions.[5]

The House agreed by voice vote to a Badillo amendment that directed the U.S. representatives at all the banks to oppose loans to human rights violators unless the credit was directed specifically to programs which serve the basic needs of the citizens of the recipient country. The House also adopted a second Badillo amendment directing the Secretary of the Treasury to begin a wide consultation beginning with the industrialized democracies in order to develop a standard for meeting basic human needs and protecting human rights, and a mechanism for insuring that the rewards of international economic cooperation go to those countries subscribing to such standards.

The Senate, however, accepted human rights provisions that directed U.S. representatives to use their voice and vote to seek to channel assistance to countries other than those that show a consistent pattern of human rights violations. The Foreign Relations Committee (S. Rept. 95–159) felt that directives should "not be issued which would place the United States in a position of a mandated 'no' vote, thus obviating U.S. negotiating strength and influence in an institution," and that the stated objective was to improve human rights, rather than concentrate on punitive measures toward countries committing violations. This approach was also favored by the President, who in an April 18 letter to Senator Humphrey expressed (a) support for such a human rights provision, and (b) opposition to the House-passed provision which required the United States to vote against any loan to a country in which human rights are violated.

The Conference Committee remained deadlocked for a long time on this issue as each side insisted on its approach to human rights. As finally enacted, U.S. executive directors were authorized and instructed

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[5] See also the discussion of multilateral assistance on pp. 103–116. (Ed.)

to oppose loans, financial assistance or technical assistance to countries violating human rights unless such assistance would serve basic human needs. The required consultations on a viable international standard protecting human rights were broadened beyond "industrial democracies" (House version) or "democracies" (Senate version) to include all countries.

Foreign Assistance and Related Programs Appropriations Act, 1978 (Public Law 95–148).—A similar divergence in congressional and executive views arose over provisions in the Foreign Assistance and Related Programs Appropriations Act, 1978. The House voted on June 23 to prohibit international financial institutions from using U.S. funds for assisting Uganda, Vietnam, Cambodia, Laos, Angola, Mozambique, and Cuba, because of their poor human rights records, among other considerations. In August, after World Bank President McNamara stated that the institution would not accept U.S. funds under the restrictions specified by the House-passed measure, the Senate deleted such a provision from the bill. After a House-Senate conference was unable to resolve the issue, President Carter in an effort to find an alternative to the House version, met with congressional leaders on September 31 to work out a compromise.

On October 6, the President wrote a letter to Congressman Clarence Long, chairman of the Foreign Operations Subcommittee of the House Appropriations Committee. In the letter Carter promised to instruct U.S. representatives to international lending institutions to oppose and vote against any loans to the seven named countries during fiscal year 1978. The legislation as finally enacted prohibited "direct" aid to Uganda, Vietnam, Cambodia, and Laos (section 107); to Angola and Mozambique (section 114); and to Cuba (section 506).

The measure as enacted into law also contained a number of other human rights provisions. Title I barred military education and training funds for Argentina. Section 503A prohibited military assistance, international military education and training, or foreign military credit sales to Ethiopia and Uruguay. Section 503B prohibited foreign military credit sales to Argentina, Brazil, El Salvador and Guatemala. Section 503C limited appropriations for the Philippines to $18,000,000 for military aid, $1,850,000 for military credit sales, and $700,000 for training.

Section 113 prohibited security assistance to any country if it would aid directly the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights. Section 507 expressed the sense of Congress that U.S. representatives to international financial institutions should oppose loans and other aid to nations systematically violating human rights, except when the President determined that rights would be better served by not voting against such assistance or when the aid was intended to go directly to the impoverished majority of the country.

Other legislation

Section 109(a) of the Foreign Relations Authorization Act, 1978 (Public Law 95–105) elevated the State Department Coordinator for Human Rights and Humanitarian Affairs to Assistant Secretary status. It also required the Secretary of State to transmit to Congress

by January 31, 1978, a comprehensive report on the office of the new Assistant Secretary "including its current mandate and operations, the mandate and operations of its predecessor offices, and proposals for the reorganization of the Department of State that would strengthen human rights and humanitarian considerations in the conduct of U.S. foreign policy."

The measure as enacted also contained a Senate provision calling on the United States to make a major effort toward reforming and restructuring the U.N. system, including consideration of various proposals which would improve coordination of and expand U.N. activities on behalf of human rights.[6]

Section 502 (an amendment introduced by Senator Brooke) expressed the finding of Congress that the Belgrade Conference on the Helsinki accords provides the United States an important forum to press its case for human rights and that the emphasis should be translated into concern for specific individuals.[7] In particular, the U.S. delegation was urged to express concern for Anatoly Shcharansky.

Section 511(b) (part of an amendment introduced by Senator Dole, as modified on the Senate floor) expressed the sense of Congress that Cuba's disrespect for individual human rights must be taken into account in any negotiations toward normalization of relations with that country.

During Senate debate on this measure, Senator McClure introduced an amendment which broadened the definition of human rights in section 502B of the Foreign Assistance Act. The amendment defined human rights as including but not being limited to: consent of the governed, as evidenced by freely contested, periodic elections and the right of opposition parties to operate without hindrance; the rule of law; individual freedom; and minority rights. The Senate agreed to this human rights provision, but it was deleted by the Conference Committee.

Other legislation enacted during 1977 amended the Export-Import Bank Act of 1945 (Public Law 95–143) to include human rights provisions. Section 2 of that legislation required the Board of Directors to "take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country." During March 1977 both Houses agreed to amend the U.N. Participation Act of 1945 to halt the importation of Rhodesian chrome (Public Law 95–12). Rhodesia, the only state against which the United States currently imposes economic sanctions, was considered by many to be guilty of violating human rights in its opposition to self-determination for its black majority population. The enactment of this legislation returned the United States to adherence to the Security Council sanctions by effectively repealing section 513 of the Military Procurement Act of 1972 (the Byrd amendment), which had permitted U.S. importation of Rhodesian chrome.[8]

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[6] See also the discussion of U.S. participation in the United Nations system on pp. 133–141. (Ed.)
[7] See also the discussion of the Commission on Security and Cooperation in Europe on pp. 37–42. (Ed.)
[8] See also the discussion of Africa, pp. 173–179. (Ed.)

Congressional resolutions

In addition to the legislation already described, Congress passed a number of resolutions expressing its view and recommending certain executive branch actions on specific human rights issues. Several resolutions expressed congressional concern about compliance with the human rights provisions of the Helsinki Accords.[9] In March both Houses agreed to Senate Concurrent Resolution 7 expressing congressional resolve that the sustained interest of the American people be conveyed to the Soviet Government regarding adherence to the Helsinki Declaration, especially relating to freedom of emigration. The House International Relations Committee had earlier considered and reported a similar measure, House Concurrent Resolution 97, expressing the concern of Congress regarding harassment of Soviet Jews and other minorities. Similarly House Concurrent Resolution 249, passed by both Houses on June 15, expressed the sense of Congress that the U.S. delegation to the Belgrade meeting should make every effort to insure that a proper, straightforward and serious exchange of views take place among the participating states on the application of the principles of the Final Act of the Helsinki Accords, and that the exchange of views also cover compliance and noncompliance with the Final Act's provisions, especially those relating to universal humanitarian ideals.

The House on October 31 also agreed to House Concurrent Resolution 387, reaffirming the commitment of the United States to obtain full compliance with the human rights provisions of the Helsinki Final Act, and expressed congressional support for the President's efforts to advance human rights in the international community and to press for a global commitment to human rights. The Senate has not acted on such a measure, but on July 12 agreed to its own Senate Resolution 198, expressing the sense of the Senate that the U.S. representative to the Helsinki Accords Review Conference should indicate to the Soviet Union and other states represented there the concern of the United States over treatment of Anatoly Shcharansky, Yuri Orlov, and others.

House Concurrent Resolution 388, expressing concern about the recent acts of repression by the Government of South Africa and also noting concern about the death of black leader Steve Biko, was agreed to by the House on October 31 but has not yet been acted on by the Senate. The Senate Foreign Relations Committee had reported Senate Concurrent Resolution 60 on November 1 relating to Biko's death. The Senate agreed in May to Senate Resolution 175, expressing the sense of the Senate that the conduct of the current Ugandan regime deserves condemnation by the world community and that the U.S. representative should request a U.N. investigation of the situation in Uganda.

The House on September 27 agreed to House Resolution 724 expressing its deep concern about the disregard of basic human rights in Cambodia and called upon the President to seek international cooperation in an effort to bring violations of internationally recognized human rights in Cambodia to an end.

Hearings

Human rights issues were a common theme in the 1977 congressional hearings on foreign assistance authorizations and appropriations.

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[9] See also the discussion of U.S. relations with the Soviet Union on pp. 47–52. (Ed.)

Executive branch witnesses, especially State Department representatives, were extensively questioned both about U.S. human rights policy generally and as it related to specific regions and countries. The Subcommittee on Foreign Assistance of the Senate Foreign Relations Committee held 2 days of hearings on March 4 and 7 specifically on human rights issues and their relationship to foreign assistance programs.

The Executive-Legislative Commission to monitor the implementation of the Helsinki Final Act (established by Public Law 94–304) became a focal point of congressional attention to human rights in the Soviet Union and Eastern Europe during 1977.[10] The Commission held hearings on human rights on February 23 and 24 and on human contacts on March 15 and 16, and issued a report in August critical of the Soviet Union's and other countries' implementation of the Helsinki Accords.

The Subcommittee on International Organizations of the House International Relations Committee continued its long-term study of international human rights and U.S. foreign policy. During 1977 the subcommittee held a total of 24 hearings relating to human rights and U.S. foreign policy in 10 different countries. Specifically the subcommittee held hearings on Presidential elections and religious persecution in El Salvador, on human rights in East Timor, Cambodia, Taiwan, Vietnam, Thailand, Indonesia, Iran, and the Israeli-occupied territories as well as the question of self-determination in the Western Sahara. The subcommittee also held hearings to review the 33d session of the U.N. Commission on Human Rights, on human rights issues at the Seventh Regular Session of the Organization of American States (OAS) General Assembly, and to review the administration's record on human rights and U.S. foreign policy.

Human rights treaties

On May 23 President Carter sent a message to the Senate recommending approval of the U.N. International Convention on the Prevention and Punishment of the Crime of Genocide (Executive Order 81–17). The Senate Foreign Relations Committee held 2 days of hearings on the Convention on May 24 and 26. The committee considered it on July 12 and August 2 (and had a procedural discussion on September 28 and October 18), but did not issue a report. The Convention has already been reported four times in the years since its first submission to the Senate in 1949.

President Carter signed the OAS American Convention on Human Rights on June 1 and the U.N. Covenants on Civil and Political Rights and on Economic, Social and Political Rights in October. These three human rights treaties, as well as the U.N. International Convention on the Elimination of All Forms of Racial Discrimination, were transmitted to the Senate for its approval to ratification on February 23, 1978.

Executive branch response to congressional human rights initiatives

In fulfillment of the congressional requirement in section 502B of the Foreign Assistance Act of 1961 as amended (by section 301 of

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[10] See also the discussion of the Commission's activities elsewhere in this volume. (Ed.)

Public Law 94–329) that human rights reports be transmitted annually as part of the presentation materials for countries which are to receive security assistance, reports on the human rights situation in 82 countries were submitted to Congress in March. The reports, transmitted by the Carter administration but largely compiled by the previous administration, were criticized by human rights activists as too cautious and bland. Nevertheless, in response to the reports, a number of Latin American countries—Argentina, Brazil, Guatemala, Uruguay, and El Salvador (the last acting also in response to the House International Organization Subcommittee's hearings on human rights in El Salvador)—renounced U.S. military aid to protest the State Department reports.

In order to carry out the human rights initiatives of President Carter and to fulfill the human rights responsibilities mandated by Congress (including compilation of the annually required human rights reports), the State Department during 1977 restructured its institutional human rights apparatus. Congress had since 1974 been recommending and legislating institutional changes in the State Department to insure that serious attention would be given to human rights as a factor in foreign policy considerations.[11]

As already mentioned above, section 109 of Public Law 95–105 upgraded the rank of Coordinator from Human Rights and Humanitarian Affairs to that of Assistant Secretary of State for Human Rights and Humanitarian Affairs. At the beginning of his administration, President Carter designated Patricia M. Derian to the post of Coordinator of Human Rights and Humanitatian Affairs. During the early months of 1977, even before being confirmed by the Senate, she testified frequently at hearings on human rights, economic assistance, and refugee problems. After a brief hearing before the Senate Foreign Relations Committee on May 25, Ms. Derian was confirmed by the Senate as Coordinator and became Assistant Secretary after enactment of the 1978 Foreign Relations Authorization Act.

Consistent with the upgrading of the status of the Human Rights Coordinator and with the encouragement of Congress, an independent Bureau of Human Rights and Humanitarian Affairs was established, with three component divisions: the Office of Human Rights, the Office of Refugees and Migration Affairs, and a separate section responsible for POW/MIA's. The Office of Human Rights has 13 officers and support personnel, including a Deputy Assistant Secetary for Human Rights. The Bureau coordinates human rights policy for the Department and makes recommendations to the Secretary designed to insure that human rights are a central element of U.S. foreign policy. The required report on the mandate and operations of the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs submitted to Congress on January 31, 1978 as rquired by section 109 of Public Law 95–105 stated that "we believe that the operations of the Bureau of Human Rights and Humanitarian Affairs clearly respond to the intent of Congress." [12]

An executive branch Inter-Agency Committee on Human Rights and Foreign Assistance, popularly termed the Christopher Committee

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[11] See the human rights sections in Congress and Foreign Policy volumes for 1975 and 1976 for development of congressional action in this area.

[12] Senator Kennedy inserted the report in the Congressional Record (daily ed.) vol. 123, Feb. 7, 1978, pp. S1422-6.

(for its chairman, Deputy Secretary of State Warren Christopher) was established to examine the human rights aspects of all AID budgetary program decisions and the U.S. position on loans awaiting action in the international financial institutions. The committee reportedly was also responsible for delaying decisions on the U.S. Public Law 480 food program, while reviewing the human rights situations in the receiving countries (as Congress required by section 203 of Public Law 95–88). The delay was apparently ended after a number of Senators in a letter to Senator Herman Talmadge, chairman of the Senate Agriculture Committee, expressed "distress." [13]

Prospects for 1978

During 1978 human rights will most likely continue to be an issue of major congressional concern. Scrutiny and discussion of the President's human rights policies is likely to be as persistent in congressional forums as during the past year. Human rights will also continue to be an area of serious disagreement within Congress and between Congress and the Executive, as already manifested in controversy over House acceptance of a human rights provision to a bill on a new International Monetary Fund program (H.R. 9214).

Careful congressional monitoring of executive branch compliance with congressional human rights directives and implementation of recently enacted human rights provisions can be expected. The required executive branch reports to Congress on the status of human rights in countries receiving U.S. assistance, on the mandate and operations of the Department of State's Office of the Assistant Secretary of Human Rights and Humanitarian Affairs, on U.S. proposals for U.N. reform in the human rights area, and on the implementation of human rights provision in Public Law 480 programs will be submitted to Congress for its review.

Human rights issues and policies will again be major themes in congressional foreign assistance hearings. Based on its findings as to the human rights situation in given countries, Congress may have to make difficult decisions on whether to grant, deny, or limit assistance to specific countries. The Senate may begin consideration of whether to approve ratification of the U.N. and OAS human rights treaties which the President transmitted in February 1978.

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Congress and U.S. International Oceans Policy*

OVERVIEW

In recent years, Congress has become increasingly concerned with oceans-related issues. Several of these issues have significant international implications, including the following: U.S. participation in the complex, many-faceted U.N. Law of the Sea Conference (LOS) negotiations; the threat to certain fishery populations and the U.S. fishing industry due to overfishing by highly mechanized foreign trawler fleets; the problems associated with the construction of controversial deepwater terminals and ports for supertankers; the increasing number and ecological significance of tanker accidents, oil spills, and oil pollution; the further increase of ocean pollution from such sources as land runoff and the exploitation of the offshore seabed energy sources; and problems related to deep seabed mining.

Despite the attention that Congress has paid to these and other oceans-related problems, it has not yet devised a comprehensive national oceans policy. Furthermore, the administration, though it is actively involved with various aspects of oceans policy at operational and diplomatic levels, has done even less to define the interrelationships among oceans-related issues, and propose a national oceans policy. Except for expressing concern over oil pollution prompted by several serious oil spills from tankers of foreign registry late in 1976 and early 1977, and a cargo preference bill (which ultimately was not passed), the President has made relatively few public statements in 1977, either on the law of the sea negotiations in particular, or on oceans-related issues in general.

A considerable amount of oceans-related legislation with potentially profound impact on U.S. foreign policy has been introduced and managed in congressional committees other than the Senate Foreign Relations and the House International Relations Committees. On occasion, the House International Relations Committee has moved to have certain oceans-related bills referred to it in order to hold hearings. And some legislation—such as the Clean Water Act of 1977, which is primarily a domestic bill but includes provisions that could have far-reaching implications for U.S. foreign policy and evolution of international law—was not considered by these two committees.

Since its beginning in 1973, six sessions of the Third Law of the Sea Conference have taken place.[1] Certain Members of Congress have been

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[1] The First Law of the Sea Conference in 1958 drafted four international conventions: The Convention on the Territorial Sea and Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas, and the Convention on the Continental Shelf.

The Second U.N. Law of the Sea Conference in 1960 failed to reach agreement on delineation of the territorial sea and establishment of a fishing zone.

The Third U.N. Law of the Sea Conference held an organizational session (New York, 1973) and five substantive sessions (Caracas, 1974; Geneva, 1975; New York, spring and fall 1976; and Geneva, 1977).

The next session was held Mar. 28–May 19, 1978. The main issues before it were: deep seabed mining, the legal status of the economic zone waters, claims of the landlocked and geographically disadvantaged states dispute settlement, marine pollution, and marine scientific research.

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involved in law of the sea negotiations from the outset. Many hearings have been held over the years by several congressional committees concerning the progress of the Conference and U.S. policy in relation to the numerous issues before it. Legislation pertaining to certain aspects of the Conference has either been passed or considered. At the same time, however, there has been increasing impatience and frustration in Congress over the failure of the Conference to conclude a treaty or at least agree on certain key issues.

As a result of provisions unacceptable to the United States relating to ocean mining contained in the Informal Composite Negotiating Text at the conclusion of the Sixth Session (May 23, to July 15, 1977) of the Conference, frustration was also publicly voiced by the administration. Its attitude toward the international negotiations stiffened, and its position concerning the idea of U.S. deep seabed mining legislation changed. At the suggestion of the U.S. Representative to the Law of the Sea Conference, Elliot Richardson, the President initiated a continuing overall review of U.S. oceans policy. The administration also reversed its longheld position of opposing unilateral passage of domestic legislation to protect U.S. mining interests in the deep seabed, though it objected to certain provisions of the legislation currently before Congress.

The major oceans-related issues with foreign relations aspects before the first session of the 95th Congress included the Law of the Sea Conference negotiations in general, deep seabed mining, oil pollution, and cargo preference. Hearings were held and legislation on these issues was considered. Congress also carried on its oversight role relating to the implementation of the Fishery Conservation and Management Act of 1976, and considered other legislation aimed at protecting the U.S. fishery industry. This chapter summarizes recent discussions and action in the first session of the 95th Congress related to these major issues.

DISCUSSION

Law of the Sea Conference

Hearings on the Law of the Sea Conference were held in 1977 by the House International Relations Committee; the Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation of the House Committee on Science and Technology; the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources; and the Subcommittee on Arms Control, Oceans and International Environment of the Senate Foreign Relations Committee. The Conference was also discussed in the course of the many hearings in various committees on deep seabed mining legislation.[2]

At the end of the Sixth Session of the Conference, the probability of the conclusion of a comprehensive law of the sea treaty appeared to be more remote than ever. In statements on July 25, 1977, before the International Relations Committee, and October 4, before the Senate Committee on Commerce, Science and Technology and the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources, Ambassador Richardson pointed out that the session had had mixed results. While progress had been made

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[2] See end of this section for citation to hearings.

in a number of areas, the proposed articles on deep seabed mining in the new Informal Composite Negotiating Text (ICNT), which had resulted from the session, were fundamentally "unacceptable to the United States."

In addition, the Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation of the House Science and Technology Committee, in a 3-day hearing, examined in particular the "application of science and the technology" relative to the issues before the Law of the Sea Conference,[3] While the subcommittee focused its attention on deep seabed mining, it also discussed other concerns of the U.S. scientific community over the provisions of the treaty texts being developed by the Conference on the question of oceanographic research and transfer of technology. The report of the subcommittee offered several recommendations as a result of its review of the Conference. With respect to protection of scientific freedom within the 200-mile economic zone generally agreed to by the Conference, it suggested that

> * * * The U.S. Delegation should make every attempt to insure maximum marine scientific freedom within coastal waters, including freedom of publication of research results.
>
> In addition, the United States should actively seek the establishment of cooperative agreements with other nations regarding marine science to facilitate the freedom essential to the completion of successful oceanographic projects. The LOS Conference offers one such vehicle through which to reach agreement.
>
> The Subcommittee also considered recommendations for the use of bilateral agreements concerning the conduct of marine science within the economic zone in lieu of an LOS treaty, but concluded that such a course should be followed as the primary means of securing cooperation only in the event of a Conference failure. And it is agreed that certain bilateral agreements and the service of various international organizations * * * could be useful even if a treaty is successfully negotiated.[3]

Deep seabed mining

The momentum that developed during the 94th Congress toward unilateral U.S. legislation on deep seabed mining continued during the first session of the 95th Congress. The fact that the successful negotiation of a law of the sea treaty did not appear imminent; that development of deep seabed mining technology had reached the point at which mining companies were ready to proceed with prototype operations; and, more recently, that the administration had shifted from its previous position of opposition to one favoring interim deep seabed mining legislation, provided stronger impetus to the 95th Congress to consider such legislation.

Six major bills concerning deep seabed mining were introduced, and hearings were held in five different committees during 1977. Of these bills, only one was reported out of committee—H.R. 3350, the Deep Seabed Hard Minerals Resources Act. On August 9, the House Committee on Merchant Marine and Fisheries reported out H.R. 3350, as amended (H. Rept. 95–588, part I), and on October 26 it was reported out of the House Committee on Interior and Insular Affairs, as amended and filed November 7, 1977 (H. Rept. 95–588, part II).[4]

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[3] Review of the Third Law of the Sea Conference, pp. 3–4. See end of this section for complete citation to report.

[4] Hearings on H.R. 3350 were held by the House International Relations Committee Jan. 23–25, 1978, and the bill as amended was reported out of that committee Feb. 7, 1978. (H. Rept. 95–588, pt. III). H.R. 3350 was also considered and approved by the House Ways and Means Committee on Apr. 27, 1978.

The general purpose of these bills is to provide interim legislation until a law of the sea treaty has entered into force for the United States, at which time such legislation would be superseded by the treaty. The legislation is designed to encourage, regulate the development of, and protect deep seabed mining in a manner that would protect the marine environment.

As reported out of the Merchant Marine and Fisheries Committee on August 9, 1977, H.R. 3350 would require mining companies to obtain licenses to explore the deep seabed and permits to recover minerals. Mining companies would be forbidden to interfere with the exercise of high seas freedoms by other countries, take actions that would conflict with any U.S. international obligations, or pose an unreasonable threat to the quality of the ocean environment. The legislation, which would be administered by the Department of Commerce, includes provisions to cover the prototype stage of mineral recovery and subsequent commercial recovery as well. It would provide for investment guarantees in the event of losses resulting from U.S. ratification of an international treaty—a provision the committee deemed necessary as an incentive to the deep seabed mining industry. In such a contingency, any eligible licensee or permitee would be entitled to payments from the Federal Government covering 90 percent of nonrecoverable losses, or up to $350 million per mining site. Only those companies, however, that contributed to an Ocean Mining Fund would be eligible for investment guarantees.

H.R. 3350 also directs the Secretary of Commerce to license U.S. firms to mine specific 60,000-square-kilometer blocks of the ocean floor in waters beyond the range of national jurisdiction. Other significant provisions of the bill included the stipulation that facilities for processing seabed nodules must be located in the United States, and require the harmonization of U.S. regulations with those of reciprocating states in order to avoid possible conflict.

While there was general agreement in Congress that ocean mining legislation should be interim in character and provide regulations protecting the environment and governing the issuance of licenses to mining companies prior to their engaging in mining operations, there was considerable disagreement over other provisions in the bills under consideration.

The most controversial issue concerned investment guarantees. This concept, which was central to H.R. 3350 and approved by the Merchant Marine and Fisheries Committee, was opposed by the Committee on Interior and Insular Affairs, the House International Relations Committee, and the administration. Opponents of the concept maintained that such a guarantee would establish an undesirable precedent of the U.S. Government insuring private companies against their own actions. The Interior and Insular Affairs and International Relations Committees, however, did support a policy statement that U.S. negotiators would work for a "grandfather clause" in any law of the sea treaty to insure that mining already underway would be allowed to continue uninterrupted.

Other areas of controversy included the degree of specificity of the assignment or allocation of mining sites for exploration; whether the legislation should address in detail only the exploratory stage of ocean mining or should also encompass a framework for regulating the longer

range exploitation stage; whether processing plants should be located exclusively in the United States; and which U.S. agency should have primary jurisdiction for administering the deep seabed legislation.

The administration objected to the provisions of H.R. 3350 concerning the first three points. On October 4, 1977, Ambassador Richardson outlined the main elements of a framework the administration could support for ocean mining legislation to the Senate Committee on Commerce, Science and Technology, and the Subcommittee on Public Lands and Resources of the Committee on Energy. He explained that provisions characterized as site-specific could be perceived as undercutting the U.S. claim that it was proceeding to mine on the basis of high seas rights—rights which do not permit the extension of sovereignty or exclusive jurisdiction to the high seas.

With regard to exploration and exploitation of seabed minerals, the administration favored dealing in detail only with the former. Given the expected pace of deep seabed mining development, the administration did not deem it either necessary or wise to prescribe a regime for exploitation in specific terms.

The administration also opposed any legislative requirement with respect to the location of processing plants on the grounds that it could, in certain circumstances, impose an economic burden on U.S. mining companies and was in general contrary to the basic principles of free international trade.

The executive branch did not take a position concerning the administration of the deep seabed mining legislation, but the Merchant Marine and Fisheries Committee, which oversees the Department of Commerce, maintained that that agency should have jurisdiction, while the Committee on Interior and Insular Affairs which oversees the Department of the Interior, and the Committee on International Relations maintained that the latter agency should have jurisdiction.

All three committees, however, supported an international revenue-sharing fund in the event that a treaty should be signed requiring contributions from seabed mining companies, and all three would have the administration submit separate legislation to establish it.

Marine pollution and cargo preference

The numerous oil tanker accidents late in 1976 involving tankers of foreign registry, and the concern over possible damage to American and international waters intensified concern in both the legislative and executive branches about means of limiting damage to American and international waters from associated oil spills.

More than 40 bills were introduced in the 95th Congress that pertain to marine oil pollution, liability compensation, and tanker standards. These bills address such issues as efforts to regulate foreign tankers entering U.S. coastal waters, financial incentives for tanker safety improvement, the establishment and structuring of a national liability and compensation program, the adequacy of international oil spills conventions, the desirability of cargo preference legislation as a means of controlling oil pollution, and, crew manning and training criteria and programs.

On March 21, 1977, President Carter transmitted a series of diverse but interrelated measures to Congress designed to: (1) reduce oil

pollution caused by tanker accidents and by routine operational discharges from all vessels; (2) improve U.S. ability to deal swiftly and effectively with oil spills when they did occur; and (3) provide full and dependable compensation to victims of oil pollution damage.

To these ends, the President recommended the ratification of the International Convention for the Prevention of Pollution from Ships (November 2, 1973), the reform of ship construction and equipment standards, the improvement of crew standards and training, the development of a tanker boarding program and U.S. Marine Safety Information System, the approval of the comprehensive oil pollution liability and compensation legislation, and the improvement of Federal ability to respond to oil pollution emergencies.

Currently, only two international conventions regarding preventative measures for tanker accidents are in effect: the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (November 29, 1969); and the International Convention for the Prevention of Pollution of the Sea by Oil (May 12, 1954). Amendments to the latter Convention were proposed in 1969 and 1971, and Congress enacted implementing legislation for both sets of amendments (Public Law 93–119) but neither set is in force internationally.[5]

On July 25, 1977, the President transmitted to Congress the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973. This Protocol complements the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties by providing that under certain circumstances, governments may take action on the high seas to protect the interests of their coastal areas from marine pollution caused by substances other than oil.

Neither the above mentioned Protocol nor the International Convention for the Prevention of Pollution from Ships were acted upon during the first session of the 95th Congress. Ratification of the Convention is complicated by unresolved issues in the law of the sea negotiations concerning the right to establish and enforce more stringent domestic regulations.

No matter how stringent preventive measures might be with regard to marine pollution, oil spills will occasionally occur. A number of domestic programs and international conventions have been established to provide liability and compensation for cleanup costs and damages incurred by oil spills.

Currently pending before the Senate are two conventions: The 1969 Convention on Civil Liability for Oil Pollution Damage; and the 1971 Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage. The Liability Convention, which is in force internationally, provides for suits against vessel owners for oil-spill damages up to a specified limit, and the Fund Convention would provide additional protection up to a higher limit. The terms of both conventions limit their coverage to damage in the territorial sea or territory of a state. Neither convention has been ratified by the United States.

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[5] The 1969 amendments, which eliminate various exemptions under previous legislation including ballast discharges, entered into force Jan. 20, 1978. The 1971 amendments, which would establish tank arrangements and design limitations, await ratification by other signatories.

The Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500) is the primary U.S. law concerned with oil spill cleanup and establishing limits of liability. In connection with amending this law during the first session of the 95th Congress, the most significant legislation relating to marine pollution—the Clean Water Act of 1977 (Public Law 95–217)—was passed. Moreover, the passage of this legislation, signed on December 27, 1977, has significant ramifications not only in terms of U.S. foreign policy, but in terms of international law as well.

This act was considered by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works. In a declaration of goals and policy, the act states that its objective is to restore and maintain the chemical, physical and biological integrity of the Nation's waters. In order to achieve this objective it lists among the goals and policies "consistent with the provisions of the act" that—

> (6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

In this connection the act provides for certain standards and enforcement relating to international pollution abatement, and oil and hazardous substance liability, as well as for permits and licenses pertaining to ocean discharge criteria.

Of particular relevance to U.S. foreign policy are the amendments to the section on oil and hazardous substance liability (sec. 311). Section 311 requires the U.S. Government to penalize domestic and foreign vessels that dump oil or other hazardous materials within 200 miles of the U.S. coasts. In amending the section to include those waters "under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976)" among those areas where it is U.S. policy that there should be no discharge of oil or hazardous substances and where if such action should occur under certain conditions punitive measures are to be taken, Congress has extended U.S. jurisdiction in this regard from the original 12 miles to 200 miles offshore. In so doing, it has expanded the applicability of the 200-mile limit to include not only exploitable resources as provided in the Fisheries Conservation and Management Act, but navigation as well. This is directly contrary to the position held by the administration. Former Ambassador at Large, T. Vincent Learson, Special Representative of the President for the Law of the Sea Conference, pointed out on January 11, 1977, in hearings before the Senate Committee on Commerce on recent tanker accidents:

> We have recognized for some time that the present international regime for vessel-pollution prevention is inadequate and that further action is needed.
>
> In determining our position for the law of the sea negotiations, we had several factors in mind. First, we recognized a clear need for increased protection for the marine environment. Second, we wanted to preserve freedom of navigation on the high seas, including the area within the proposed 200-mile economic zone. Consequently, we felt that coastal-state rights of action beyond the territorial sea should be limited so as not to allow foreign nations discretionary rights to interfere with navigation in the open ocean.

The Clean Water Act of 1977 poses important questions in terms of international law and U.S. security. It is possible that in response to

this new precedent, other nations might retaliate by placing various restrictions on foreign activities within their 200-mile coastal zone. This could pose a serious threat to U.S. security. It is also possible that enforcement of this new law could affect the law of the sea negotiations, in which the United States has been insisting upon freedom of navigation on the high seas and endeavoring to prevent the inclusion of restrictions on marine scientific research within the 200-mile economic zone as sought by certain coastal states.

Still another complicating factor in preventing oil spills and one which has serious foreign policy implications, is the large percentage of U.S. oil imports carried in ships of foreign registry, limiting U.S. control over tanker safety and crew capability. In 1975, over 60 percent of the tankers entering U.S. ports were under a foreign flag (although many of these were U.S.-owned), and over 95 percent of U.S.-imported oil is transported by ships of foreign registry.

Ships are registered under foreign "flags of convenience" for a variety of reasons—primarily financial. A ship under a U.S. flag, for instance, must be built in the United States and must carry a U.S. crew at an average annual cost of around $1.7 million as compared to as little as $300,000 for a non-U.S. crew. Moreover, foreign taxes are usually more favorable and inspections and regulations more lenient than those of the United States.

For several years the U.S. shipping industry and the maritime unions have sought an increase in the use of U.S.-flag vessels, and a number of so-called cargo preference bills have been passed or considered by the Congress. Congress passed the Energy Transportation Security Act of 1974, which would have required up to 30 percent of U.S. oil imports to be carried in U.S. vessels. Former President Ford pocket-vetoed this measure. A similar bill—H.R. 1037, the Energy Transportation Security Act of 1977—was voted down by the House in October 1977.

Such bills have been opposed by executive agencies including the Departments of State, Treasury, and Commerce. Objections include their highly inflationary potential, the fact that such laws would violate certain treaties to which the United States is a signatory, and that they would be highly protectionist in favor of the U.S. Merchant Marine and thus be likely to invite retaliation.

Although a cargo preference bill was not passed by the first session of the 95th Congress, it is probable that such legislation will again be proposed in the Congress.

Implementation of the Fisheries Conservation and Management Act of 1976

Congressional activities during 1977 concerning fisheries concentrated primarily on implementing the new and complex Fishery Conservation and Management Act of 1976, and reviewing a number of outstanding foreign policy-related issues concerning the fishing industry. Congress also passed legislation extending and amending the Fisherman's Protective Act of 1967, and authorizing appropriations for the Atlantic Tunas Convention Act of 1975. Legislation intended to ease the continuing tuna-dolphin controversy was also considered.

On March 1, 1977, the provisions of the Fishery Conservation and Management Act of 1976 (FCMA) (Public Law 94–265), relating to the establishment of a 200-nautical-mile fishing conservation zone and exclusive U.S. authority and enforcement within the zone, took effect.

The Act authorizes foreign fishing for species and resources under the exclusive fishery management authority pursuant to Governing International Fishery Agreements (GIFAs). No foreign vessel, however, may engage in such fishing unless it has a valid permit on board, issued by the Secretary of Commerce, through the Secretary of State.

The enactment of the FCMA by no means ended all international fishing problems. Initially, there were serious transitional problems not anticipated in the Act. The Department of State had less than a year in which to negotiate the required GIFAs that acknowledge U.S. fishery jurisdiction and completely restructure U.S. relationships with a number of foreign countries. Moreover, in view of the statutory requirement (Sec. 203 of the Act) that no GIFA shall become effective before the close of 60 calendar days of a continuous session of the Congress after the President transmits such agreement to the Congress, no agreement could take effect until well into March 1977. Early in 1977, it appeared that, due to the complexities of some of the negotiations (such as those with Japan and the Common Market), it would not be possible to conclude all agreements before the March 1 deadline, much less go through the other steps required by the statutory process to bring them into effect on schedule. In addition, it seemed unlikely that the eight newly-established regional management councils charged primarily with implementation of the domestic features of the Act would have time to complete their required review of the applications for foreign fishing permits or that the fee schedule, which had not yet been worked out, would be approved in its final form by March 1.

These difficulties, in turn, created logistical and economic problems for foreign fishermen who not only had to wait for congressional approval of the GIFAs but also for receipt of the necessary fishing permits that were to follow before they could fish within the 200-mile fishing zone.

These transitional problems were discussed at hearings held early in the 95th Congress by both the Senate Foreign Relations Committee (February 3) and by the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries (February 7, 22, 23, 28, and March 17, 1977).

On February 21, 1977, the Fishery Conservation Zone Transition Act (Public Law 95–6) became law. This act in effect shortened the period required for congressional oversight specifically with regard to the six already negotiated GIFA's (those for Bulgaria, China, the German Democratic Republic, Romania, the Soviet Union, and Poland), and provided for congressional approval effective February 21. The act also amended the FCMA by adding a new section (sec. 206) concerning transitional provisions. The above-described procedure was restricted to the six GIFA's listed in section 2 of the Transition Act "or pursuant to any amendment of section 2 if the effective date of such amendment is not later than February 28, 1977."

A little over a week later (March 3) a related law (Public Law 95–8) was signed, amending the Fishery Conservation Zone Transition Act to bring additional GIFA's (those for the European Economic Community, Japan, Korea, and Spain) within its purview. The effective date of these agreements was February 27, 1977.

Thus, a total of 10 Governing International Fishery Agreements were approved in the first session of the 95th Congress. In addition,

agreements were signed with Mexico and Cuba, sent to Congress, and entered into force pursuant to the FCMA, without further congressional action.[6] A Reciprocal Fisheries Agreement between the United States and Canada was approved by the House and Senate April 25 and July 12, 1977, respectively and signed into law July 26, 1977 (Public Law 95–73).

Besides the statutory difficulties concerning the Fishery Conservation and Management Act, Congress considered a number of other foreign-policy related fishery issues. A development with potential for serious international repercussions concerned the repeated violations of the FCMA by certain foreign trawlers which fished illegally within the 200-mile zone. For example, on April 11, 1977, the Soviet trawler Taras Shevchenko and its 93-member crew were detained in Boston for illegally taking fish inside the U.S. 200-mile limit. In the first court action pursuant to the 1976 Fishery Conservation and Management Act, a U.S. District Court in Boston on May 2, sentenced the captain of the trawler, fining him $10,000 and giving him a 9-month suspended prison sentence. The captain was released upon pleading guilty, and the Soviet Union agreed to pay $240,000 in civil penalties levied against the ship and the $10,000 fine against the captain. Between the time of the detention of the Soviet trawler and its release, the Committee on Merchant Marine and Fisheries on April 21, held an executive hearing on violations of the 200-mile fishery zone. While this Soviet incident was the first case to be prosecuted pursuant to the FCMA, there were other incidents throughout 1977.

Other problems included the continuing damage to fishery gear by foreign vessels (discussed below within the context of the Fishermen's Protective Act of 1967). There were also complaints from the fishing industry that more attention was being paid to the convenience of foreign fishermen than to that of domestic fishermen. There was concern that foreign investment in the American fishing industry might be a means of circumventing the FCMA—a problem complicated by the fact that though American fishermen opposed such investment, the U.S. fish processing industry welcomed it.

Hearings were held which touched on all of these issues. The Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee held further hearings on the implementation of the 200-Mile Fishing Zone Act April 14 and 15, 1977. On July 18, it held hearings on H.R. 2564, H.R. 4165, and H.R. 4166—bills addressed to amending the FCMA in order to clarify the definition therein of vessels of the United States and to require the Secretary of Commerce to prepare an annual report regarding foreign investment in the U.S. fishing industry. The Committee on Commerce, Science, and Transportation also held a hearing on August 20 on the Fishery Conservation and Management Act.

Other fishery and oceans-related actions

In October 1977, the Fishermen's Protective Act of 1967 was due to expire. This act provides for reimbursement of U.S. fishermen who are seized by any foreign country on the basis of jurisdictional claims

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[6] See the discussion of U.S. Relations with Cuba in the section on Latin America on pp. 186–189 in this volume. (Ed.)

in ocean waters not recognized by the United States. Under such circumstances the Secretary of State reimburses (pursuant to section 3) a fishing vessel owner for any fine, license fee, registration fee, or any other direct charge assessed by the foreign country against the vessel.

Bills (H.R. 4140 and S. 1184) to amend the act were referred to the Committees on Merchant Marine and Fisheries and on Commerce, Science, and Transportation, respectively. As amended, an act to extend until October 1, 1978, the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, became law November 18, 1977 (Public Law 95–194). In addition to being extended another year, the Fishermen's Protective Act was amended to provide a loan program for the owner or operator of any U.S. vessel if the Secretary of Commerce "reasonably determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation operating within the fishery conservation zone established by sections 101 and 102 of the Fishery Conservation and Management Act of 1976 * * *;" and the amount of such loss, damage, or destruction exceeds $2,000.

It should be noted that the amendment does not concern the roles of the Secretary of State concerning illegal seizure of U.S. vessels, etc. The purpose of the amendment is directed primarily at assisting fishermen whose vessels or gear are lost, damaged or destroyed by foreign fishing activity, within the U.S. 200-mile fishery zone.

The Marine Mammal Protection Act of 1972 (Public Law 92–522) had imposed certain restrictions on the U.S. tuna fleet that did not apply to foreign fishermen. The law was intended to protect porpoises and dolphins accidentally snared in tuna nets and killed. There has been considerable controversy over the limitations imposed by this bill and subsequent rulings on the U.S. tuna fleet. The fleet refused to sail from April 15 to May 15, but resumed operation after the chairman of the House Merchant Marines and Fisheries Committee promised to work for a reduction of the 1977 dolphin quota.

The House passed a pro-industry bill (H.R. 6970) on June 1, originally reported out by the Merchant Marine and Fisheries Committee (H. Rept. 95–355) in late May. This bill set forth reduced annual quotas for killing or injuring dolphins. Its foreign policy aspect involved instructions to the Secretaries of State and Commerce to begin immediate negotiations with foreign governments to permit U.S. observers aboard foreign-flag ships fishing for tuna. In addition, the bill would ban transfer of U.S.-owned vessels to foreign registry unless the new owner agreed to comply with U.S. tuna fishing regulations and deposited a performance bond. No further action was taken during the first session.

Congress also considered legislation to amend the Atlantic Tunas Convention Act of 1975. On May 13, 1977, the Committee on Commerce, Science, and Transportation reported favorably without amendment H.R. 6205 to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Atlantic Tunas Convention Act of 1975. That act implements an international convention which governs fishing for tuna and tunalike species in the Atlantic Ocean.

The bill, which was signed May 26, 1977 (Public Law 95–33), amends the Atlantic Tunas Convention Act of 1975 to extend it for an additional 3 years, until September 30, 1980. In addition it redefines the term "fisheries zone" as used in the act to give it the same meaning as defined in the Fishery Conservation and Management Act of 1976.

The International Navigational Rules Act of 1977, H.R. 186, a bill to implement the Convention on the International Regulations for Preventing Collisions at Sea, 1972, was signed into law (Public Law 95–75) on July 27, 1977. The Convention brings the International Rules of the Nautical Road in line with modern maritime practices and technology. The Convention, which has been approved by the Senate, became effective for its international signatories, including the United States, on July 15, 1977. The enacting legislation implements the Convention fully for U.S. vessels.

At the time President Carter signed the bill, he stated that although he had signed it, he wanted to make clear that he had serious constitutional reservations about section 3(d). That section permits Congress, by concurrent resolution, to disapprove a proposed amendment to the Convention. The President pointed out that the Congress concurrent resolution would not be presented to the President for approval or veto, and that this may violate article 1, section 7 of the Constitution.

Issues before Congress in 1978

Perhaps the most significant oceans issue pending before Congress is the legislation that would establish an interim domestic regime for the exploration and possible exploitation of hard minerals from the deep seabed. House-sponsored legislation had not reached the floor before the convening of the 7th session of the Law of the Sea (LOS) Conference in March 1978. While three committees of the House had already considered and reported favorably some version of H.R. 3350, it appeared that a fourth committee would be given an opportunity to consider this bill, thus further delaying floor consideration. In the Senate a chief sponsor and spokesman for similar legislation, Senator Lee Metcalf, died between the two sessions of Congress and the momentum gained from the hearings held in September and October was lost. It is anticipated, however, that a bill will be reported in the Senate during the second session of the 95th Congress.

A major factor in congressional consideration of deep seabed mining legislation is the change in the position of the administration on congressional passage of such legislation. During the past several years, when similar legislation has been pending before Congress, the executive branch has annually pleaded that Congress not pass such legislation because of its effect on the LOS Conference. This position was reversed in 1977 by Carter adminstration spokesman Elliot Richardson, who presented legislative proposals to committees considering the issue. It has even been suggested that House passage of legislation before the convening of the 1978 session of the Conference would be welcomed by the administration as a means of strengthening the U.S. negotiating position at the Conference.

Other issues, discussed in this section, which may be before Congress in 1978, include

— continued oversight of the FCMA;
— further consideration of tuna-porpoise legislation;
— establishment of a liability fund for oil pollution damage, possibly sufficient to implement international conventions on the same issue.

Also pending, but not likely to be considered any further, is cargo preference legislation, which was defeated in the House in 1977.

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SPACE*

OVERVIEW

Introduction

The technical and scientific uses of outer space have created a number of opportunities for international cooperation. In the past, however, the exploration, use, and exploitation of outer space have often been conducted on a national basis. Yet, full application of certain new outer space activities may require new international approaches, because of the political problems that purely national or even regional approaches generate, because of technical requirements inherent in fully and efficiently utilizing the potential of outer space technologies, which by their very nature transcend national boundaries, and because the cost of exploring space has become prohibitively expensive.

In fact, at present there is significant international cooperation in outer space. The United States is committed by statute to the advancement of the peaceful uses of outer space for the benefit of all mankind, and to conduct its civil space activities in cooperation with other nations and groups of nations.[1] Pursuant to this mandate, it has developed an effective and ongoing program of international cooperation in space research and development. The United States is party to four international space treaties, and the National Aeronautics and Space Administration (NASA) has agreements with some 60 nations covering various space activities.

During 1977 the foreign policy aspects of outer space programs attracted little direct congressional attention. Congressional subcommittees specifically concerned with space activities did hold a number of hearings on various programs that do have international significance. However, except for the deletion by the House of Representatives of funding for the joint U.S.-Canadian-European Aerosat program, there was little legislative activity having a direct bearing on international space concerns.

DISCUSSION

General congressional activities

A waning of congressional interest in space programs was generally reflected in the 1977 reorganization of Senate committees, during which the separate Senate Aeronautical and Space Sciences Committee was abolished. It was absorbed into the Committee on Commerce, Science and Transportation under a Subcommittee on Science, Technology and Space.[2]

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* Prepared by Vita Bite, Analyst in International Relations.

1 Public Law 85-568 (sec. 205 of 72 Stat. 426), approved July 29, 1958.

2 Senator Schmitt, a former astronaut, briefly introduced and then withdrew an amendment, which would have created a Subcommittee on Aeronautical and Space Sciences. (See debate in Congressional Record [daily edition], vol. 123, Feb. 4, 1977: pp. S2287-92.)

As requested by Senate Concurrent Resolution 47, passed by the 94th Congress, the President on July 11, 1977, issued a proclamation designating the period July 16 through July 24 as "United States Space Observance" and calling for appropriate observance. Despite the fact that Congress initiated this observance, there is no further mention of it in the Congressional Record.

An expression of congressional disenchantment directly relating to an international space program was acceptance by the House of Representatives on March 25, 1977, of an amendment by the Committee on Science and Technology to H.R. 3965 (authorizing appropriations to the Federal Aviation Administration (FAA) for Research and Development (R. & D.). The amendment deleted requested funding of $15,562,000 for fiscal year 1978 for the Aerosat program, and authorized $1,500,000 for a reevaluation of that program and consideration of other alternatives. The committee based its position on the following factors: that changing conditions of transoceanic aircraft travel had eliminated the original rationale for the program; that the total cost of the program was far above earlier projections: and that funding for Aerosat was adversely affecting other more critical FAA R. & D. programs.

The Aerosat program was originally designed to be a cooperative United States-European-Canadian program to develop an aeronautical communications satellite system for an improved transoceanic communications link between aircraft and air traffic control centers. The Federal Aviation Administration signed a Memorandum of Understanding establishing a joint Aerosat program in 1974. Since that time the Europeans and Canadians have operated on the assumption that the United States was committed to the program. U.S. failure to fund Aerosat for fiscal year 1978 raises the issue of the impact of such an action on relations with other countries—specifically how such a decision might affect other joint programs and future agreements on space activities. In contrast to action on the Aerosat program, Congress during 1977 did indicate support for certain other space programs of international significance by continuing funding for the space shuttle, the space telescope, and the Jupiter-Orbiter probe, for example.

The 20th anniversary of the launching of the first artificial satellite to be launched into orbit around the Earth (the Soviet Sputnik), was duly marked by statements in both Houses of Congress by members of the Subcommittees on Space on October 4 and 5.

Remote sensing

The experimental Landsat satellites which form the major part of the U.S. Earth Resources Survey experiment have in 6 years developed into a system with major potential for application in agriculture and associated fields, mineral exploration, water resources management, land use, coastal zone monitoring and mapping as well as in oceanography, environmental quality of land and water, meteorology and marine resources (fishing for example). At the same time, however, some observers fear that Earth resources satellite pictures taken from outer space could be used by the launching nations or private companies to exploit the natural resources of other states.

While there has been widespread endorsement and international cooperation in the U.S. program for the development of remote sensing technology (some nations already operate or intend to acquire Landsat Earth stations of their own), some nations have expressed concern about data secured over their territories, and the U.S. policy of unrestricted availability of such data to all who wish to have it.

During 1977, legislation (S. 657) was introduced to establish an operational Earth resources and environmental information system based on the remote-sensing experimental satellite (Landsat) systems developed by NASA. The legislation specified that the data and information derived from such a system would be available to all users, foreign and domestic, on the same basis. During hearings whose purpose was to gather facts necessary to perfect the legislation by the Subcommittee on Science, Technology and Space, administration witnesses spoke against enactment of such legislation, viewing a commitment to an operational system as premature. Witnesses pointed out that any action to establish an operational remote sensing system would inevitably have significant international consequences, and would raise questions relating to formal international relationships, such as ownership of such a system, voting and investment patterns, long-term commitments, design criteria, international operating agencies, frequency allocations, and rules for information acquisition and dissemination. The State Department witness, Assistant Secretary Patsy Mink, pointed out that the Department (which is not mentioned in the legislation as introduced) should be involved in all matters dealing with foreign governments. While not supporting the establishment of an operational system at this time, the State Department witness did suggest the need, at some point, for a U.S. declaration of policy to the effect that the remote sensing system will be continued. Such a policy statement was viewed as especially vital, if demands of users in the developing world are to be increased, since many of these countries cannot make the enormous user investment required if the data is not to be available on a long-range, continuing basis.

In June the Subcommittee on Space Science and Applications of the House Committee on Science and Technology also held 3-day hearings on an Earth resources information system.

Telecommunications

International telecommunications policy was the subject of hearings by several congressional subcommittees during 1977. The Subcommittee on International Operations of the Senate Foreign Relations Committee held 3 days of hearings on international communications and information. During the hearings there was discussion of the international problems raised by the technical feasibility of satellite transmission directly into home receivers of radio or television signals which could bypass any intermediary relay stations controlled by the country receiving that signal. Also discussed were the fears of developing nations that developed nations such as the United States with immediate demands for technological facilities and communications would monopolize the available radio frequency spectrum and facilities leaving little spectrum space for the developing countries to grow into

at some later date. Several witnesses suggested that the U.S. Government does not have an international telecommunications policy, nor is there a single agency which coordinates U.S. efforts internationally, and recommended that such a policy and agency be established.

The Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation also held an oversight hearing on international telecommunications.

In addition, the House Interstate and Foreign Commerce Subcommittee on Communications held two series of hearings of relevance to this discussion. Between March 15 and 23, the subcommittee sponsored 4 days of hearings on the need for an improved and expanded system of international telecommunications. Testimony from a wide variety of government, private industry, multinational corporations, and foreign telecommunications officials was heard. The same subcommittee held hearings May 25–27 that dealt in large part with U.S. preparations for the 1979 World Administrative Radio Conference (WARC). Some witnesses were critical of the manner in which delegations to previous WARC's had been selected, urging that foreign policy considerations be weighed as heavily as economic and technical requirements. Witnesses also suggested that U.S. preparations be accelerated, if this country's delegation was to be adequately briefed and ready to anticipate foreign demands and proposals.

In 1979 a general WARC will be held under the auspices of the International Telecommunication Union (ITU), to review the international radio regulations and all radio frequency assignments. This review will cover all uses of the frequency spectrum, ranging from radio and television to satellite and cable communication, data transmission, and various kinds of fixed and mobile communication systems. The head of the U.S. delegation to WARC 79 will probably have ambassadorial rank and that appointment would require Senate confirmation if it is for longer than a 6-month period.

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CONGRESSIONAL IMPACT ON REGIONAL ISSUES

AFRICA*

OVERVIEW

As open warfare and Communist intervention in Africa intensified, two schools of thought evolved with respect to U.S. policy toward Africa. One school asserts the primacy of African relations and U.S. interests as the basic determinant of policy, and considers world competition with the Communists to be of secondary importance. The other emphasizes the East-West conflict and focuses on competition with Communist states for influence in Africa as the basic determinant of policy. Those with an East-West approach view African issues primarily from the perspective of how a policy or program would affect U.S. interests vis-à-vis its Communist competitors. Access to raw materials and sea lanes and influence with the governments which control them, and denial of these factors to the Soviets determine their policy recommendations.

The East-West group tends to be suspicious of Marxist governments, while the Africa-oriented group demonstrates less concern about the ideological orientation of a government than with how its performance relates to purely African issues. The Africa-oriented approach is believed to have been the dominant approach taken by the Carter administration, at least until late 1977 when Ethiopia, backed by Soviet weaponry and Cuban personnel, prepared to launch a counteroffensive against Somalia. This conflict over the Ogaden region (and Eritrea) will likely prove to be major testing grounds for the Carter administration's African policy in 1978.

The maelstrom of events and actors in the nearly 50 states of sub-Saharan Africa provoked sometimes conflicting expressions of administration policy which did not provide clear guidelines to the Congress as to the most appropriate policies and programs to pursue with respect to Africa. Despite the variety of opinion reflected in congressional statements, certain patterns have emerged: (1) caution with respect to becoming involved in African wars or guerrilla conflict, (2) dissociation from the white minority regimes of southern Africa, and (3) controversy over the application of human rights criteria.

These patterns are reflected in the three major legislative concerns of Congress, with respect to Africa, in 1977: (1) security supporting assistance, (2) southern Africa, and (3) development aid.

DISCUSSION

Southern Africa

The Congress took a number of actions that served to dissociate the United States from the white minority regimes of Rhodesia and South Africa and to align this country more closely with the aspirations of the majority who seek political representation. These actions in-

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cluded enactment of (1) a ban on the importation of Rhodesian chrome, (2) a security supporting assistance program designed to give relief to countries suffering from the conflict in southern Africa, and (3) resolutions condemning the violations of human rights in South Africa.

Ban on imports of Rhodesian chrome.—The clearest signal of congressional intent to move away from accommodating white minority regimes in southern Africa was the passage of H.R. 1746, a bill which banned the importation of Rhodesian chrome or of processed products containing chrome of Rhodesian origin, effectively repealing the Byrd amendment.[1]

Since 1971 various attempts had been made to repeal that amendment. On one such attempt a bill did reach the floor of the House (1975) but it failed to pass by a vote of 187–209.

The Ford administration had favored the bill but some observers felt that its support was weak.[2] The Carter administration, however, committed itself to the repeal of the Byrd amendment.

H.R. 1746 and S. 174, to prohibit the importation of Rhodesian chrome, were immediately introduced in the 95th Congress. Supporters of the legislation, led by administration witnesses, argued that passage would (1) be important to administration efforts in seeking majority rule in Rhodesia, (2) be a clear signal to Ian Smith of the unequivocal support of the U.S. Government for majority rule in Rhodesia, (3) return the United States to a position of compliance with international law, and (4) remove an element of friction with African states. Some representatives of industries, which had supported the Byrd amendment earlier, noted also that technological developments had made imports of Rhodesian chrome less important. Opponents of the bills argued that (1) the proposal implied an inconsistent application of the principle of human rights, (2) it could violate U.S. treaty commitments under GATT, (3) Rhodesian chrome was still important to the United States, and (4) natural resource availability was important to the economic structure of the United States.

The bill was approved by the Senate (66–26) and the House (250–146) and was signed by the President (Public Law 95–12) on March 18, 1977. The President remarked that the act could help resolve southern African issues, particularly those relating to Rhodesia.

South Africa.—The first session of the 95th Congress took greater notice of South Africa than had earlier sessions. Hearings were held to assess U.S. policy on arms sales to, and on nuclear cooperation with, South Africa. Numerous resolutions were introduced denouncing

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[1] In 1965 the Government of Rhodesia issued a unilateral declaration of independence (UDI) from Great Britain. Since that time the rebel government has been considered illegal by Great Britain, the United Nations, the United States, and most of the world community. These entities have applied economic sanctions against Rhodesia in an attempt to force that government back under (temporary) British jurisdiction. At the request of the British Government the United Nations Security Council, in 1966, voted mandatory sanctions against imports of all Rhodesian products.

President Johnson, in 1967 and 1968, issued Executive orders that mandated U.S. compliance with the United Nations sanctions. However, in 1971, the Congress approved a military authorization bill which contained an amendment that had the effect of exempting Rhodesian chrome and ferrochrome imports to the United States from the U.N. sanctions. Supporters of the amendment (the so-called "Byrd Amendment"), argued that Rhodesian chrome imports were important to U.S. industry and a denial of these imports would make the U.S. more reliant upon chrome imports from the Soviet Union, a major supplier of chromium ore.

After 1971, a growing body of persons concerned with African affairs worked for repeal of the Byrd amendment. They noted that the Byrd amendment was in direct contravention of U.N. sanctions that were legally accepted by the United States. They further argued that the amendment (1) had the effect of encouraging the "illegal" government of Rhodesia in its defiance of the United Nations and Great Britain, and (2) that it was viewed by many, particularly in Africa, as an example of the ambiguity of U.S. policy with respect to its objections to white minority government in southern Africa.

[2] U.S. Congress. House of Representatives. Committee on International Relations. Congress and Foreign Policy—1975. 94th Cong., 2d sess. Washington, U.S. Government Printing Office, 1976, pp. 175–76.

repression in that country, bills designed to restrict the commercial relationship between the United States and South Africa were introduced, and a group of House Members formed an Ad Hoc Committee on South Africa to monitor events in that country.

These actions arose from a human rights concern over the South African policy of "apartheid," or separate development.[3] Apartheid was manifest in 1977 in a variety of ways: the creation of a second black[4] "homeland" (Bophuthatswana), the banning of black and white moderates, the closing down of newspapers and organizations and, most prominently, the death of black nationalist leader Steve Biko while in police custody. The latter, in particular, contributed to the passage of House Concurrent Resolution 388 in the House and approval of Senate Concurrent Resolution 60 by the Senate Foreign Relations Committee. These substantially similar resolutions identified Biko's death and the repressive measures of the South Africa Government as being gross violations of human rights.

U.S. commercial relations with South Africa may become more of an issue in 1978. The U.S. Government has only limited relations with the South African Government but private U.S. investment in South Africa is substantial. Studies done under the auspices of the Senate Foreign Relations Committee demonstrated a linkage between the $1.7 billion in U.S. direct investment and the $2.2 billion in U.S. commercial bank loans to South Africa and South Africa's increased economic and strategic self-sufficiency. Hearings have been scheduled for the second session of the 95th Congress to examine the role of the Export-Import Bank in its trade promotion activities in South Africa, and it is possible that United Nations moves to prohibit investment in South Africa will also be raised by a Congress which, in 1977, was clearly on record in its opposition to apartheid.

Security supporting assistance: The Southern African Special Requirements Fund.—The administration's proposed programs for security assistance for African countries were relatively small compared to the Middle East, but a number of countries in southern Africa were involved. The administration requested $100 million for a Zimbabwe Development Fund designed to ease the anticipated transition to independence in Rhodesia. The House International Relations Committee rejected this recommendation and proposed instead that $100 million be authorized for the "countries of southern Africa to address the problems caused by the economic dislocation resulting from the conflict in that region, and for education and job training assistance for Africans from Namibia [South-West Africa] and Zimbabwe." The committee report noted that the $100 million was for majority ruled governments in southern Africa but not South Africa, Rhodesia, Malawi, and Zaire.

On the House floor, an amendment to eliminate the $100 million fund was narrowly defeated (208–204) after arguments which described the guerrilla groups battling the Rhodesian Government as based on "tribal" culture and assertions that frontline states were responsible

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[3] Also see the discussion of human rights on pp. 142–152 in this volume. (Ed.)

[4] The first such "homeland"—the Transkei—had been established in 1976 as part of a master plan which would ultimately deprive all South African blacks of their present citizenship and replace it with nationality based on tribal affiliation.

for the conflict in the region. The House deleted the term "majority ruled" from the legislation and added Mozambique, Angola, Zambia, and Tanzania to the list of countries to be denied funds. This prohibition could be waived by the President if he determined that such assistance would further the foreign policy interests of the United States.[5]

The Senate approved the President's promotion of a Zimbabwe Development Fund but denied funds until progress toward an internationally recognized settlement was achieved. It authorized $80 million for a number of southern African countries, prohibited the use of such funds for "military, guerrilla, or paramilitary activities" and heard arguments that the issue in Mozambique and Angola was Communism, rather than racism.

The Conference Committee accepted the $80 million authorization and the reorientation of aid toward countries whose economies were suffering from the conflict in southern Africa. In accord with this principle, and in contrast to the bill's prohibition on aid to Zambia, the committee report noted that "although no funds had been earmarked for Zambia * * * (it) intends that up to $30 million of the overall program funds be spent on Zambia." The Conference Committee also adopted a Senate provision that up to $1 million of the $80 million authorization be used "for a comprehensive study of southern African development needs in order to develop a coordinated foreign assistance strategy." The President was required to notify Congress before obligating funds for specific program or projects.

Given the nature of debate on the Southern African Special Requirements Fund and the failure to reach an internationally acceptable settlement in Rhodesia, aid to that region will again be an issue in 1978. It is possible that events in southern Africa will lead to a sharper division between those in the United States who see the East-West conflict elements of the issue as being primary, and those who are more concerned with the Africa-centered human rights issues.

Arms sales

Secretary of State Vance stated in mid-1977 that "arms sales to Africa will be an exceptional tool of our policy and will be used only after the most careful consideration."[6] Traditionally, arms sales to Africa have been neither large nor contentious. Major recipients have been Morocco[7] and Ethiopia, both of which harbored U.S. security facilities, and Zaire, whose central location and pro-Western orientation were viewed as important to U.S. interests. These countries remain at the center of arms sales considerations, although they provoked greater controversy in 1977 than they had in earlier years.

The President's requests $30.2 million for Foreign Military Sales credits for Zaire was cut by $15 million by the House International Relations Committee, to equal the fiscal year 1977 figure. According to Representative Charles Whalen, a member of the House International Relations Africa Subcommittee, the purpose was to convey two political messages to Zaire: one, that the United States would continue to give

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[5] Also see the discussion of bilateral economic assistance on pp. 97–102 in this volume. (Ed.)
[6] Also see the discussion of conventional arms transfers on pp. 70–82 in this volume. (Ed.)
[7] Also see the discussion of Morocco in the Middle East chapter elsewhere in this volume. (Ed.)

support to Zaire, which was considered a friendly country; and two, to indicate that the United States would not be drawn further into the Zaire conflict.[8] The House accepted the committee recommendation but only after defeating attempts both to raise and to eliminate the authorization. The Senate also reduced the administration request by $15 million.

To further insure that the United States not become unnecessarily involved in the Zaire conflict, the House International Relations Committee added an amendment to the International Security Assistance Act which prohibited assistance to Zaire that could promote or augment military or paramilitary operations in that country. The Senate, by floor amendment, accepted this policy statement.

Accelerating political and military conflict in the Horn of Africa caused some controversy with respect to military sales in 1977 and will likely again do so in the future. Ethiopia, formerly one of the major African recipients of U.S. military sales credits, but now under a radical Marxist government, was denied "military assistance, international military education and training, or foreign military credit sales" under the Foreign Assistance and Related Program Appropriations Act. This measure was initiated by the House, deleted by the Senate, and then restored in conference.

In addition, members of a number of congressional committees visited Ethiopia and Somalia in 1977 in an attempt to sort out the parties and issues and to determine what role the U.S. should play in the region.

Given the apparent commitment of the U.S.S.R., Cuba, and the PRC to increase their influence in Africa through military assistance programs, and the degree of internal conflict on the continent, it is likely that a variety of parties to conflicts will call upon the United States for arms sales or other forms of military assistance. Under such conditions the Carter administration's commitment to restraint of arms sales is likely to be tested and the Congress will be presented with an increasingly important, and possibly, divisive, issue.

Economic assistance

Economic assistance for Africa was not a very controversial issue for 1977. The very low standard of living in most African countries qualified them for moneys under AID's "New Directions Programs;" a concept which emphasizes basic human needs such as food and nutrition, health, population planning, and education. Approximately $180 million was requested, authorized, and appropriated for Africa under these categories. $200 million was authorized under the Sahel regional program; $50 million to be appropriated in fiscal year 1978 and the remainder to be available until expended. The administration made no request for a contribution to the African Development Fund but the House Banking, Finance, and Urban Affairs Subcommittee on International Development Lending Institutions and Finance added a new title to H.R. 5262 authorizing a $150 million contribution. The Conference Committee set the final sum at $50 million.[9] The Foreign

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[8] In March 1977 the Shaba (formerly Katanga) province of Zaire was invaded from Angola by Katangese who had fled to Angola after the unsuccessful attempt by Katanga to remove itself from the authority of the (then) Government of the Congo. The invasion was repulsed after several months of fighting.

[9] See the discussions of bilateral assistance on pp. 97-102 and multilateral assistance on pp. 103-116 in this volume. (Ed.)

Assistance and Related Programs Appropriation Act (Public Law 95–148), instructed the U.S. representative to the African Development Fund to oppose loans and assistance to countries that systematically violate fundamental human rights.[10]

Uganda

Congressional condemnation of reported atrocities in Uganda in 1977 was evidenced by several actions. The Senate passed Senate Resolution 175, condemning the regime of Idi Amin Dada, urging nations to stop supplying lethal arms to Uganda and calling for a U.N. investigation. Foreign assistance to Uganda was forbidden under Public Law 95–148. Numerous pieces of legislation have been introduced in both Houses to prohibit trade between the United States and Uganda, to close the Ugandan Embassy in the United States, and to prohibit military cooperation with, or arms exports to, Uganda. Pressure may mount in 1978 to prohibit the import of Ugandan coffee into the United States, as it is the principal source of foreign exchange for Uganda. This, of course, will conflict with the U.S. Government's residual, but not categorical, commitment to free trade principles. Some of these bills will be the subject of hearings, and possible action in 1978.

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Latin America *

OVERVIEW

Congressional activity on Latin America in 1977 generally paralleled the interest expressed the preceding year with the predominant focus on the Panama Canal treaties, and major interest expressed on Cuba and human rights.[1] Congressional and administration initiatives resulted in sanctions against military assistance to several Latin American nations.

Additional congressional attention was directed toward the issue of narcotics traffic and the exchange of prisoners, principally with Mexico and Bolivia. Several delegations from the House and the Senate traveled to Latin America, especially to Panama, during the year.

DISCUSSION

Panama Canal treaties **

During 1977 the Carter administration concluded two new treaties with Panama and launched an uphill campaign to win congressional and public approval for the controversial pacts. The Congress, under considerable public pressure, subjected the negotiations and the completed treaties to intense scrutiny and criticism. When serious questions about U.S. defense rights under the treaties were raised during congressional hearings in the fall, making Senate approval doubtful, President Carter was forced to meet with General Torrijos to issue a clarifying statement of understanding. While this action improved the prospects for Senate consent to ratification by the required two-thirds vote, it was still unclear at the end of the year whether the two treaties would receive the necessary approval when the Senate takes final action on the pacts in early 1978.

Reactions to negotiations.—When the new administration took office the negotiations with Panama had been underway intermittently since 1973. Ambassador Ellsworth Bunker had then been designated as chief negotiator, preparing the way for Secretary of State Kissinger's visit to Panama in February 1974 to announce a joint statement of principles. The principles committed the United States to conclude a new treaty with a fixed expiration date (replacing the "in perpetuity" concept of the 1903 treaty), after which Panama would assume sole control of the Panama Canal and the contiguous Canal Zone. The treaty talks languished during 1975 and 1976, however, in part because of congressional opposition as expressed in the Snyder amendments and the Thurmond resolutions, and in part because the negotiations, under

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*Prepared by Barry Sklar and K. Larry Storrs.
**Prepared by K. Larry Storrs, Analyst in Latin American Affairs.
[1] Also see the discussions of human rights on pp. 142–152 and conventional arms transfers on pp. 70–82 in this volume. (Ed.)

attack by Ronald Reagan, became an important issue in the 1976 Presidential campaign.[2]

Early in the year the Carter administration, removing doubts lingering from the campaign, indicated plans to pursue vigorously negotiations for a new treaty arrangement with Panama in keeping with the 1974 principles. Along with Ambassador Bunker, Sol Linowitz was designated as conegotiator to undertake the accelerated treaty talks. After inconclusive negotiations in February and a breakthrough in May based on Panama's willingness to accept a U.S. defense role after the termination of a new treaty and U.S. willingness to set the year 2000 as the date for termination of the new treaty, it was reported in June that the parties had agreed on substantial portions of two new treaties. At that point, extensive consultations with Congress were initiated.[3]

During the course of the negotiations, considerable opposition was expressed in Congress. Shortly after the 95th Congress convened, Representatives Ashbook and Flood introduced House Resolutions 14 and 92, respectively, stating the sense of the House of Representatives that the United States should retain unimpaired its sovereign rights over the Canal and the Canal Zone. More than 25 similar measures, with numerous cosponsors, had been submitted by mid-year. On the Senate side, however, it was notable that Senator Thurmond failed to submit a comparable resolution although such a resolution submitted during the 94th Congress, had been cosponsored by more than a third of the Senate.

In February, Ambassador Linowitz came under attack in Congress because he had been given a temporary 6-month appointment, thereby avoiding the Senate's advice and consent, and had remained a member of the board of directors of Marine Midland Bank, which was part of a consortium of banks that had granted loans to the Republic of Panama. While the State Department responded to the charges, Ambassador Linowitz felt compelled to resign as a director of Marine Midland in mid-March to avoid "even the slightest suggestion of a conflict of interest," after he was questioned in a closed session of the House Merchant Marine and Fisheries Committee.

In May and June, amendments were offered in the House in opposition to the treaty negotiations. On May 4, 1977, while the House was considering the Foreign Relations Authorization Act for Fiscal Year 1978 (H.R. 6689), Representative Dornan offered an amendment—similar to the Snyder amendment which passed twice in 1975 before being softened in conference—to forbid the use of funds "for the purpose of negotiating the surrender or relinquishment of the Canal Zone or the Panama Canal." Representative Buchanan countered with a substitute amendment, similar to recent conference compromises, providing that any new treaty or agreement "must protect the vital interests of the United States" in the Canal and the Canal Zone. After debate, the Buchanan substitute passed 220–182 and was incorporated in the bill which passed the House that day, becoming law (Public Law 95–105) after Senate approval and the signature of the President.

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[2] For background on these events, see Congress and Foreign Policy—1975, pp. 168–172; and Congress and Foreign Policy—1976, pp. 197–200.

[3] William J. Lanouette. The Panama Canal Treaties—Playing in Peoria and in the Senate. National Journal, vol. 9, No. 41, Oct. 8, 1977, pp. 1556–62.

In a similar move, Representative Snyder proposed, on June 10, 1977, to add an amendment to the State Department appropriations bill (H.R. 7556), stating that: "None of the funds appropriated herein may be used to implement any new treaty with the Republic of Panama which surrenders or relinquishes United States sovereignty over and control of the Canal Zone and Panama Canal." Representative Snyder argued that his amendment was necessary to prevent the completion of a treaty to give away the canal and Canal Zone, while opposing spokesmen argued that the language of the bill, similar to previous years' compromises, was adequate. After debate, the Snyder amendment was rejected by an unrecorded vote.

Meanwhile, when the treaty negotiators turned, in July 1977, to the issue of financial arrangements, it appeared that they were far apart. U.S. negotiators were prepared to offer Panama $30 million to $50 million in yearly compensation from tolls, thereby avoiding any need for congressional appropriations, but Panama initially demanded a $1 billion lump-sum downpayment, plus $150 million to $200 million per year for the rest of the century. To break the statemate, President Carter met with Panamanian and American negotiators on July 29, and sent General Torrijos a personal letter asking him to understand that the latest U.S. economic proposals "represent the most that we could undertake to do, based on our consultations with Congress."

From that point on, the treaty negotiations moved rapidly toward conclusion. On August 10, the two countries' negotiators announced in Panama agreement "in principle" on two new treaties which remained to be drafted. On September 6, 1977, the completed treaties were initialed, and they were signed the following day, September 7, by President Carter and General Torrijos at a Washington ceremony attended by representatives of over 26 Western Hemisphere nations.

Under the Panama Canal Treaty, the United States would retain control of the operations and defense of the canal until December 31, 1999, after which Panama would assume sole control. Panama, under the treaty, would assume civil jurisdiction over the present Canal Zone after a 30-month transition period, would take over about 60 percent of the Canal Zone not needed for the operation and defense of the canal, and would receive about $50 million to $70 million per year in compensation from canal toll revenues. Outside the treaty arrangement, the United States also pledged its best efforts to arrange economic loans, loan guarantees and credits of up to $300 million for Panama. Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, the United States and Panama agree to permanently maintain a regime of neutrality and nondiscriminatory operation, and war vessels of the United States and Panama are granted the right to transit the canal expeditiously. President Carter transmitted the treaties to the Senate for its advice and consent on September 16, 1977.[4]

Hearings on the new treaties.—During the year, various congressional committees held hearings on the Panama Canal treaties, compiling a massive record of testimony covering a wide range of ques-

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[4] U.S. Congress. Senate. Panama Canal Treaties: Message from the President of the United States Transmitting the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal. 95th Congress, 1st Session, Executive N, Sept. 16, 1977. Washington, U.S. Government Printing Office, 1977.

tions. The Senate Foreign Relations Committee, to which the two treaties were referred, conducted extensive hearings from September 26 to October 19,[5] and the House International Relations Committee held hearings from September 8 to October 20.[6] The Subcommittee on the Panama Canal of the House Merchant Marine and Fisheries Committee held hearings in July[7] and late November,[8] while the full committee held a hearing on August 17, 1977.[9] The Subcommittee on Separation of Powers of the Senate Judiciary Committee held various hearings in July, September, October, and November on the question of disposal of U.S. property,[10] and the House Armed Services Committee held hearings on October 20.[11]

Led by Secretary of State Vance and conegotiators Bunker and Linowitz, treaty supporters argued in the hearings that the new treaties would adequately protect U.S. national interests since the United States would continue to operate and defend the canal until the year 2000, and thereafter would have the permanent right to maintain the neutrality of the canal. Secretary of Defense Brown and members of the Joint Chiefs of Staff stressed that use of the canal, not ownership or control, was the prime military interest of the United States and that it was best assured by a new treaty arrangement with Panama. Proponents also argued that a more "modern" relationship with Panama in keeping with present-day realities, would significantly improve our relations with Latin America.

Opponents of the treaties, stressing the military and commercial importance of the canal, argued that continued U.S. sovereignty over the area was the only way to safeguard U.S. interests, particularly when dealing with the Torrijos government which was characterized as a left-leaning, pro-Castro dictatorship with a poor human rights record.

As hearings progressed, congressional consideration of the treaties fell roughly into four stages, to be discussed below: (1) initial concern over the disposal of property question, (2) the emergence of a movement to add amendments or reservations to the treaties, (3) concern with apparent discrepancies between U.S. and Panamanian interpretations of key provisions of the Neutrality Treaty, leading eventually to the Carter-Torrijos statement of understanding of October 14, 1977 and, (4) a gradual shift by a number of Senators toward support for the treaties after visiting Panama.

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[5] U.S. Congress. Senate. Committee on Foreign Relations. Panama Canal Treaties. Hearings, 95th Cong., 1st sess. Washington, U.S. Government Printing Office, 1977. Part 1—Administration Witnesses; Sept. 26, 27, 29 and 30, and Oct. 19, 1977; Part 2—Congressional Witnesses, Oct. 4 and 5, 1977; Part 3—Public Witnesses, Oct. 10, 11, 13 and 14, 1977.

[6] U.S. Congress. House. Committee on International Relations. Proposed Panama Canal Treaties. Hearings, 95th Cong., 1st sess. Sept. 8, 14, 15, 20, 26, 28 and Oct. 11 and 20, 1977. Washington; U.S. Government Pringing Office, 1977.

[7] U.S. Congress. House. Committee on Merchant Marine and Fisheries. Subcommittee on the Panama Canal. U.S. Interest in Panama Canal. Hearings, 95th Cong., 1st sess, July 25, 26, 27, 1977. Washington, U.S. Government Printing Office, 1977. Serial No. 95–10.

[8] U.S. Congress. House. Committee on Merchant Marine and Fisheries. Subcommittee on the Panama Canal. Economic and Financial Ramifications of the Proposed Panama Canal Treaties. Hearings, 95th Cong., 1st sess. Nov. 30 and Dec. 1, 1977.

[9] U.S. Congress. House. Committee on Merchant Marine and Fisheries. New Panama Canal Treaty. Hearings, 95th Cong., 1st sess., Aug. 17, 1977. Washington, U.S. Government Printing Office, 1977. Serial No. 95–13.

[10] U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on Separation of Powers. Panama Canal Treaty (Disposition of United States Territory). Part 1, July 22, 1977; Part 2, July 29, 1977; Part 3 Sept. 8, Oct. 13 and 28, Nov. 3 and 15, 1977. Hearings, 95th Cong., 1st sess. Washington, U.S. Government Printing Office, 1977.

[11] U.S. Congress. House. Committee on Armed Services. Panama Canal Treaties. Hearing, 95th Cong., 1st sess., Oct. 20, 1977. Washington, U.S. Government Printing Office, 1977. H.A.S.C. No. 95–34.

One question of early and continuing concern has been Congress role in the disposal of U.S. property or territory. Even before President Carter sent the treaties to the Senate for its advice and consent, many Members of Congress, particularly those in the House, argued that both the House and the Senate must play a specific role in the disposal of any U.S. territory or property under article IV, section 3, clause 2 of the Constitution. This clause provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." This question was the focal point of the hearings beginning in July by the Senate Judiciary Committee's Subcommittee on Separation of Powers, chaired by Senator Allen, as well as the hearing on August 17, 1977, by the House Merchant Marine and Fisheries Committee. The matter was also addressed in the hearings by the Senate Foreign Relations Committee and the House International Relations Committee. Speaking for the administration, Attorney General Bell and State Department Legal Adviser Hansell argued that the treaty power was a concurrent power and therefore that disposal of property could be effected by treaty alone without specific authorization by both Houses of Congress. At the same time, it was noted that other implementing legislation covering, for example, the creation of the Panama Canal Commission to operate the canal until the year 2000, would be submitted to both Houses of Congress for enactment.

Given the Carter administration's failure to grant a role to the House in the disposal of Canal Zone property, numerous resolutions (e.g., H. Con. Res. 346 and 347) and several bills (e.g., H.R. 8790) were introduced to require a House role and, on October 3, 1977, 51 Members of the House of Representatives joined in a suit in district court to obtain a court order requiring House action on the matter. By the end of the year, however, the court had not made a decision, and no action was taken on the bills and resolutions.

By mid-September a movement emerged to add amendments or reservations to the treaties to correct alleged deficiencies. In a speech on the Senate floor on September 23, 1977, Senator Robert Dole proposed six amendments and two reservations to the treaties addressed to the main areas of concern. His amendments would have allowed the United States to negotiate with any country for the right to build a sea-level canal, reduced the economic payments to Panama by about one-half, retained U.S. criminal jurisdiction over U.S. citizen employees until at least 1990, permitted the United States to intervene militarily to maintain the neutrality of the Panama Canal, and provided U.S. warships with "privileged passage" during time of war. His reservations would have made ratification to the treaty subject to the reservations that Panama make significant improvement in its human rights record, and that the transfer of property be contingent on enactment of legislation by both Houses of Congress.

The Senate Foreign Relations Committee began its hearings on September 26, against the background of the Dole amendments, and most of the committee's attention quickly turned to apparent conflicts in interpretation of the Neutrality Treaty by the American and Panamanian negotiators. While Secretary of State Vance and co-negotiators Bunker and Vance argued that article IV of the treaty

gave the United States the unilateral right to take whatever action was necessary to defend the neutrality of the canal, and that article VI granted United States warships "head-of-the-line" passage in emergencies, Senators Baker and Stone questioned whether Panama shared this interpretation, pointing to conflicting comments by Panamanian treaty negotiator Romulo Escobar. Escobar was quoted as saying, in comments he made on August 19 and 22, that Panama was "not giving the United States the right of intervention," and that expeditious passage should not be construed to mean "preferential rights." In response to these queries, Ambassador Linowitz indicated that the administration was disturbed by the comments and had received assurances that such statements would not be made in the future.

The issue was revived the following week, however, when Senator Dole released the text of a confidential State Department cable from Panama which stated that Dr. Carlos Lopez Guevara, one of the treaty negotiators, was disturbed by administration statements to the effect that the Neutrality Treaty granted the United States a right to "intervene" in Panama, and gave the United States preferential treatment. When Senator Dole testified before the committee on October 5, 1977, several members of the committee stated that the conflicting interpretations would have to be cleared up before the Senate would approve the treaties. President Carter met with a group of influential Senators to assess the situation on October 11 and he was told that the treaties were in serious trouble, leading the administration to initiate discussions with Panama to clarify the disputed provisions.

Shortly thereafter, on October 14, 1977, President Carter met with General Torrijos in Washington, after which the two leaders issued a clarifying statement of understanding. It provided, with regard to defense rights, that "each of the two countries * * * shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal," but these rights were not to be interpreted, according to the statement, "as a right of intervention of the United States in the internal affairs of Panama." With regard to expeditious passage rights granted to U.S. and Panamanian war vessels, the statement provided that such vessels would be permitted to transit the canal "as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the canal rapidly."

While the statement was immediately viewed as improving the chances for Senate approval of the treaties, when Ambassadors Bunker and Linowitz returned to the Senate Foreign Relations Committee for explanations on October 19, questions were raised about the status of the unsigned statement and several committee members indicated that the statement of understanding might be incorporated as an understanding in the Senate's resolution of ratification. In Panama, a full explanation of the statement of understanding was made on October 18, several days before Panamanians approved the pacts by a 2 to 1 margin in the October 23 plebiscite. With approval still uncertain in the U.S. Senate, the Congress adjourned without taking action on the treaties and the debate was put off until 1978.

While Congress adjourned without completing action on the treaties, a number of important congressional visits were made to

Panama toward the end of the year, including two delegations led by Senate Majority Leader Robert Byrd and Minority Leader Howard Baker, respectively. The delegation of seven Senators, led by Senator Byrd, was in Panama November 9–12, 1977, and the three-man delegation led by Senator Baker visited from January 3–7, 1978. Both delegations met with U.S. and Panamanian officials, Canal Zone residents, officials of the U.S. Southern Command, and private citizens from both countries. Both delegations also spent considerable time with General Torrijos exploring various questions.

At the end of the Byrd delegation visit, General Torrijos promised to repeal various repressive laws and to improve the human rights conditions in the country. He also assured the Senators that he fully supported the October 14 statement of understanding. During the Baker delegation visit, Senator Baker reportedly informed General Torrijos that he could not support the treaties unless the Senate added the language of the statement of understanding to the treaties as an amendment or reservation. Torrijos reportedly did not object to such a change since the statement of understanding had been fully discussed in Panama prior to the October 23 plebiscite. While members of both delegations were reported to be more optimistic about the chances for Senate approval of the treaties at the end of the visits, whether the growing support for the treaties would be sufficient for passage remained uncertain at the end of the year.

*Cuba**

The Congress became more active on the issue of normalization of relations with Cuba in the first session of the 95th Congress, both in reaction to and in concert with administration policy. In contrast to the relative inactivity on the issue in the preceding year, due mainly to Cuban involvement in Angola, important legislative activity was conducted in 1977. More Members of Congress visited the island than in the past years, reflecting increased interest.

Congressional interest in Cuba during 1977 developed in the context of the Carter administration's initiatives toward Fidel Castro's government, as well as Cuban responses to both executive and legislative moves. There was an early indication of the new Carter policy on Cuba in January when then Secretary of State-designate Cyrus Vance, during his confirmation hearings, called the U.S. embargo on Cuba "ineffective." Later in the month, he expressed the hope that the United States "could begin the process of moving toward normalization." After an exchange of conciliatory statements by the U.S. and Cuban leaderships, and after receiving word from the Cubans that they wanted to talk about fishing boundaries, Secretary Vance, in early March, proposed that the United States and Cuba enter into discussions on the wide range of issues without preconditions.

That same month, the United States lifted the longstanding ban on U.S. citizen travel to Cuba; the United States and Cuba began discussions in New York on fishing rights and maritime boundaries; and the administration lifted the ban on spending of U.S. dollars in Cuba. In April, U.S. diplomats traveled to Havana for the first time in 16 years, completed negotiations on the fishing question, and opened way for discussions on the other major issues between the two nations.

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* Prepared by Barry A. Sklar, Specialist in Latin American Affairs.

In May, President Carter, in his message transmitting the fishing and maritime agreements to the Congress for approval, stated that favorable action by the Congress would constitute a tangible step in the improvement of U.S.-Cuban relations.

It was announced in June that through U.S. initiatives the United States and Cuba would exchange midlevel diplomats in order to establish "interests sections" in Havana and Washington. The sections, physically located in each country's former chancery building, were formally opened on September 1. In August, it was announced that the United States and Cuba were exchanging information on terrorist activity.

As in past years, resolutions reflecting basic schools of congressional opinion on either side of the issue were introduced. Resolutions in favor of normalization generally advocated lifting or otherwise modifying the embargo against Cuba. Resolutions generally regarded as against normalization called for the satisfaction of certain conditions before relations could be normalized: compensation for expropriated property, release of U.S. prisoners, withdrawal of Cuban troops from Africa, assurances of cooperation on hijacking, future security of the Guantanamo Base, no disruption of the American sugar market, and satisfaction of human rights concerns.[12]

Action taken on Cuba-related amendments to major legislation indicated mixed congressional attitudes toward the apparent change in Cuba policy. In support for the movement toward Cuba, the House rejected an amendment to the international lending institution authorization bill (H.R. 5262) which sought to prohibit the financial institutions from using U.S. moneys for any assistance to Cuba (also Cambodia, Laos, and Vietnam.) [13] In the Senate, an amendment which nstructed U.S. delegates to international lending institutions to oppose any assistance to Cuba (also Cambodia, Laos, and Vietnam) was tabled. Section 620(a) of the International Development and Food Assistance Act of 1977 was revised to remove restrictions on aid to countries that trade with Cuba (and Vietnam). The House rejected an amendment to the foreign assistance appropriations bill which sought to include Cuba in a list of countries prohibited from receiving funds for direct U.S. assistance.[14] Finally, the House rejected an amendment to the Foreign Relations Authorization Act which would have denied funds for the purpose of negotiating the resumption of diplomatic relations with Cuba.

Other congressional action, however, reflected an attitude of opposition to the moves toward Cuba. The International Development and Food Assistance Act of 1977 contains a House-initiated provision stipulating that there be no aid or trade with Cuba. Again through the initiative of the House, the Foreign Assistance Appropriations Act (Public Law 95–148) prohibits the use of funds for any form of aid of trade with 'Cuba. In the Senate, an amendment proposed by the Senate Foreign Relations Committee to the Foreign Relations Authorization Act, which called for partial lifting of the embargo to allow Cuba to purchase U.S. food and medicines was withdrawn on the floor because it did not reflect the original intent of its sponsor, Senator

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[12] See also the discussion of human rights on pp. 142–152 in this volume. (Ed.)
[13] See also the discussion of multilateral assistance on pp. 103–116 in this volume. (Ed.)
[14] See also the discussion of bilateral assistance on pp. 97–102 in this volume. (Ed.)

McGovern. In its place, the Senate passed a Cuba provision sponsored by Senator Robert Byrd as a substitute to a harsher measure proposed by Senator Dole. The Byrd resolution expressed the sense of the Congress that negotiations should take place with Cuba on a reciprocal basis and that such negotiations should be related to the protection of U.S. interests and property. It further stipulated that Cuban military policies and human rights posture should be taken into account in negotiations.

During the year, the following Members of Congress, most of whom had long discussions with President Castro, visited Havana: Senators McGovern, Church, and Abourezk, Representatives Bingham, Aspin, Dellums, Richmond, and Nolan, and members of a delegation led by Representative Henry Ruess, chairman of the House Banking and Currency Committee.

Increased Cuban military activity in Africa, and U.S. reaction to it most likely will result in a decrease in congressional moves toward normalization during the first part of 1978.[15] It also could result in initiatives in the Congress to harden the U.S. position relating Cuban activities in Africa supporting Soviet international interests.

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[15] See also the discussion of Africa on pp. 173–179 in this volume. (Ed.)

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Asia: Korea and Vietnam *

OVERVIEW

Korea and Vietnam dominated the attention Congress gave Asian issues in 1977.[1] The Korea issue had two aspects: (1) President Carter's announced plan to withdraw American ground forces from South Korea by 1982, and (2) investigations of alleged South Korean influence buying in Congress. Vietnam became an issue as a result of renewed demands by the Hanoi regime that the United States grant it large-scale reconstruction aid or "reparations" as a condition for the establishment of diplomatic relations with Washington.

The Korea troop withdrawal issue received considerable congressional attention in 1977. On April 25, 1977, the full House of Representatives debated and rejected (301–88) an amendment to the Department of Defense authorization bill for fiscal year 1978 that would have mandated a reduction of active duty military strength by 50,000 personnel, of which 17,000 would come from troops stationed overseas. The debate clarified the fact that most of the 17,000 would have been U.S. personnel in Korea.

The House Armed Services Investigations Subcommittee held hearings on the administration's troop withdrawal policy in May, June, and July 1977. Among those testifying were Gen. John Singlaub, who had been relieved of his Korean Command following his open criticism of Carter's troop withdrawal policy; Gen. George Brown, Chairman of the Joint Chiefs of Staff; and Gen. Bernard Rogers, Chief of Staff of the Army. The subcommittee examined Singlaub's contentions that the Carter withdrawal plan might lead to war in Korea and that the administration had not asked for the views of U.S. commanders in South Korea before deciding upon the withdrawal policy.

The House Asian and Pacific Subcommittee also received testimony on these questions from General Brown and Under Secretary of State Philip Habib on June 10, 1977.

Major legislative initiative on the troop withdrawal question was taken in considering the Foreign Relations Operations authorization bill (H.R. 6689). The Senate Foreign Relations Committee's version of the bill contained language affirming support for the President's withdrawal plan. In extensive floor debate in the full Senate, the language was amended to state that U.S. policy toward South Korea should be decided by both the President and Congress and that implementation of the President's plan was to be "carried out in regular consultation with Congress" with reference to U.S. interests in Korea and Japan. The language was incorporated into the fiscal year 1978 Foreign Relations Authorization Act (Public Law 95–105).

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* Prepared by Larry A. Niksch, Specialist in Asian Affairs.

[1] Also see the discussion of U.S. relations with the People's Republic of China on pp. 53–56 in this volume. (Ed.)

By the second half of the 1977 session of Congress, the role of the Congress in U.S. Korea policy was dominated by allegations and revelations concerning attempts by the South Korean Government to influence Members of Congress through illegal or unethical means. Two House committees, the Ethics Committee and the Subcommittee on International Organizations, held a series of hearings on this question and conducted ongoing investigations; and the International Organizations Subcommittee also examined general activities of the Korean Central Intelligence Agency in the United States. At these hearings, a number of defectors from the South Korean Government described these operations. The wives of two House Members also gave testimony. Also affecting the issue were a grand jury investigation of Korean influence buying (which issued several indictments) and a Justice Department investigation which, by the autumn of 1977, had concentrated attention on negotiations with the South Korean Government to secure the return to the United States of Korean businessman Tong Sun Park. Park had been named a primary figure in the influence securing operations.

The adverse effect of the influence buying question on U.S.-South Korean relations in general and, specifically, on the administration's "strategy of reassurance" was clearly discernible. In October 1977, the Carter administration asked Congress to approve the transfer of about $800 million of weapons and equipment from U.S. forces in Korea to South Korean forces over the 5-year troop withdrawal period. This proposal would be the first installment of the compensatory security assistance promised by Secretary Brown to the South Korean Government in July 1977.

In October, House and Senate leaders clearly indicated not only that Congress would not consider the President's proposed $800 million weapons transfer proposal because of the scandal but also that the scandal had jeopardized any future congressional approval of this proposal and future compensatory security assistance requests. On October 31, the House approved (407–0) a resolution calling on South Korea to "cooperate fully and without reservation" with the Ethics Committee investigation "so that the historic alliance of the United States and the Republic of Korea may persevere."

Major legislation in 1977 reinforced the existing prohibition on U.S. bilateral aid to Vietnam. The major acts containing such provisions were the International Development and Food Assistance Act of 1977 (Public Law 95–88) and the Foreign Relations Authorization Act, fiscal year 1978 (Public Law 95–105).

The House of Representatives also attempted to restrict U.S. funds channeled to Vietnam, Laos, and Cambodia through international lending agencies. The House version of H.R. 7797 (Foreign Aid Appropriations for Fiscal Year 1978) prohibited the World Bank and other financial institutions from using U.S. funds for assisting seven countries, including Vietnam, Laos, and Cambodia, on the grounds that these states significantly violated the human rights of their citizens. After a House-Senate conference failed to win Senate approval of this provision, President Carter facilitated an agreement by writing House Foreign Operations Subcommittee Chairman Representative Clarence Long that he would instruct U.S. officials assigned to the

lending institutions to oppose and vote against loans to the seven countries.[2]

Congress also showed a continuing interest in the status of Americans missing in action in Vietnam. The International Development and Food Assistance Act of 1977 (Public Law 95–88) and the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105), both stated that the President "shall continue to take all possible steps" to obtain a full accounting of missing in action personnel.

The House Subcommittee on International Organizations devoted particular attention to East Asian countries in its hearings on human rights in 1977. The subcommittee held hearings on Indonesia, Thailand, Cambodia, Vietnam, and Taiwan.

DISCUSSION

Korea

President Carter's plan to withdraw American ground forces from South Korea by 1982 has initiated a new and uncertain period in U.S.-Korean relations with implications for the structure of great power relations in Northeast Asia. The plan originated during Jimmy Carter's Presidential campaign. Carter raised the issue as early as January 1975 and discussed it with academics and staffs of several "think tanks" during this period. The plan was quickly incorporated into actual policy once President Carter took office. The President stated in his March 9, 1977, news conference that he would remove all ground troops over a 4- to 5-year period. He promised that the United States would consult closely with both South Korea and Japan and that U.S. air units would remain "over a long period of time."

The period after the March 9 news conference saw substantial criticism of the plan arise in the United States and East Asia. Basically, the criticisms were: (1) that the plan would weaken the deterrent to North Korea and lead to a Communist attack on South Korea; (2) that the plan was adopted by the Carter administration from the campaign proposal without any substantive analysis of it by experts in the Departments of State and Defense and the CIA; (3) that the plan was presented to Japan, the chief U.S. ally in East Asia, as a fait accompli without any prior consultation with the Japanese; and (4) the plan was part of a general pattern of U.S. disengagement from the East Asian region.

The criticism reached its zenith in the wake of the "Singlaub affair" in May 1977. Gen. John Singlaub, third-ranking U.S. officer in South Korea, stated in a press interview that President Carter's plan could result in a new Korean war. President Carter responded by transferring Singlaub to a stateside post. The "Singlaub affair" produced instant headline-making controversy over the troop withdrawal plan, which continued into June and encompassed congressional hearings and floor debates.

Following the "Singlaub affair," the administration noticeably shifted its strategy. For the first time since candidate Carter proposed the plan, he gave a public rationale for it. In a May 26 news confer-

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[2] See more complete discussion in multilateral assistance chapter, p. 103.

ence, he asserted that U.S. ground forces no longer were required to maintain an effective deterrent because of South Korean military and economic strength; a continued and clear U.S. defense commitment to South Korea under the 1954 defense treaty; changing great power relationships in Northeast Asia; and the planned retention of a naval-air U.S. residual force in South Korea. Carter put special emphasis on South Korean strength and the credibility of the U.S. defense commitment.

One month later, at the end of July, Secretary of Defense Brown visited Seoul and Tokyo, bearing additional reassurances and new forms of commitment to South Korea. The United States pledged both to provide South Korea with "compensatory security assistance" (about $1.9 billion) over the 5-year troop withdrawal period and that "compensatory measures will be implemented in advance of or in parallel with the withdrawals."

The themes of reassurance and credibility stood out in other statements made by Brown in Seoul and Tokyo. Japanese officials questioned whether Congress would approve compensatory security assistance for South Korea, and Brown assured the Japanese that Congress would likely support the administration's proposals. Japanese Defense Agency Director Mihara stated in mid-August that the Brown visit signaled a shift in U.S. policy toward a more cautious and realistic position.

The administration's "strategy of reassurance" may have reassured some critics, it has also stimulated the emergence of criticism from another direction. Some individuals and groups, including some Members of Congress who originally supported the President's plan, had apparently perceived the plan as a first step toward total U.S. military disengagement from South Korea. Subsequent to administration elaborations on it, they became either uncertain or concluded that the administration does not intend to move in that direction. Open criticism occurred at the U.S.-Japan Parliamentarians' Conference on Korea held in Washington during September 1977. Several American speakers attacked the administration's policy as nothing new or a version of the Nixon Doctrine, and they proposed policies—including direct U.S.-North Korean negotiations—leading toward total U.S. military withdrawal from the Korean Peninsula. They also opposed "compensatory" security assistance to South Korea.

There now exist within the Congress three fairly distinct schools of thought concerning the American military role in Korea. The positions they support can be briefly summarized in the following terms.

(1) *American ground forces should be retained in South Korea.*—This viewpoint places primary emphasis on the deterrent effect that U.S. ground forces, particularly the 2d Infantry Division, has on North Korean calculations. It is argued that withdrawal of ground forces would sharply increase the possibility of war on the Korean Peninsula with all of its ramifications for great power relations in Northeast Asia.

(2) *Withdraw U.S. ground forces but retain air units and provide extensive security assistance to South Korea in line with President Carter's plan.*—This school of thought offers the Carter administra-

tion's rationale that South Korean military and economic strength coupled with a credible U.S. defense commitment will provide an adequate deterrent once ground forces are removed. However, some congressional supporters offer additional rationale; that the policy reduces the likelihood of another ground war on the Asian mainland, it would improve flexibility in responding to a North Korean attack, and it would reduce U.S. visibility in relation to the authoritarian South Korean Government.

(3) *Adopt policies leading toward a total U.S. military disengagement from South Korea at an early date.*—This school of thought urges direct U.S.-North Korean negotiations aimed at a total U.S. troop withdrawal from South Korea; but it also holds open unilateral U.S. action as an alternative approach. Proponents of this view are opposed to the President's proposed compensatory security assistance to South Korea, and some oppose existing levels of security assistance. They argue that total withdrawal would prevent the United States from being drawn into another Asian war and would disassociate the United States completely from a South Korean Government that they view as oppressive.

Most immediately, Congress will decide in 1978 whether or not to approve or even consider the administration's $800 million arms transfer proposal. In making this decision, it will have to weigh the importance of this measure to the administration's ability to manage its troop withdrawal policy against the effect of the South Korean influence-buying scandal on Congress. In a broader sense, the manner in which Congress deals with both the scandal and the arms transfer proposal will definitely affect (1) the climate of American public opinion toward the future U.S. military role in Korea and (2) Korean, Japanese, Soviet, and Chinese perceptions of the future direction of American policy toward Korea.

Vietnam

Congress also has taken actions that have been in conflict with the Carter administration's Vietnam policy. In the first half of 1977, the administration attempted to reach an early agreement with Vietnam on normalization of relations. To facilitate such an agreement, the administration made a number of conciliatory gestures including a reversal of the practice of vetoing U.N. membership for Vietnam; limited relaxation of trade and travel restrictions on Vietnam; an offer to lift the trade embargo once diplomatic relations were established; and statements and policy moves suggesting that the missing in action question was no longer a major issue of contention between the United States and Vietnam.

During negotiations in May and June 1977, the administration expressed the hope that Vietnam would accept these policy changes and agree to drop the question of bilateral aid until after diplomatic relations were established. The administration apparently presented a scenario to the Vietnamese in which the climate for bilateral aid within Congress and the American public would improve once normalization of relations had taken place.

Vietnam, however, responded that the United States must pledge large-scale bilateral aid as a condition for normalization. Congress,

too, has shown some displeasure at the administration's approach with legislation (cited earlier) barring bilateral aid and reemphasizing the missing in action question. In an interview in the Far Eastern Review (November 18, 1977), Assistant Secretary of State Richard Holbrooke pointed to the strong contradiction between Vietnamese demands for aid and congressional and American public opposition to such aid as the main factor preventing normalization of relations.

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Middle East*

OVERVIEW

The Middle East in 1977 furnished a complex backdrop to the relationship between the new administration of President Jimmy Carter and the 95th Congress in the formulation of U.S. foreign policy. After a loss of pace that always accompanied Presidential elections, the attention of the new administration and Congress focused on one of the principal and perennial foreign policy challenges facing the United States—seeking a gain in momentum toward an overall settlement of the Arab-Israeli conflict which affected virtually every issue of major U.S. concern in the Middle East. Events throughout the year, however, emphatically demonstrated the region's complex and often ambiguous nature. In light of this, the 95th Congress maintained a continuing interest in the course of negotiations toward a Middle East settlement and reviewed administration policy pertaining to U.S. regional commitments, interests, and assistance.

Congress also acted on legislation which would have considerable impact on U.S. foreign policy in the Middle East. Among the subjects considered by the Congress relating to the region were foreign assistance, arms transfers, human rights, and the Arab boycott of Israel. In addition, numerous congressional study missions visited Middle Eastern countries during the year.

Periodic briefings of the Secretary of State and other key executive branch officials were held during the year to provide information to Congress of regional developments. There was, however, some congressional criticism over a lack of timely and adequate consultation by the administration on Middle East developments. Moreover, some observers attributed the emergence of particular problems affecting executive-legislative relations on Middle Eastern issues to the new administration's inexperience and its unfamiliarity with the interrelationship between international issues and national institutions, particularly Congress. Others questioned the competence and experience of Presidential advisers with respect to the complexities of Middle Eastern issues and suggested that these limitations reflected particularly in the use—or misuse—of the language of diplomacy, hampered the administration's efforts, both in international negotiations and in Congress.

From the outset, the Carter administration reiterated the traditional U.S. commitment to Israel's survival and security. At the same time, it continued the policy initiatives of its predecessors of endeavoring to improve the U.S. position in the Arab world, with particular emphasis on relations with Saudi Arabia and Egypt, as well as with Muslim Iran. Middle East developments of the preceding

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2-year period still had an impact on the climate in which U.S. foreign policy would be formulated: the improvement of relations between Syria and Jordan, the Egyptian-Israeli Sinai interim agreement of September 1975, the Syrian initiative on behalf of the Palestine Liberation Organization (PLO) in the Security Council, cancellation of the Soviet-Egyptian Treaty of Friendship and Cooperation, a serious deterioration in Lebanon's civil war with Syrian intervention in April 1976, and polarization of Syria and the PLO, a meeting of the Palestine National Council, and the launching of a new U.S. initiative toward a Middle East settlement.

Soon after his inauguration, President Carter conferred with Israeli Prime Minister Yitzhak Rabin and the leaders of Egypt, Jordan, Syria, and Saudi Arabia. He indicated that he subscribed to a broad consensus that had emerged during the latter half of 1976 calling for a new attempt to negotiate a comprehensive Arab-Israeli settlement at a reconvened Geneva Conference in 1977, in place of the step-by-step approach of former Secretary of State Henry Kissinger. The President advocated a peace plan that would permit Israel to have "defensible borders;" on March 16, at a Clinton, Mass., citizens' meeting, Carter revealed he favored a Palestinian "homeland;" and subsequently, he indicated that there should be either a Palestinian state or, at least, "a Palestinian entity voluntarily federated with Jordan." In an interview given to a group of news editors and directors in June, President Carter stated that "Mr. Kissinger's position was to deal with the Middle East questions in a step-by-step incremental way," whereas the hope of his administration was that "we can have a settlement by the participants without delay, hopefully this year, and that once a settlement is reached, then step-by-step implementation * * * is the best way to go about it."

Three developments during 1977 affected the course of U.S. foreign policy in the Middle East. The first was the formation of a Likud coalition government in Israel under Menachem Begin, who won the May 17 general elections from the Labour Alignment that had led Israel since its independence in 1948. Prime Minister Begin declared in June that nothing was "nonnegotiable" with respect to negotiations toward a peace settlement. He also stated, however, that there were two points on which he felt there existed a national consensus in Israel: "First, under no condition will Israel be able to withdraw to the borders of 4 June, 1967, and it will not do so. Second, under no conditions will we agree to a state called Falastin [Palestine] being set up in Judea and Samaria [the West Bank] and in Gaza."

The second development was the U.S.-Soviet Declaration on the Middle East of October 1 which called for a comprehensive Middle East settlement at a Geneva Conference to start "not later than December 1977," and established the following principles: (1) withdrawal of Israeli forces from occupied territories; (2) resolution of the "Palestinian question" that would insure "the legitimate rights of the Palestinian people;" (3) termination of the "state of war" and "establishment of normal peaceful relations" between Israel and its Arab neighbors; (4) establishment of demilitarized zones to assure "security of borders," with possible guarantees; (5) United States

and Soviet willingness to participate in guarantees; and (6) the involvement of "all parties and all questions" in a comprehensive settlement.[1]

The third development was Egyptian President Anwar al-Sadat's visit to Jerusalem and his speech before the Knesset on November 20. Al-Sadat's dramatic initiative appeared to have taken the Carter administration by surprise and it exacerbated intra-Arab differences to the extent of postponing any immediate hope of a reconvened Geneva Conference. A resolution passed by the House and Senate on November 29 commended the Egyptian and Israeli leaders for their "courageous face-to-face negotiations in the context of a Geneva Conference." The principal gains from this initiative were psychological in that the Egyptian leader met criteria upon which Israel repeatedly had insisted—a readiness for face-to-face discussions, and acknowledgement of the existence of the State of Israel. Al-Sadat also conveyed the concept of full peace; i.e., not merely an end to belligerency, but rather diplomatic relations and open borders for the passage of people, goods, and ideas. In his speech before the Knesset, however, al-Sadat did not waiver from moderate Arab principles for an overall peace settlement:

(1) Israeli withdrawal from occupied Arab territories to the pre-June 1976 borders; (2) Arab recognition of Israel's sovereignty and its need for security, (3) the creation of a Palestinian state; and (4) access to Arab Jerusalem. It should be noted that al-Sadat, in his speech, did not refer explicitly to an acceptance of the PLO as the sole legitimate representative of the Palestinian people.

The Carter administration initially indicated its concern that the al-Sadat initiative would endanger the chances for a reconvened Geneva Conference through a separate peace agreement between Israel and Egypt. In the face-to-face discussions between Egyptian and Israeli officials, however, Egypt's articulation of the basic principles it considered necessary for negotiations toward an overall settlement dispelled U.S. concern over a separate Egyptian-Israeli deal, and the administration hastily rallied to support the efforts of Egyptian President al-Sadat and Israeli Prime Minister Begin.

President Carter earlier in the year had evoked considerable criticism from domestic supporters of Israel for having voiced U.S. support for the rights of displaced Palestinians to a territorial entity of their own. In October, he was criticized by domestic, Israeli, and moderate Arab circles for his insistence upon Soviet involvement in any negotiations toward a Middle East settlement. Indeed, Egyptian President al-Sadat, who had been consistent in his objections to superpower collusion, launched his November initiative in an anti-Soviet context. And when the Soviet response to his Jerusalem visit was hostile, he closed the Soviet consulates and cultural missions in Egypt. By the year's end, the Soviet Union was lending its support to the "steadfast front" Arab States and the PLO objecting to the al-Sadat initiative. At the same time, the Al-Sadat-Begin personal diplomacy that had appeared to give a genuine promise of peace in the Middle East revealed that both parties remained far from any agreement, princi-

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[1] See also discussion of U.S. relations with the Soviet Union on pp. 47–52 in this volume. (Ed.)

pally because of differences over Israel's settlement policy in occupied Arab lands, Begin's proposals for the West Bank, and a lack of any resolution of the Palestinian question.

DISCUSSION

Foreign assistance

Congress, on July 22, cleared for the President a bill (H.R. 6884, Public Law 95-92) authorizing $3.196 billion for foreign military and security assistance aid for fiscal year 1978.[2] Approximately 65 percent of the total authorization in the bill was allocated for the Middle East, assistance viewed by the administration as essential toward achieving a lasting peace in the region. U.S. national interests related to a settlement of the Arab-Israeli conflict and to oil supplies which, if disrupted again by the outbreak of new hostilities, would cost the United States billions of dollars and severely damage the economies of Western Europe and Japan.[3] The maintenance of stability in the region was regarded by both the administration and Congress as of critical importance to U.S. national security.

As in recent years, Israel received the largest amount: $785 million in security assistance and $1 billion in military credit sales, of which $500 million was a grant.[4] Egypt was allocated $750 million in security supporting assistance. and the bill provided that the Secretary of State review the U.S. security assistance program for Egypt and develop a plan for a revision of U.S. aid legislation and suggest future development projects for Egypt. Syria was allocated $90 million in security assistance, Lebanon $20 million, and Jordan $93 million; Jordan also was allocated $55 million in military assistance. In addition, the bill authorized up to $12.2 million for continuation of the Sinai support mission.

Public Law 95–92 provided that no military assistance advisory groups (MAAG's) could operate overseas unless specifically authorized by Congress. It authorized "overseas management teams" for the purpose of performing administrative functions relating to fiscal year 1978 U.S. military assistance, training, and arms sales programs for the Middle East countries of Iran, Jordan, Kuwait, Morocco, and Saudi Arabia, and it permitted the President to assign up to six military personnel to any country to perform management duties relating to security assistance programs. The total number of individuals assigned overseas worldwide under these two management programs was limited to 865 during fiscal year 1978.

Funds authorized for security supporting assistance for the purpose of meeting U.S. national security interests had few guidelines to govern their use. The types of programs varied from balance-of-payments support for Israel to development projects in Syria. Some members expressed serious reservations over Syria's plan to use two-thirds of its fiscal year 1978 security assistance allocation to improve a coast highway. In the main, however, Congress viewed economic supporting assistance as a useful instrument to help stabilize the Middle East region until a final peace settlement could be achieved.

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[2] See also discussion of bilateral assistance on pp. 97–102 in this volume. (Ed.)
[3] See also discussion of U.S. international energy policy on pp. 129–132 in this volume. (Ed.)
[4] See also the discussion of conventional arms transfers on pp. 70–82. (Ed.)

Arms transfers.—President Carter announced his administration's overseas arms sales program on May 19, stating that the United States, as the largest weapons supplier, had "special responsibilities" to control the world arms traffic.

H.R. 6884, as cleared for the President, declared that the U.S. policy of restraint in arms sales "shall not impair Israel's deterrent strength to undermine the military balance in the Middle East." President Carter, before the announcement of his arms sales policy, had written the Senate Committee on Foreign Relations that he had not placed Israel in the category of special treatment in arms sales given U.S. allies because "we believe it goes without saying that the United States will do everything necessary to insure Israel's security."

U.S. arms sales policy in general, and arms exports to the Middle East in particular, were subjects of congressional debate in 1977. A significant number of Members were determined to cut back on arms sales to the region, and several expressed concern over the general policy of sales to Iran. Under section 36(B) of the Foreign Military Sales Act, the Congress could block arms sales of more than $25 million by concurrent resolutions within 20 legislative days—subsequently increased to 30 days—of the date the President formally proposed the sale to Congress. By informal agreement, the Senate Committee on Foreign Relations and the House Committee on International Relations received prenotification of proposed sales 20 days in advance of the formal notification.

AWACS.—President Carter on June 16 sent prenotification to Congress of a proposed sale of $1.2 billion for seven airborne warning and control systems (AWACS) aircraft to Iran to be delivered beginning in 1981. Formal notification was to follow on July 7. Opposition to the AWACS sale in Congress reflected increasing concern that sales of sophisticated weapons systems to Iran were out of control, and that current orders already were outstripping that country's capabilities to operate, maintain, and manage the equipment. In addition, the resultant dependence of the Iranian Armed Forces on U.S. supplies and expertise could entangle the United States in Iran's foreign policy decisions. There was also the danger that classified U.S. equipment could end up in Soviet hands through accident or defection by Iranian personnel.

Senate Majority Leader Byrd requested the President to withdraw the notification of the sale and resubmit it at a later date, explaining that many members had serious questions concerning the matter. On July 28, the House Committee on International Relations adopted a disapproval resolution. Facing the virtual certainty of similar disapproval in the Senate, President Carter withdrew his notification.

The administration resubmitted formal notification of the AWACS sale to Iran on September 7 accompanied by a number of assurances that had been requested by Congress. The issue of the AWACS sale pointed to the trend in Congress toward a more assertive role in foreign policy oversight in the area of arms sales. House Members, while assessing the potential damage to U.S.-Iranian relations, had voted to block the transaction when the administration refused to withdraw the July notification.

Human rights [5]

Iran.—Complying with laws enacted by the Congress in 1976 to encourage U.S. aid recipients to observe internationally recognized human rights standards, the State Department had published in December 1976 a report on alleged abuses in six countries, including Iran. It had recommended a continuation of U.S. arms sales to Iran in light of that country's strategic location and its role as an oil supplier to the United States, Western Europe, Japan, and Israel. During the visit of the Shah of Iran to Washington in November 1977, President Carter assured the Iranian leader that the United States would continue to assist Iran in meeting its "security needs" and fulfilling its "economic and social development programs."

Israel.—Following allegations of human rights abuses by Israel in reports by domestic and foreign media and such organizations as the Swiss League on Human Rights, the administration received criticism from Congress of inconsistencies in its rights policy. A hearing was held in October by the Subcommittee on Immigration and Naturalization of the Senate Committee on the Judiciary on Israeli treatment of Arabs in the occupied territories and on Israel's policy of settlements in the occupied lands.

Arab boycott

The 95th Congress considered controversial legislation aimed at curbing U.S. responses to the Arab League boycott of Israel and revising U.S. export policies. The principal problem facing Congress was to draft an antiboycott bill that would protect U.S. business interests in the Middle East and, at the same time, adhere to antiboycott provisions demanded by Jewish organizations in the United States. On June 10, Congress cleared for the President the Export Administration Amendments bill of 1977 (H.R. 5840—Public Law 95–42) which, in the words of President Carter in signing the legislation on June 22, represented, from a broad perspective, a first attempt by the United States to limit an internationally applied economic sanction on behalf of free trade, U.S. sovereignty, and human rights.

With respect to antiboycott laws, the Export Administration Amendments of 1977 presented a compromise that permitted an Arab country to select the manufacturer of some of the components of its choice, such as the brand of tires on a truck, but not less identifiable items, such as nuts and bolts, so long as the request was not based on race, religion, sex, or national origin of the producer. A Senate statement indicated that:

> * * * the real test of the bill will occur long after its enactment. It will occur when the government is faced with the decision of whether to file a complaint under the act. * * * To the degree that we have given business precise guidance as to what actions are acceptable and what are not, we will have written a strong bill.

The antiboycott provisions were intended to provide a stronger stand against U.S. compliance with the Arab boycott of Israel than had been possible under existing amendments to export control legislation which simply stated that it was U.S. policy to oppose boycotts against other countries friendly to the United States.

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[5] See also the discussion of human rights on pp. 142–152. (Ed.)

Prospect for 1978

Middle East issues during 1978 will continue to command the attention of Congress and the administration. Of prime importance will be U.S. policy options in maintaining progress in negotiations toward an overall Arab-Israeli settlement. Associated issues will involve American foreign assistance in support of U.S. policy, including security supporting assistance to Israel, Egypt, Syria, and Jordan, and continued reconstruction aid to Lebanon. In the event of forward progress in Arab-Israeli negotiations, consideration would need to be given to the issues involved in implementing the various elements of a settlement, such as guarantees relating to Israel's security, economic assistance, and an interim solution to the problem of the West Bank and Gaza.

Other issues affecting U.S. relations with regional countries will include arms sales and transfers, particularly with respect to Israel, Egypt, Saudi Arabia and Iran; human rights questions; the supply and pricing of Middle East oil; U.S. trade in the Middle East; foreign investment in the United States; and refugee relief programs.

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Western Europe*

OVERVIEW

As the focus of U.S. foreign policy has shifted away from Vietnam and Southeast Asia in general, the strength and stability of America's West European allies continued in 1977 to concern both the Congress and the administration. This readjustment of priorities was demonstrated by President Carter's and Vice President Mondale's trips to Europe in the first 6 months of 1977, and by the President's return trip to several European countries, originally scheduled for November 1977, but delayed until January 1978.

One of the major concerns of Congress and the administration in West Europe in 1977 has been "Eurocommunism," and especially the debate over the influence that Communist Party participation in West European governments would have upon the North Atlantic Treaty Organization (NATO) and other U.S.-West European relationships. By the end of 1977, however, it appeared that congressional anxieties on this issue had waned, due in part to the split between the Socialists and Communists in France, which diminishes the prospect of Communists entering a government in Paris; and in part to increased awareness that if a Communist Party were to participate in any government in Europe, there would be strong restraints placed upon its policies by the realities of economic and security interdependence with other West European countries and the United States.

The other major area of congressional concern in 1977 has been supplementing the strength of the NATO alliance. Since the withdrawal of troops from Vietnam, the United States has been strengthening its force presence in Europe. Currently, U.S. combat strength in Europe has been increased to the highest level since the early 1960's. 1977 also witnessed further concentration of efforts to enhance conventional capabilities by modernizing tanks, air warning techniques and weapons systems. In the past year Congress has continued to study standardization and interoperability as means of both strengthening the alliance and providing the Europeans with a greater share of the responsibilities of the alliance.

Although Congress showed great interest in these and other developments in Europe in 1977, congressional activity was limited to several tangential issues related to its general intent to support democratic governments and to protect U.S. security interests in the area. Specific areas of congressional activity in 1977 included international terrorism, supplemental military assistance to Portugal and the defense cooperation agreement with Turkey.

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DISCUSSION

NATO issues

Congressional interest in NATO affairs was reflected by the number of studies and hearings conducted on various NATO topics including standardization, the tank issue, the cruise missile and the neutron bomb.

Standardization and the tank controversy.—In its efforts to strengthen the conventional capabilities of the NATO alliance, the Congress focused its attention on the decision of the United States to develop and deploy its own XM–1 battle tank instead of building the German Leopard 2 tank, and on the choice of gun to be mounted on the tanks.[1] The administration has an unequivocal commitment to increase its procurement of European weapons systems, and feels the need to make gestures for standardization. Therefore it is looking for a compromise solution to the tank controversy in the form of maximizing the commonality of tank components. One of the ways to do this would be to employ the German 120-mm gun. With regard to the German gun, the executive branch had not yet made a commitment because it feared congressional disapproval.

By the close of 1977 there was no consensus in the Congress that the German gun was militarily superior to the existing 105-mm gun. The House version of the DOD Appropriations Authorization Act, 1978 (Public Law 9579), included a section prohibiting the installation of a 120-mm gun in any XM–1 tank full-scale engineering development vehicle until after a reasonable period for congressional review.[2]

The House also expressed its intent that any effort to install a 120-mm gun on any XM–1 tank without a reprograming request or new legislative authority would be considered a violation of the intent of Congress. The Senate version of the act contained no restrictive language; however, in conference the Senate reluctantly agreed to an amendment with the understanding that comparative testing would be conducted as scheduled with a recommendation by the Secretary of the Army on the gun selection to be made no later than February 1, 1978.

Cruise missiles. There is a strong body of opinion in the Congress, represented primarily by Members traditionally associated with strong support for NATO, that the cruise missile could have great utility for the alliance; this position is generally shared by the Europeans as well. Proponents of this view therefore have sought to insure that the U.S. development of ground- and sea-launched versions of the cruise missile is not precluded by the SALT agreements.[3]

Neutron bomb.—In 1977, Congress passed the Energy Research and Development Administration Authorization Act of 1977 and 1978 Military Applications (Public Law 95–183) and the Public Works for Water and Power Development and Energy Research Appropriation

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[1] U.S. Congress. House. Committee on the Armed Services, Subcommittee on Investigations. Oversight Hearings on the Status of the Army XM–1 Tank program. Report. 95th Cong., 1st sess. Sept. 23, 1977. Washington, U.S. Government Printing Office, 1977.

[2] U.S. Congress. House. Committee on Armed Services. DOD Appropriations Authorization Act for Fiscal Year 1978. Report. 95th Cong., 1st sess. Apr. 7, 1977. Washington, U.S. Government Printing Office, 1977. pp. 137–138.

[3] See also the discussion of SALT on pp. 92–96 in this volume. (Ed.)

Act of 1978 (Public Law 95–96), to provide the necessary funds for continued development of the neutron bomb, provided the President certify that production of the bomb is in the national security interest of the United States.[4] In late 1977, the German Government announced a willingness to study the deployment of the neutron bomb on German soil as a part of the NATO defense system. This announcement should give the President some additional reinforcement to return to Congress in 1978 requesting additional funds for the system's deployment.

Eurocommunism.—Although Congress has not enacted legislation in 1977 dealing with Eurocommunism, the issue was the focus of testimony before the House International Relations Subcommittee on Europe and the Middle East in July 1977. In addition, a major committee print on the subject was released by the Senate Appropriations Committee in June 1977.

Congress has been concerned with the dangers inherent in Eurocommunism, both for the national security of the European nations themselves and for U.S. relations with them. There are still marked differences of opinion among Members about the true nature of Eurocommunism and its significance and implications for U.S.-West European relations. Thus far, however, the administration has not repeated the aggressively worded warnings frequently voiced by Henry Kissinger during the Nixon and Ford administrations. Instead, President Carter has chosen to emphasize the assurance that the United States would not interfere in the internal affairs of European governments.

Military assistance.[5]—Congress approved legislation, Public Law 95–23, which provided the Government of Portugal with $32,250,000 of supplementary military assistance for 1977. In addition, the International Security Assistance Act of 1977, Public Law 95–92, which amended the Foreign Assistance Act of 1961, added several new sections alloting funds for a number of West European countries. Section 497 of the act recognized the established interest of the United States in fostering democratic government in Portugal, maintaining the strength of the North Atlantic Treaty Organization, and supporting European economic recovery. In light of these objectives, Congress authorized the President to make balance of payments support loans to Portugal in the development and implementation of a program to gain financial stability and economic recovery. The act further authorized and appropriated $300 million for fiscal year 1978 to carry out the purposes of this section.

Finally, section 504A of the International Security Assistance Act amended the 1961 Foreign Assistance Act by providing military assistance for fiscal year 1978 to Greece ($33 million), Portugal ($25 million), Spain ($15 million), and Turkey ($45 million).

International terrorism

In view of multiple outbreaks of political murder, hijackings, fire bombings and other acts of political violence in Europe in 1977, Con-

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[4] Hearings on authorization were held February 28, March 1, April 25, 26 and 27 before the Nuclear Energy Subcommittee of the House Committee on Armed Services. Hearings on appropriations were held before the Subcommittee on Appropriations, and published as Part 6 of the ERDA bill (Public Works for Water and Power Development and Energy Research).

[5] See also the discussion of conventional arms transfers on pp. 70–82 in this volume. (Ed.)

gress and the administration have attempted to cooperate and to support efforts by the West European authorities to combat terrorism.

In the case of Northern Ireland, the Congress introduced several resolutions applauding the efforts of the Women's Peace Movement to end the sectarian violence that has terrorized the area in the past several years (H. Con. Res. 143; H. Res. 415; H. Res. 416 and H. Res 511). Moreover, the House resolved that the International Relations Committee conduct hearings to determine if any officials, agencies or instrumentalities of the U.S. Government are directly or indirectly involved in the hostilities in Northern Ireland. At present the resolutions to hold hearings have been referred to the Committee on Rules.

The other congressional action on terrorism relating to Europe was a resolution (S. Res. 48) passed by the Senate in January 1977, with respect to the release by the Government of France of Abu Daoud, a known terrorist, accused of having planned the murder of the Israeli Olympic athletes in Munich in 1972. The Senate condemned the release as being harmful to the effort of the community of nations to stamp out international terrorism. The resolution further stated that the United States should consult with France and other friendly nations to seek ways to prevent a recurrence of situations in which terrorists are released from detention without facing criminal charges in a court of law.

Military assistance to Turkey and the U.S.-Turkish Defense Cooperation Agreement [6]

The controversy over military assistance to Turkey is one example of the rise of congressional influence over foreign policy in recent years. Despite President Carter's determination to convince Congress that the sale and financing of certain defense articles to Turkey in fiscal year 1977 was necessary to enable Turkey to fulfill its obligations as a member of NATO, he has not been able to win sufficient support from the Congress to implement his policy. At present, it appears to be the sense of Congress that the Defense Cooperation Agreement (DCA) with Turkey should not be approved until noticeable progress toward a solution of the Greek-Turkish stalemate over Cyprus has been achieved. Moreover, there is still considerable debate in Congress, as demonstrated by congressional refusal to grant supplemental military assistance to Turkey, over the administration's efforts to lift the arms embargo—in effect since February 1975—on the transfer of military and defense articles to Turkey by the United States.

Other issues

In other areas, Congress expressed concern over some problems relating to U.S. trade with members of the European Economic Community (EEC). For example, Senate Resolution 76, House Resolution 238 and House Resolution 320 stated that the President should employ all means to remove restrictive measures imposed by the EEC on certain special U.S. agricultural products, such as dried prunes and walnuts, which are alleged to interfere with acceptable trade patterns.

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[6] For a more detailed discussion of this issue, see the discussion of overseas commitments and bases on pp. 67–69 in this volume. (Ed.)

With regard to landing rights for the Anglo-French Concorde supersonic transport (SST) plane, the House passed H.R. 7557, helping to clear the way for France and Great Britain to land SST's at J. F. Kennedy airport in New York. On October 19, 1977, the first SST landed there, thus removing an irritant in U.S.-French/British relations.

The fiscal year 1978 Foreign Relations Authorization Act (Public Law 95–105) changed previous policy on admitting certain categories of foreign visitors by making it the rule rather than the exception that visas would be granted to foreign Communist Party members, providing they were eligible on other grounds. This change made it possible for prominent European figures such as Spanish Communist Party leader Santiago Carrillo to visit the United States.

Finally in 1977, international fishery agreements were approved by Congress with the EEC, West Germany and Spain.

Issues facing the second session of the 95th Congress

In 1978, Congress will again take up the question of supplementary military aid to Portugal and additional funds for the development of the neutron bomb. The choice of gun to be mounted on the XM–1 battle tank also remains to be decided, and Congress will be called upon to appropriate funds for whichever gun the administration selects. Although developments in Italy and Northern Ireland are likely to be topics of concern for the second session, perhaps the most significant issue in U.S.-Western European relations, in which the Congress will play a direct role, will be the Greek and Turkish Defense Cooperation Agreements.

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CONCLUSION

The 95th Congress (First Session) and Foreign Policy: A Summing Up*

As was noted in the 1976 edition of Congress and Foreign Policy, it is difficult to sum up all the foreign policy activities of an entire congressional session and somehow do justice to all aspects. This chapter, therefore, is an attempt to highlight activities and events discussed earlier in greater detail, and to comment on their possible significance in terms of the role of Congress in the making of foreign policy.

After 8 years in which Democratic Congresses challenged Republican Presidents with a growing array of legislative tools on a widening range of foreign policy issues, speculation had arisen as to how an even more overwhelmingly Democratic Congress would relate to a President of the same party. Yet, the first session of the 95th Congress saw no diminution in the trend that had been developing during the past decade toward a more active foreign policy role for the legislative branch.

Although the majorities in both Houses and the President were of the same political party for the first time in 8 years and U.S. foreign policy in general provoked much less public outcry than in recent years, relations between the two branches were far from harmonious on certain issues. Moreover, it should be remembered that President Carter had not received an overwhelming electoral mandate, the principles of his foreign policy were not always clearly understood, and most Members of Congress were elected by wider margins than the President.

The 1977 edition of Congress and Foreign Policy suggests some explanation for this continuing phenomenon of congressional-executive conflict in the area of foreign policy.

Areas of support for the President

While the adversary relationship between Congress and the executive branch has frequently been cited by observers of the domestic U.S. political scene, there have also been instances in which congressional-executive agreement on an issue has resulted in the enactment of necessary legislation. Examples in the foreign policy field included action to provide the President the authority he wanted to halt U.S. imports of chrome from Rhodesia. Congress also approved essentially the same level of defense spending requested by the President, although there were individual items in dispute. Legislative-executive relations were also harmonious with regard to the operation of the Joint Commission on Security and Cooperation in Europe.

In the area of executive reorganization, Congress approved of President Carter's plan to restructure the foreign information and

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cultural exchange programs formerly operated by the U.S. Information Agency (USIA) and the State Department, under a new International Communication Agency. The new agency will emphasize communication, mutual understanding, and long-term objectives, rather than the tactical foreign policy goals sometimes pursued by USIA during the past.

Areas of qualified support

Yet even when a majority in Congress favored certain Presidential policies, they sometimes expressed a distinctive congressional perspective that could result in actual opposition. The most prominent example of such agreement in principle but opposition in detail was human rights. The human rights theme permeated much of the conflict between the two branches during 1977.

Some observers have called human rights the "motherhood" issue in foreign policy. Everyone could support human rights because it could mean something different to each of its champions. While many Members favored Presidential initiatives in this field, others succeeded in turning it against the administration. Conservatives could claim that the liberals cared about violation of these rights only in right-wing dictatorships and that they did not pay equal attention to human rights violators in Communist or neutralist states. Liberals wrote human rights requirements into various kinds of legislation that—from the executive branch perspective—unduly complicated U.S. relations with various governments.

Areas of congressional independence

In addition to these areas of qualified support, there have been notable areas of congressional independence in foreign affairs during the 1977 session. This may be as much a result of the dynamic power relationship between the legislative and executive branches as a reflection of the distinctive character of Congress and its need to be responsive to the perceptions of its many constituencies. Because members of the House and the Senate represent better defined and smaller constituencies than the President, they often respond to foreign policy problems in different ways. Moreover, most Members of the 95th Congress received more dramatic individual electoral mandates than the President.

Examples of continuing congressional independence in foreign policy include the Panama Canal issue, resumption of more normal ties with Cuba and Vietnam, and U.S. Middle East policy. Small, one-issue organizations can form alliances with other pressure groups and exert a kind of veto power on public policy. In the case of Cuba, the arguments of opponents of normalization were strengthened by the Cubans themselves, who have stymied progress toward any resolution of differences by their continued presence in Africa.

Opponents of the Panama Canal Treaties have launched an all-out offensive against their ratification, and additional conditions to the treaties imposed by Congress have added an entirely new dimension to the negotiating process and to U.S.-Panamanian relations. The issue is extremely complex and emotional. Congress has effectively reflected the fact that many Americans do indeed perceive of the ultimate transfer of the control over the Canal and the Canal Zone

to Panama as a "giveaway" and as an instance of a large and powerful country "knuckling under" to a "banana republic dictator." In many ways, the Panama Canal issue epitomizes the difficult and ambiguous nature of international relationships in the 1970's. Congressional responses to such problems are as much an indication of the state of U.S. public opinion as of the nature of the political process in post-Vietnam America.

Congress is sensitive to its constitutencies and reacts in ways that sometimes seem intractable from the bureaucratic perspective of the executive branch. Similarly, the initiatives, behavior and programs of the executive branch often perplex Members and committees of Congress. Examples include questions of any kind of aid to Communist countries, constraints on international bank loans to human rights violators of the left and right, and foreign arms sales—also linked to human rights considerations in many cases. These questions often also have domestic economic components reflected in the concerted efforts of Members to support programs that will strengthen or protect specific economic sectors or locally important economic enterprises.

Similarly, a number of Members who argue that U.S. foreign policy should reflect our political values, have been especially outspoken on the continuing large-scale arms transfers to conservative, apparently "stable" Middle East governments like Iran and Saudi Arabia, or to suggestions that the United States become involved in new arms supply programs in Africa.

Another foreign policy area in which Congress has asserted its independence is that of senior executive nominations. While Paul Warnke, the President's nominee as chief SALT negotiator and Director of the Arms Control and Disarmament Agency, faced considerable opposition before he was ultimately approved, the first nomination for Director of Central Intelligence, that of Theodore Sorensen, had to be withdrawn after Members of the Senate indicated that he would be unacceptable. In a related move that would affect both domestic and foreign affairs agencies, the Senate is considering the establishment of an Office of Nominations, which would permit more deliberate and systematic review of executive nominations than is currently possible.

Of the 223 public laws enacted by the 95th Congress during 1977, approximately 45 have a foreign policy dimension. While the primary focus of the first session of the 95th Congress, as of many previous Congresses, has been on the domestic policy front, the trend toward congressional assertion noted in earlier editions of Congress and Foreign Policy continues. This is clearly evident in such actions as the President's compromise with insistent Senate and House conferees on restrictions on aid to certain Communist countries in order to break an impasse over the foreign aid bill. Congress also forced the President to revise his plan to sell Iran seven sophisticated jet planes armed with sensitive electronics (AWACS) equipment and to provide assurances that certain changes would be made and conditions set before the sale could take place.

In finally summarizing the performance of the first session of the 95th Congress in foreign policy, it would appear that the trend toward an activist or adversarial role has tended to dominate congressional-

executive relations. In a certain sense, such a role is dictated by both the nature of separation of powers and the checks and balances built into the system by the Constitution. Although the power of the executive branch had been in the ascendancy during the years following the Second World War—and is still formidable—the experience of Vietnam internationally and Watergate domestically has prompted a resurgence in congressional initiative and assertiveness and in public participation in the form of interest group pressures. Once accustomed to such a more activist role, Congress will not easily forget its own considerable strengths, even when its leadership shares party allegiances with the President.

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