SENATE—*Thursday, March 14, 1985*

(Legislative day of Monday, February 18, 1985)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*O Lord, thou hast searched me and know me! * * * thou discernest my thoughts from afar.*—Psalm 139:1,2 RSV.

Gracious God, we are all expert at concealing our needs—our hurts, our weakness, frustration, fear, anger, and sin. We dare not acknowledge vulnerability, lest we be misunderstood and public people especially must be cautious—surrounded as they are by those who would exploit the slightest indication of inadequacy. So we struggle, Heavenly Father, to sustain the image of power. Life becomes a charade and we are alone in our misery as we repress our deepest concerns. Thank You, Loving Lord, that we have no secrets from You. You know our hearts—our secret thoughts and desires—our foibles. In mercy and grace, compassionate Father, touch each of us with forgiveness, healing, and renewal. Free us from the stress of hiding and pretending that we may be effective servants for Your sake and the peoples'. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, for the information of Senators and others, there will be the leaders' time of 10 minutes each under the standing order, and a special order for not to exceed 15 minutes for the distinguished Senator from Wisconsin [Mr. PROXMIRE], followed by routine morning business not to extend beyond the hour of 1 p.m. with statements therein limited to 5 minutes each.

As indicated last week, there will be no legislative business expected today and so there will be no rollcall votes that will occur today. If there should be some request, that will be postponed until Monday. I do not anticipate our being in session tomorrow.

SCHEDULE FOR WEEK OF MARCH 18

Mr. DOLE. Mr. President, the schedule for the week of March 18 would be to convene at 12 noon on Monday. Shortly after 2 p.m., it is expected that the Armed Services Committee will report out Senate Joint Resolution 71, the MX authorization under a statutory time agreement of 10 hours. It would be the intention of the majority leader to turn to that resolution once reported from the committee.

As I understand, it is a privileged motion to bring up the resolution and does not require consent. It is not debatable.

On Tuesday, we will resume consideration of Senate Joint Resolution 71, the MX authorization, hopefully with a vote sometime after 2 p.m. on final disposition of Senate Joint Resolution 71.

On Wednesday, we will begin consideration of Senate Joint Resolution 75, the MX appropriation under a statutory time agreement of 10 hours. Again, it does not take consent to get the resolution up. It is a privileged and nondebatable motion.

On Thursday, March 21, we will hopefully finish Senate Joint Resolution 75 by 12 noon or so. Following the disposition of Senate Joint Resolution 75, the Senate could turn to S. 457, the African relief authorization, hopefully under some time agreement, and also H.R. 1239, the African relief appropriations, hopefully under some time agreement.

We may be able to do that earlier in the week because the distinguished minority leader has indicated to me that it might be possible to dispose of either one or maybe both of those matters earlier in the week.

On Friday, there will be a possible session if we have not concluded work on the MX authorization and appropriation, and, hopefully, we can dispose of the two African relief bills, if not before Friday, on next Friday.

If there is no legislative business, I would not anticipate a Friday session.

(Mr. WARNER assumed the chair.)

ARMS CONTROL OBSERVER GROUP TRIP TO GENEVA

Mr. DOLE. Mr. President, I returned yesterday from Geneva, where the distinguished minority leader and I led a delegation of 10 Members of the Senate's observer group to monitor the opening of arms control negotiations with the Soviet Union. I want to briefly offer the Senate at this point some observations on why we went to Geneva and what we accomplished there.

As the Senate knows, the arms control observer group was formed pursuant to Senate Resolution 19, passed unanimously on January 3.

This resolution's establishment of the observer group came about because of the leadership of the distinguished minority leader, Senator ROBERT BYRD. Senator BYRD should be commended by the body for his providing the initial inspiration for the arms control observer effort and for his tireless work to bring this group together as a functioning entity.

Its main purpose is to assist the Senate in carrying out its role under the Constitution to give advice and consent to the ratification of treaties, including any future arms control treaty.

In consideration of the importance and complexity of arms control issues, the distinguished minority leader and I took great care to recommend for inclusion on the Senate observer group some of the most distinguished Members of this body, who possessed long experience and special knowledge of those issues. As a result, we have a group which does great credit to the Senate and which has the knowledge and enthusiasm to perform its role effectively.

The group, as the Senators know, has four cochairmen: Senators STEVENS, NUNN, LUGAR, and PELL. The other Members are Senators WARNER, KENNEDY, WALLOP, MOYNIHAN, NICKLES, and GORE. The distinguished minority leader serves with me as an ex officio member of the group. All of these observers, except Senators WALLOP and MOYNIHAN, were able to make this first trip to Geneva and the absent Senators have indicated their intention to observe the negotiations on site in Geneva at an early opportunity.

GENEVA: GOALS AND ACCOMPLISHMENTS

Our group went to Geneva with three goals, and I think we accomplished them all. First, though we are not negotiators, the group has an important substantive role to play in the arms control process. It is to serve as the eyes and ears of the Senate in Geneva and to maintain close contact with the executive branch here in Washington, where negotiating goals and strategies are developed.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

We had a number of substantive sessions with members of the negotiating team before the talks with the Soviet delegation actually commenced, and we also had a very informative debriefing immediately following the first negotiating session on March 12. We were asked by Max Kampelman and the other members of his team to respect the confidentiality of the negotiating sessions. Obviously, we are going to honor that request, to avoid in any way jeopardizing the smooth conduct of the talks.

I was pleased our excellent negotiating team—Max Kampelman, John Tower and Mike Glitman dealt with us in a spirit of excellent cooperation and candor. They were interested in the ideas and observations we had to offer. They fielded all of our questions, including some very tough and searching ones. And they actively sought to exchange information with us which might help the negotiating process itself.

In the course of these discussions we passed on the strong concern of the Senate, in the area of Soviet violations of existing arms control agreements. Our negotiators got the message clearly that we are deeply concerned about this issue and they agree that it must be addressed, in an appropriate way, in the context of the Geneva negotiations.

Our second goal in going to Geneva was to underscore the strong bipartisan support which exists in the Senate, and in fact in the country, for the administration's arms control efforts. The presence of our bipartisan delegation there alone, I think, sent a clear message to the Soviet delegation and to others: The United States is going about the business of arms control in a serious, nonpartisan, and basically unified way. Both in public statements and in our private meetings with our negotiating team, all of the members of the observer group stressed some common themes. We committed ourselves to be as patient as necessary to make sure we get the kind of agreement we want, and we urged our negotiators to persevere in that same spirit, too.

We departed for Geneva unified in our goals and we came back even more unified than before. Because of that, I am convinced that our presence and actions there materially strengthened the hand of our negotiators as these important talks began and helped to improve the long-term prospects for the kind of agreement we all want.

Finally, we went to Geneva with a third objective in mind—to get to know our own negotiators better and to let them know we are behind them. I need not expound for the Senate on the virtues of Max Kampelman, John Tower and Mike Glitman. We know these men well and have enormous respect for them. Let me say, though, that they, along with their able and enthusiastic deputies, have gone beyond their individual talents to form a true team, in concept and in action. They are a credit to the President who picked them and to the country they are serving so well.

MOSCOW: A NEW LEADER

While in Geneva, of course, we learned of the death of Soviet President Chernenko, and we wondered how it might affect the negotiations about to begin. It appears as if the Soviet Union has moved quickly to arrange an orderly transition of leadership, which is essential to the conduct of our bilateral relations. Certainly, it is encouraging that the Soviets decided to go ahead with the arms control talks on schedule and that the chief Soviet negotiator has confirmed the direct support of the new Soviet leader, First Secretary Gorbachev, for the Geneva talks.

I might add that Chernenko's death did make it impossible for the group, on this occasion, to meet directly with the Soviet negotiating team. We have received assurances, however, that on future occasions, onsite Senate observers will have appropriate access to the Soviet negotiators.

WASHINGTON FOLLOWUP

Finally, I would like to let the Senate know briefly of the future plans of the arms control observer group for monitoring the negotiations. Two of our Members, Senators STEVENS and GORE, have remained in Geneva for several days to observe the talks. It is the intention of the group that Members will travel to Geneva periodically to observe the talks and that at least one Member will be present for a substantial portion of the time the talks are going forward.

I would also like to inform the Senate that the distinguished minority leader and I last evening sent a letter to the President, giving him our initial observations from our trip. I ask unanimous consent that the text of our letter to the President be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, in conclusion, let me say that the talks in Geneva are off to a good start. The activities of the observer group are off to a productive start.

We recognize this will be a prolonged process. Nevertheless the events which we observed, and in which we played a part, in Geneva can offer all of us a bit more hope that, at the end of this long road, there may lie the prospect of a significant, balanced, and verifiable arms control agreement.

EXHIBIT 1

U.S. SENATE,
Washington, DC, March 13, 1985.

The PRESIDENT,
The White House,
Washington.

DEAR MR. PRESIDENT: As you know, pursuant to Senate Resolution 19 of January 3, 1985, we have established a Senate Arms Control Observer Group of twelve members, with Senators Stevens, Nunn, Lugar and Pell as Co-Chairmen. All of the members we have designated to serve on the Group are exceedingly well qualified to consider arms control issues and are eager to make a significant and constructive contribution to the arms control process.

As a first major step in that direction, we led a delegation of ten members of the Group to Geneva March 9-13, to observe the opening of arms control talks with the Soviet Union. Those talks are likely to continue for many months and years, and members of the Observer Group will travel to Geneva periodically to monitor their progress. We think it useful, however, to convey to you our initial impressions of the events we observed and the discussions we held in Geneva.

We went to Geneva with two main goals, and we believe we accomplished both.

First, we wished to demonstrate conclusively that the Administration's arms control efforts enjoy the broad, bipartisan support of the Senate. Our presence in Geneva—five Republicans and five Democrats—was visible evidence of that unity. In public statements, in encounters with the media and in our private sessions with our negotiating team, we stressed our wish for a good agreement and our determination to be as patient and persevering as necessary to achieve one.

We are confident that our message was understood and that our presence strengthened the position of our team as it began its talks with the Soviet negotiators.

Second, we sought to demonstrate the seriousness with which the Senate intends to fulfill its Constitutionally-mandated role in the arms control process. While we made it clear that we do not go to Geneva as negotiators, we do go with two important missions: to consult with and advise our negotiating team and to monitor and report to the Senate on the progress and development of the talks.

We had several opportunities to meet with our negotiators before the commencement of talks, and we had a useful debriefing from them immediately after the conclusion of the first negotiating session. Each of the sessions with the negotiating team was structured to permit us the full opportunity to present our views and questions to the team and to engage in a candid and confidential exchange of information. Within the coming days, we will be presenting our observations to the Senate. Through this continuing process of monitoring the negotiations as they unfold, we are confident that the Senate will be in a much better position to consider any resulting treaty or agreement.

Finally, Mr. President, we would be remiss if we did not apprise you of the very positive impression which the negotiating team made on us during our stay in Geneva. Max Kampelman, John Tower, Mike Glitman and their deputies did a great job with us and are obviously doing a great job in preparing for, and conducting, the talks with the Soviet delegation. They are a credit to

you, to your Administration and to the country they are serving so well.

Sincerely yours,

BOB DOLE,
Majority Leader.
ROBERT C. BYRD,
Minority Leader.

I ask unanimous consent that the letter we did send to the President be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

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Sincerely yours,

BOB DOLE,
Majority Leader.
ROBERT C. BYRD,
Minority Leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The distinguished Democratic leader is recognized.

Mr. BYRD. I thank the Chair.

SENATE ARMS CONTROL OBSERVER GROUP AND THE GENEVA NEGOTIATIONS

Mr. BYRD. Mr. President, 10 of the Senators on the arms control observer group traveled to Geneva last Saturday, March 9, 1985, in order to monitor the opening round of arms control negotiations with the Soviet Union.

I believe the trip was an unqualified success from every standpoint. The swift transition of power in the Soviet Union while we were in Geneva highlighted the feeling that we are at the beginning of a new era, not only in the field of arms control but also in American-Soviet relations in general.

The Senate arms control observer group was established by Senate Resolution 19 on January 3, 1985, and includes a well-balanced and highly knowledgeable cross-section of Senators from both sides of the aisle. It includes the leadership of both the Armed Services and Foreign Relations Committees as well as other Senators who have been deeply involved in the national security and arms control areas.

A major part of the reason I believe that this short trip to Geneva was a success was the extensive preparation that we engaged in prior to the trip. The group met for long sessions at breakfast, twice weekly for a month, with a variety of experts in this field—including, for example, such outside experts as Zbigniew Brzezinski and James Schlesinger, as well as our negotiating team and the Soviet Ambassador to the United States, Anatoly Dobrynin. We were, therefore, coversant with the broad outlines of the issues in each of the three negotiating areas: strategic, intermediate, and space weaponry.

The first negotiating session between the United States and Soviet teams was held on Tuesday, March 12, 1985. The second session was held just a few hours ago today.

Prior to the first session, we were provided with extensive briefings by both our three deputy and three chief negotiators. These included extensive confidential discussions of the issues involved. After the first negotiating session, we again conferred with our negotiators and received an extensive debriefing of the details of the negotiating session. I am sure I speak for my colleagues who attended those briefings and debriefings that they were fully informative and satisfactory.

The give and take of discussions between the observer Senators and our negotiators leads me to conclude that the process which we have established will be of long-term value to the Senate and to the administration both.

As Senator DOLE and I have communicated by letter to the President yesterday, we believe that we fulfilled the two main goals of our Geneva trip. First, we intended to convey that there is a strong bipartisan consensus supporting the efforts of our team in Geneva. This includes the determination to be very patient in the course of these talks. The talks will be long and arduous. The issues, particularly with the onrush of new technologies over the last decade and into the future, will be staggeringly complex. These will be, unquestionably, the most complicated and difficult negotiations in this field in history.

I made the point to our negotiators over the last few days that I believe it will be American inventiveness upon which the lion's share of ultimate success will depend. It will take our full creative genius to fashion sound solutions to the range of issues, unknowns, and complexities that modern weapons technology presents us with. Just the question of how to verify presently deployed systems such as cruise missiles, much less that largely hidden future of space technologies, is a very demanding task. I do not think the Soviets will exhibit the kind of flexibility and creativity which are peculiarly American. We Americans have to lead them—if they can be led at all, of course.

I also made the point that the Senate observer group is an important resource available to our negotiators. A number of Senators in the group have been deeply involved in fashioning the build-down concept, for example, and also in various kinds of proposals for so-called confidence building measures with the Soviets.

Our second goal on this trip was to demonstrate our commitment to fulfilling the unique and critical role which the Constitution places on the Senate in the area of treatymaking. In this connection, we must advise and

consent to any treaty which may result from these talks. It will take far more than just a cursory understanding of the very difficult and varied questions to be resolved by these agreements for us to properly meet our duty. It will take study and considerable work for the Senate to do justice to the technological as well as the political problems being faced in these negotiations. The group is available to provide counsel and the reaction of the Senate to the issues on the table—if that counsel is desired by our negotiators. We firmly believe that the interplay of ideas that has and will continue to occur with the members of our observer team will be of assistance to our negotiators.

In addition, in the event that a treaty does come before the Senate, the Senate will be in a better position to consider the detailed issues involved in such an agreement. On the other hand, in the event that the negotiations fail, the Senate will be in a better position to understand and make comprehensible to the American people just why that failure occurred.

Our negotiators, led by Max Kampelman and including John Tower and Mike Glitman, and their deputies did a fine job in preparing for the opening of the talks. I am sure my colleagues deeply appreciated their hospitality to us. In addition, our Ambassador to the United States Mission to the United Nations in Geneva, Mr. Gerald Carmen, was a generous, courteous, and helpful host. He had a major role in making our trip a success.

We had intended to meet informally with the Soviet negotiators during our stay, but the death of Mr. Chernenko precluded a meeting at that time. However, the Soviets have accepted the idea of such informal contacts in principle and Secretary Shultz has indicated to us that he believes such contacts will be useful in the future.

We expressed our condolences formally to the Soviet people on the passing of Mr. Chernenko last Tuesday. I take it as a positive sign that the Soviet regime has executed its transition of power in an orderly and swift manner. It has not had any effect on the timetable for the arms control negotiations, and I hope that stability in the Soviet leadership will permit the Soviet negotiators to reach reasonable accommodations on our arms control proposals.

We also had an extensive press conference on Tuesday morning in Geneva. I believe all members of our group expressed themselves fully and in response to a variety of questions. I believe it would be useful for my colleagues for the text of that press conference to be available to them, and intend to place it in the RECORD at the end of these remarks.

I note, Mr. President, that two members of our group, Senators STEVENS and GORE, are in Geneva today to monitor the second negotiating session. It is our intention to have one or more Senators, whenever possible, to be in Geneva while the negotiations are ongoing, and a running summary of the progress of the talks will be available on a confidential basis in the observer group files.

In summary, Mr. President, we had a productive and useful working trip to the opening of these talks from March 9 to 13, 1985. We got to know our negotiators on a personal basis and engaged in extensive discussions with them. The briefings were full and informative, the give and take of value to all concerned. We came away with the strong feeling of unity that we are all Americans with a common goal—to reach a sound agreement, or series of agreements, if at all possible.

Mr. President, let me associate myself with the remarks that have just been made by the distinguished majority leader. I was very favorably impressed on this trip by the dedication of all the Members of the Senate who are a part of the observer group. I was impressed also with the leadership that was demonstrated by the distinguished majority leader. He went as a very serious participant and as a member of the observer group. He demonstrated great leadership during that trip as we met with our negotiating team and as we met with other U.S. officials during our stay in Geneva.

May I say that if it were not for that solid, serious support by the majority leader, the efforts of the observer group would be, to some extent, in vain. I think that the support of the majority leader lends a strong undergirding of this whole idea of having observers from the Senate in Geneva during the arms control talks.

Mr. President, this observer group can and will make not only a fine contribution but one that is very much needed as the talks go forward. It is important, I think, that we demonstrate that the Senate is bipartisan in this matter, which we view as a nonpartisan matter. It is a matter affecting the safety and security of the people of this country and of the people in other parts of the world. The Senate has demonstrated that it sees its role under the Constitution in connection with the treaty-making powers as a vital role and as a unique role, and the Senate intends to fulfill that role.

As the distinguished majority leader has indicated, some of the members of the observer group are still in Geneva today.

The observer group has the support of the President of the United States, and that is extremely important. It can render a great service. It will be in a position to advise our negotiators if they desire to have the advice and counsel of the Senate. I think they manifested that desire during our visit.

It will also make it possible for us to have more than just a cursory knowledge of what is going on in the negotiations, because we shall have respected Members from both sides of the aisle who will be attending and keeping us informed of progress and developments.

Mr. President, I think it is important that the American people not be led to believe that these negotiations are going to be easy or that they are going to be of a short-lived nature. We have to keep in mind that some of the agreements that we have entered into with the Soviets heretofore have required years of negotiations. As a matter of fact, the MBFR talks have been going on for over 11 years between the Soviets and the Americans, and those talks have not resulted in an agreement as yet. The Soviet negotiators are tough, and they know what their goal is. Although they may make minor modifications from time to time in their approaches to our negotiators, I think we shall find that in the final analysis—or such has been the history of the INF negotiations—the Soviets are merely doing a little window dressing along the way, and they always come out at the same end.

Fortunately, our negotiators at the INF talks have seen this and they, too, have been purposeful in their goals. They have held out for an agreement that would be equitable and that would provide for verification necessary to protect this country's security interests.

The Soviets have certain advantages; we have certain advantages. The Soviets are going to feel that the advantages that are theirs should continue to be theirs and that the advantages that are ours should be negotiable. That is the kind of negotiators they are, and they know that the American people are usually impatient to get on with things and not spend much time. They are accustomed to instant potatoes and instant cake mix, instant this and instant that, instant everything else.

The Soviets very well may believe that if they just sit tight and take their time, the Americans will cave in. Well, this is too sober and too serious an enterprise, Mr. President, for the Americans to cave in. I would rather see no agreement at all than to see a bad agreement into which the American negotiators have been stampeded by political or other pressures. These arms talks are for keeps, and the outcome of these negotiations is going to affect not only the people of the world today but also the people of the world in my grandchildren's children's time. It is a very important undertaking and we should demonstrate great patience

and firmness and at the same time attempt to understand the other side's problems and try to work tenaciously and patiently to develop an outcome that will be worthy of approval by this body.

Mr. President, I congratulate the distinguished majority leader on his leadership during our trip to Geneva, and I congratulate the Members on both sides of the aisle who were there. They are indeed very conscientious Senators and they know that it is going to take a long time to get a good agreement. Senator DOLE and I have communicated by letter to the President already and we will continue to attempt as best we can to work with the negotiators in a useful way. Those who participate as negotiators are going to have to deal with the technologies that are onrushing and fast changing in this era, and it will require a great deal of inventiveness and innovativeness on the part of our negotiators. I think if we will look at the summary of the Special Consultative Group Progress Report to the NATO ministers in December 1983, we will see that our negotiators in that instance were innovative, but we will also see that the Soviet negotiators were obstinate, they were intractable, they were unmovable. The Soviet negotiators walked out of those talks. I am glad they have decided to renew the talks.

I ask unanimous consent, Mr. President, that I may insert into the RECORD the transcript of the news conference in which the distinguished majority leader and I and others in the observer group participated while we were in Geneva, and I also ask unanimous consent to insert in the RECORD the summary of the SCG Progress Report to the NATO Ministers. It is a report that is 49 pages in length.

I would say it would be worth the time and attention of not only every Member of this body but also all who read the CONGRESSIONAL RECORD wherever they may be. I think it would be well that they read it; it will certainly open the eyes of those who read this report as to just what kind of negotiators the American negotiators are working and meeting with, and it will thoroughly debunk any idea on the part of anyone, I think, that these talks are going to last only a few days or a few weeks. It is going to take months or years. There may be interim agreements along the way, if we can achieve them. There will be no miracles worked and none should be expected.

These are talks of the utmost gravity and importance, and I hope our negotiators will be firm and patient, because only then can we hope to achieve an agreement that is in the mutual interests of both the Soviets and ourselves.

There being no objection, the transcript of the news Conference and Summary were ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF PRESS CONFERENCE AT THE INTERNATIONAL CONFERENCE CENTER, GENEVA, SWITZERLAND BY SENATE ARMS CONTROL OBSERVER GROUP TO THE ARMS CONTROL TALKS, HEADED BY SENATE MAJORITY LEADER ROBERT DOLE (R-KANS) AND MINORITY LEADER ROBERT C. BYRD (D-W. VA), MARCH 12, 1985 (12:00 P.M.)

Sen. DOLE. Let me indicate, for the entire group, that we believe we have an important role to play in these negotiations that are in progress as we sit here.

We have had a number of meetings with our negotiators. We're here as a result of a resolution passed on January 3 in the Congress, suggested by my colleague Senator Byrd, the minority leader. We have each designated five observers, so we have a total of one dozen Capitol leaders, and ten of the twelve are here today—Senator Wallop and Senator Moynihan could not be here.

But I would indicate in a brief statement that this is a very serious business. We are very hopeful that yesterday's change in the Soviet leadership may have some impact, but that has yet to be verified. It is significant that the negotiations did proceed this morning.

We will be monitoring the discussions, the negotiations—I would say on a continuous basis over the next several weeks or however long it may take.

What we would like to do this morning—having made that brief statement, I would ask Senator Byrd, minority leader of the Senate, to make a statement. Then we will yield—the two leaders will yield to our co-chairmen Senator Stevens and Senator Nunn, followed by Senator Lugar and Senator Pell. So I think perhaps if we could sort of play musical chairs here, and we will obviously then accept questions.

We also have a prepared statement which is available; I assume you have the prepared text.

Senator BYRD. Thank you, ladies and gentlemen. We have met with our negotiating team. They are ready, they are upbeat; they are optimistic. They are prepared to be firm; they are prepared to say "no" or "yes"—whatever may be appropriate in the interest of our country.

I would hope that the leadership of the Soviet Union, having made the transition in a very swift and orderly manner, would allow the negotiators on the Soviet side to be more flexible and to accommodate themselves to some of our proposals.

This group of observers will be the eyes and ears of the United States Senate, which has a very special role under the Constitution in connection with the approval of treaties. They will be in a position to offer advise and counsel to our negotiating team if it is the desire of the team to have such advice and counsel. We are not here to negotiate arms control. But if a treaty should emerge, after a while or if interim treaties were agreed, we in the Senate would need to have more than just a cursory knowledge of the content and the background of the agreements.

We hope that there will be some interim agreements. We accept that a single agreement is difficult and takes a long time. I think our negotiators are prepared to say "no" and walk away from a bad agreement. We all want an agreement, but we don't want an agreement that is not in the best interests of our country.

So these observers will be there to offer advice and come back to us and keep us informed of the proceedings.

It is going to be a very difficult and time-consuming event, and any agreement's going to get very sound advice, especially as we're going to have to deal with the technologies of the era in which we now live.

So we're happy to be here today, and very pleased with the people we've visited with. As the majority leader Mr. Dole has indicated, we have with us senators who are very experienced in these things, and in dealing with strategic weapons, intermediate-range weapons, space technologies, and so on. So I'm going to hand over here to Senator Stevens and the others.

Senator STEVENS. I am very delighted to be here also, and to have an opportunity to participate in observing the talks as they go on.

Senator Vandenberg, a great American senator, used to say that if the Senate was going to be required to be on board at the time of any potential crash landings, we ought to be on board for the takeoff. And that's what we've done—not that we're participating in any prediction of a crash landing, but we believe we will function much better in our constitutional sense if we're here now and we have a presence here as much as possible during the whole period of the negotiations.

I am particularly concerned to convey to the negotiators the great interest of the United States Senate in the allegations of past violations on the part of the Soviet Union, and to make certain that the scope of these negotiations take into account what I consider the great concern on the part of the American people that any new agreement be entered into be cognizant of the impact of those past negotiations in terms of our future relationship.

Sen. NUNN. I don't have a lot to add to what Senators Dole and Byrd and Stevens have said. As a matter of history, we have had three treaties entered into by three different presidents—two Republican and one Democrat—over the last 12 years that have never been ratified by the United States Senate. So I think the record speaks for itself in terms of the need for the Senate to be involved in the take-off, as Senator Stevens said, and that's why we're here.

I think this is a historic occasion without any doubt. We have a unique opportunity to strive together—the Soviet Union and the United States—towards a more stable world, a more stable nuclear balance, and begin down the road to that end.

I think it's also certainly going to be, without any doubt, one of the most difficult and complex negotiations that the two countries have ever endeavored to seek agreement on. We have three baskets—we have intermediate forces; we have strategic forces; and we have also discussions of space and space weapons, and ground-based weapons that can go in space.

Now, that has a good side and a difficult side. The good side is that those three baskets allow the negotiations, at some point when they get further down the road, to begin to look at the interplay between the various components. Certainly, there's a connection between offense and defense. Certainly, there are difficult gray areas between intermediate forces and strategic forces.

On the other side of it, it makes it much more difficult and complex than any set of negotiations we've had. SALT-1 took about three and a half years to complete. SALT-2

took about six years to complete. We have to look at the record of history, and we have to look at that in terms of approaching these negotiations with patience—that's important from the point of view of both sides.

We have urged our negotiators—we have met with them and expressed a bipartisan confidence in our negotiators; we have an excellent team here; we have excellent people back in Washington that are looking very closely at these (talks)—we have urged our negotiators, and I am sure they will, and I hope their Soviet counterparts will do likewise, to approach these negotiations in a constructive attitude, with creativity and flexibility. And it's to require a lot of creativity and flexibility on both sides to reach agreement in this difficult area.

So as a member of this observer team, I'm grateful to Senator Byrd and Senator Dole for the leadership they've taken in what I think is a very, very important step in having the Senate of the United States participate in this process—not as negotiators, but as observers. I also want to underscore in a bipartisan fashion what Senator Stevens said about the alleged Soviet violations. Those give us a great deal of concern—not just Republicans but Republicans and Democrats alike. And one of the things that's most on the mind of the American people as we go into these negotiations is whether we can really have meaningful agreements unless we have confidence those agreements are being carried out. So I would hope that that point that we underscored here in Geneva, and I would hope that not only our negotiators but the Standing Consultative Commission would address those at an early stage, and the sooner we clarify those allegations as well as ambiguities, the better I think the negotiations will go.

Sen. DOLE. Senator Lugar is chairman of our foreign relations committee and he and Senator Pell are also co-chairman of this group.

Sen. LUGAR. We're pleased to join Sen. Dole and Sen. Byrd, Sen. Stevens and Sen. Nunn in making these comments this morning. I would like to point out that the United States of America is committed to the security of our country and we're confident that our Soviet counterparts are likewise committed. Arms control can be a part of that security. It is not a substitute for that security, but I think that's an important distinction to make at the outset, that occasional euphoria over arms control becomes in fact, a substitute discussion for what is needed, to make certain that the power is secure.

Having said that, I think the arms control talks offer an excellent opportunity, not only for negotiations in a bilateral sense, but for discussion between the two powers as to how security might be enhanced. Clearly the United States will offer, in discussion of the Strategic Defense Initiative, an idea as to how the deterrent power of our country and the Soviet Union might lead to greater security for both of these powers, and for the world in general.

It's a complex idea, and it may take some time to discuss and to understand comprehensively, but its an extremely important initiative as are the pick-up of talks in both of the other two areas, where substantial progress has been made in the past.

Let me add just one further thought, and that is that questions that were raised yesterday at the time of the death of Mr. Chernenko as to whether the talks would even continue or are indicative of how much our bilateral relationship has come to rest on arms control alone. I suspect that we are very hopeful as a delegation, as are our negotiators, that bilateral relations just might extend into many other realms, and that to the Soviet-American relationship might become much more substantial in a general political way, because those ties are absolute in the sense that it isn't necessary whether there are transitions in leadership, or ups and downs in reverses that might occur in the arms control situation and the continuity of the relationship, the ability to get back together in the conversation is of the essence.

Sen. PELL. Thank you very much. I think there is a great deal of optimism, some of it misplaced, since the remaining differences are still profound between the two sides. I doubt if anything brand new in the way of instructions that have been given to either side, from when they last sat together. I think that we'll have to look ahead and recognize that the outline of whatever agreement comes will probably include a reduction in Soviet Strategic Missiles—the heavy missiles—and Soviet controls on our space weapons. That will take quite a while to go down that path and get there, and in order to do it it's going to mean a reduction in inflamatory rhetoric, it's going to mean that the negotiations will have to be done in private, and not with the press, and also I really believe that the political leadership of each country may well be involved before we're through in trying to break through the logjam. Finally, the death of Mr. Chernenko I think will have very little effect on the general course of Soviet policy. You must remember that in the last 28 months, there have been four changes in leadership in the Soviet Union, and that has not affected one whit of their general policy and their movement in these Arms Control talks, because of the collective leadership that is theirs, where one man can die, and the policy remains very much the same.

Sen. DOLE. If you'll just bear with us, I'd like to hear now from Senators Kennedy and Warner, both members of the Arms Services Committee and then Sen. Gore and Sen. Nickles; Sen. Gore, recognized expert on Arms Control, Sen. Nickles, who made this a matter of great importance, will respond to questions, at least with Sen. Stevens and I.

Sen. WARNER. During the course of these negotiations, its my expectation that the negotiators will find the opportunity to have, on some confidence-building measures, discuss and perhaps be a bipartisan of these negotiations. Sen. Nunn and I were instrumental in the Senate, in introducing resolutions last year calling for the improvement of a hot-line, and indeed that is taking place and the tactical equipment utilized by the Soviets and the United States is in the process of being upgraded at this time, and I anticipate that this forum will provide for other confidence-building measures.

Sen. KENNEDY. I don't think there's any question that the eyes of the world are focused on Geneva today, and no decision made by this administration during this decade is going to be more important than the decisions which are going to be made here in Geneva over the period of the next months and the next few years, both with regards to the security of the United States and to the cause of peace throughout the world. I can remember the sense of satisfaction that President Kennedy had after the signing of the Partial Testban Treaty, after an extremly difficult time with the Soviet Union, following the Cuban Missile Crisis. I think all of us are mindful that these past months and past years have also been a time of challenge between the United States and the Soviet Union. But I think that all of us here recognize that a positive outcome from these negotiations, that this truly can be an open opportunity for a century of peace. And I think all of us here welcome the opportunity to serve with Sen. Dole and Sen. Byrd and to be a part of this process, not as negotiators but as observers, and to help insure that the Senate of the United States will be a meaningful partner in the final outcome of these negotiations.

Sen. NICKLES. Just briefly, I can say that for any arms negotiations between the United States and the Soviet Union to be successful, its going to take a commitment. It's certainly going to take a commitment from the United States, and from the Administration and also from the United States Senate. I can tell you that the commitment is there, this Administration is committed to get an actual agreement for arms reduction. I can tell you also that the United States Senate would like to see an agreement on arms reductions. Also a commitment from the Soviet Union looks very promising. The very fact that they're negotiating today with Mr. Chernenko's death, I think, is very promising. There seems to be a real commitment there. Their return to the bargaining table I think is very promising, and I hope and pray that there will be a successful outcome. We are interested in a treaty that will help reduce arms, a treaty that we can actually have confidence that there will be some compliance in, and also one that we can have some confidence that the verification of the means, that the treaty will actually be lived up to by both sides, and the net result be a world in which we reduce the amount of nuclear tensions, reduce the tensions and the fear and anxieties that people have throughout the world. A treaty that we can all be happy with, one that will increase the peace and security throughout the world.

Sen. GORE. I know you're anxious to go to questions, so I'll be very brief. I think those of you who are here covering these talks will quickly find out two things, if you haven't already. Number one is this is perhaps the most capable team of negotiators that the United States has ever put into the field. There's an excellent chemistry among the people working on the delegation. They are very capable, they're going to do a job on behalf of the United States, and in fulfilling their responsibility to the world to help move these talks towards a successful conclusion. Secondly, you will find that these talks are without a doubt the most complex and difficult that the United States has ever attempted.

Therefore, the need for patience is great, and back in the United States you will find strong bipartisan support for the negotiating team. We've met with them extensively, we're looking forward to meeting with them again this afternoon, and we've been very impressed with them. All of us are very hopeful and as we go back to the United States at the end of this week, some of us tomorrow, we'll take back a message of hope and optimism.

BILL BEECHER (Boston Globe). Can you tell us a little bit more about how your observer team will function? You say you will consult and provide advice to the negotiating team. Will you actually sit in on any sessions or will you be briefed by staff? How will you manage the observer role?

Sen. STEVENS. We anticipate sitting in on the briefings before the sessions start on Tuesdays and Thursdays and the other days that they negotiate and then in on the debriefings. As the talks develop, we'll see whether we want to actually sit in during the negotiations. At the beginning of these negotiations, they're very sensitive. Having an additional one or two people in the room might be destabilizing. We'll not insist on that yet, and we'll let that work out.

TOM FENTON (CBS News). Senator, how much interplay do you expect there'll be between the observer group and the negotiators, and what impact will that have on the course of the negotiations?

Sen. STEVENS. Well, I hope that it's a very salutary impact. We believe in a two-way street as far as these negotiators are concerned. We're expected to observe and take back to Washington, as we come and go to Washington, impressions of the progress of these negotiations. And we also intend to communicate to them the comments that are made to us by the Leadership and other members of the Senate. We have very close relationships with the negotiators, and anticipate that we will be able to at least convey to them the concerns of the Senate so that we can, in fact, be part of the whole process. We will not be negotiators, however.

Sen. STEVENS. Let me comment first, and then Sam will answer the questions you've directed to him.

The whole scope of these negotiations are under the control of our Executive Branch. The Senate will have to pass on the end product, and we're trying to have contact throughout the period of these negotiations to assure our complete understanding of the process and how it develops. I don't believe that it is within our province to say whether SDI or any other element of these talks should or should not be pursued, and when it should be pursued in the talks. I do believe that we will make comments as we go along concerning the progress or the emphasis, and the negotiators can take that into account as they conduct the negotiations on behalf of the Executive Branch. We have a real tradition in our country that politics stops at the water's edge. I can think of no instance when that should be more important than in considerations such as the arms control negotiations looking for radical reductions in nuclear arms. This is a bipartisan group . . . it is a nonpartisan group, in terms of our approach to this subject. Sam . . .

Sen. NUNN. I would just add that I think that there are some areas of roughly substantial agreement in the whole SDI area, and there are some areas that are still being considered within the Administration and by the Congress. We're going to have disagreements as to details. We'll have some disagreements, perhaps, as to definition and concept of what defenses we'll need. We certainly will have—as any democracy will—disagreements about the role of defenses in the arms control talks. But I think it's important to underscore that there is a very broad consensus on both sides of the aisle, Democrats and Republicans, throughout the country that research is absolutely legitimate. Research is legitimate under the ABM Treaty. President Reagan has said that we intend to abide by the ABM Treaty. He has stated that we will, as called for in the Treaty, give notice of any change in direction, as we have plans to do. I think there's also a broad kind of consensus in our country that the Treaty as it is now written must be complied with. Now, I think Democrats and Republicans are very concerned about the allegations concerning the Soviet radar in central Siberia. If we're going to really discuss in a meaningful way arms control, the ABM Treaty and the way it's going in the future, it seems to me a condition precedent to that would be to make sure both sides are complying with it now.

So there is a broad consensus about research. There's a broad consensus about the allegations of Soviet violations. And I think the other parts will have to be sorted out as we go along. There's an awful lot that can be discussed here. In addition to the ABM Treaty violations that we now believe are occurring, both sides are going to have to decide where research ends and where development begins. Both sides are going to have to have a better definition of what the word "component" means because a component part of that kind of defense is barred by the ABM Treaty. And both sides are going to have to have a better understanding of what "platforms" mean. So there's an awful lot for both sides to discuss on the ABM Treaty, and I hope it will be done in a constructive way on both sides.

Sen. STEVENS. Senator Lugar would like to respond to that.

Sen. LUGAR. Let me just make a comment about the portion of the question dealing with the alliance. It's of the essence that our negotiators continue to work with all of the strong allies of the United States to make certain there is full understanding of our negotiating position. Now it is especially important, I think, in the SDI because this is a relatively new idea in arms control. It's one in which there has been some skepticism in our country, quite apart from questions raised in other countries. But, in general, it seems to me important to say that at the outset we are hopeful that our allies would listen carefully and consult with us, to entertain new ideas, to think along as this situation evolved because there is a high degree, it seems to me, of education involved in these talks as they begin.

HERB KAPLOW (ABC). Have you folks heard anything here to affect your votes next week on the MX issue?

Sen. STEVENS. Well, I haven't. I was a firm believer in the MX before I came, as you know. We've spent $13 billion on that system so far. We'll vote this next week on whether or not we should release the $1½ billion that was made available last year for the next 21 of the MX missiles, and after that we'll have just about $6 billion left on a $20 billion system. In my judgment, just from the point of view of the expenditures we've made to date, it is essential that we modernize that missile force. It would literally cost us more to keep the old one going than it would be to finish this one. And I think that with the Russians having already deployed three or four systems of a similar character that the continued deployment of the MX certainly should not affect these talks one way or the other.

HERB KAPLOW (ABC). Well there was some thought that you were coming over here to see how sincere and earnest this arms control effort was, and that your impressions might affect how you vote or what you would recommend to the other members.

Sen. NUNN. Well, let me just say on that, I think I can say that I believe our negotiators and the President of the United States are proceeding in good faith. The question of good faith is subjective. I have never set that up as a criterion in any way for my own vote on a strategic weapons system. I judge the weapons system on whether it is a system that will enhance the national security of our United States. If it does, then it seems to me it's worthwhile. If it does not or if it is not a priority and there are others that are higher priorities, then I take a look at it in that respect. I didn't come to Geneva to learn about the MX missile, and I don't go home with any different views than I had when I arrived.

Question by TASS representing (Soviet Union). Question to Sen. Kennedy. Sec. General yesterday in Moscow has spoken that the Soviet delegation will propose a nuclear freeze at the negotiations. Can you develop your ideas about the negotiations, about the nuclear freeze between the Soviet Union and the United States?

Sen. KENNEDY. I have introduced with Senator Hatfield a nuclear freeze proposal, four years ago. We've received, on the vote involving tabling that particular proposal, some 40 votes in the United States Senate, bipartisan in nature. That particular proposal is not part of this negotiating process. The proposals now which are being advanced by this Administration have been outlined during the course of these negotiations, and I am at this time, as an observer for the Senate, supporting those efforts by the Executive and by the negotiating team, at this time.

Sen. STEVENS. Let me emphasize that should there be an agreement, the first result would be a freeze at the reduced levels. I don't think there's really a disagreement on the objective of the freeze, it's the timing of the freeze.

(Washington Post). Now, Senators, I'd like to ask do you think one of the first priorities is to overcome Soviet insistence on linkage among the three steps of negotiations. That is, if progress could be reached on INF before Space, could that proceed before there would be a whole package deal?

Sen. STEVENS. From my point of view, it's not our prerogative to set priorities for the negotiators. We have full confidence in them. I don't think I've been as impressed by an individual in my life as I am of Max Kampelman. He really has this whole subject in total perspective, and I haven't found one member here who's had any disagreeable words or really disagreement with Max. The priorities are for him to establish about what goes forward first.

Sen. DOLE. Make that a unanimous view.

ROY GUTTMAN (Newsday). I wanted to ask Senator Nunn, on the issue of compliance, could you tell us your understanding about the Krasnoyarsk radar? Do you agree with the Administration that it's an unambiguous violation of an existing agreement? Do you see any ambiguities?

Sen. NUNN. I agree with the Administration's position on it. I think the Soviets owe us an explanation as parties to a Treaty whereby all the evidence we have, there seems to be an unambiguous violation of the Treaty. So I agree with the Administration on that. I think we ought to give the Soviet Union a chance to respond in the proper forum. I think we now have two proper forums. One is the Standing Consultative Commission and any technical details will have to be worked out there. But in terms of a political forum that subject has to come up in the context of these discussions on the whole ABM Treaty. And I think one of the ways the Soviets could most readily present a good solid foundation from their own perspective as they approach these talks is to clear up the use of that radar, clear up what they're going to do with it. And if it is

indeed as we interpret it, a violation, to take steps to correct the violation.

Sen. GORE. There is no member of the United States Senate who has looked at the evidence surrounding the radar at Krasnoyarsk who has not come away with the same conclusion. And that is that when it is turned on, it will be a clear violation of the ABM Treaty. As a result, the Soviet Union is in an almost untenable position when it attempts to argue for a strengthening of the logic behind the ABM Treaty, while proceeding toward a brazen violation of that Treaty. The single most important thing the Soviet Union could do to move these talks forward toward a successful conclusion is to dismantle that radar at Krasnoyarsk.

Question. The negotiators went to Brussels with all the NATO partners. . . . Do you have any plans to do likewise or do you consider your task as a purely national one?

Sen. STEVENS. We are not going there now. Many of us are members of the NATO Parliamentary Conference and will be there in June—anyway later this year. We do meet with our counterparts in the parliamentary systems of the free world and will maintain our contact with them. This observer group, however, was not given that responsibility. We have that in our individual capacities as members of the Senate.

STEVE HANDEL (NBC). Senator Nunn, you spoke of history a short time ago. In the political sense, why do arms control treaties fail? What do you propose to do to prevent that from happening again?

Sen. NUNN. Well, if I had a proposal to keep arms control from failing, I would probably be the head of the negotiating team rather than in the United States Senate. I don't think anyone has that kind of magic formula, and I don't pretend to. But I think the arms control treaties in the past have left too much in the way of ambiguity. I think in the past we have not had as clear goals in arms control on either side as we perhaps do now. I think both sides are now becoming more and more aware of the mutual interest we have in restraining nuclear weapons, the proliferation of nuclear weapons in the world, in trying to build confidence building measures, and in restraining our own nuclear arsenals. So I believe the goals now are much clearer. For instance, it was for a long time considered a move towards more security to have a MIRVed-type movement in our ballistic missiles—both submarine-launched and land-based ballistic missiles. I think from our point of view, we now believe that MIRVing and having fewer targets in terms of ratio with the number of warheads on both sides is a destabilizing move. We hope that we can convince the Soviets of that. So if we both can agree on what stability encompasses and move in that direction, I think for the first time we will have clear goals. And in the past, as I read history, neither side has had a clear and explicit understanding of stability.

That may be one of the most difficult concepts—is to determine what we both can agree on in terms of stability. Certainly that's going to be one of the most difficult areas in terms of the SDI—the relationship between offense and defense. When we entered into the ABM Treaty in about 1971, one of the implicit understandings there was that if we were not going to have defenses on either side, we had to reduce the offensive threat. Instead, offenses increased, So, if the Soviet Union really wants to do something about America's Strategic Defense Initiative in addition to correcting the violations that we've already alluded to, they could certainly take a strong step in that direction by reducing significantly their first strike potential, that is, their SS-18's and SS-19's.

I believe we have much clearer goals as to where we're going, and I hope we can reach some conceptual agreements with the Soviets on this.

Question. Follow-up when I spoke about political failure, I meant the role of the Senate that you spoke of earlier. You spoke of failures in the past in the Senate, and you talked about what you might do this time . . . to prevent that.

Sen. NUNN. Well, yes, I think the effort here is to have the Senate fulfill both halves of its constitutional responsibility, not only the consent half—that's what we've been looked to primarily in the past—but also the advise half. It's up to the Administration as to how much advice they want. We're not going to run around and knock on their door every day and say, "We're here to advise you." But we are giving the Administration an opportunity to solicit our views, not only on the substance from time to time as they so desire, but also on the political situation within the Senate and what the Senators looking to on ratification. So we hope that this kind of coordination will first of all produce a treaty that we can all support, and second will enable our country to have some kind of patience and tenacity and yet creativity and flexibility that we need at the negotiating table.

BRENDAN MURPHY (USA Today). Question to Senator Nunn and anyone else who'd care to respond to it—You visited the Soviet Mission this morning. I would be interested in your appreciation of the Soviet mood entering the talks, if you were able to gauge it, and do you think that your involvement in the talks will make them more forthcoming, since they will know that the probability of the results being rejected by the Senate will be thus diminished?

Sen. NUNN. Well, I don't believe that one trip will accomplish that latter purpose, but I think over a period of time as we continue to be part of this process that certainly the Soviets will be aware of that and I would hope they would perceive from that we do have a united country, that we're moving in one direction, and that if they do enter into an agreement that it has a much better chance of ratification than in the past because the Senate's involvement in that process.

I must say that all of us reserve the right to decide in our own respective capacity as to whether we will vote for ratification if a treaty is produced. But I think the process itself is being enhanced.

As to Chernenko's passing, first of all our delegation expressed condolences last evening to the family of Chernenko and also to the Soviet people. I think we are all aware here that he was the leader of the Soviet Union when the Soviet Union decided to come back to the negotiating table, and we're very well aware of that and we think that his place in history will certainly be improved and enhanced as we go forward with this process, if both sides can reach an agreement.

Second, I think that it has already been alluded to by my colleagues here, that the Soviets are continuing this negotiation in a period of difficulty for them and a period of sadness for them in terms of the passing of their leader. I think it indicates their seriousness of purpose here. We take that as a very positive and constructive sign.

Sen. STEVENS. Let me just comment on one thing about Gorbachev's becoming the youngest leader of the Soviet Union in recent history, was predicted to us by our intelligence forces some time ago and including those from our allies. I think we welcome the fact that the Soviet Union has a leader now who has the potential to be on the scene for a substantial period of time. These talks may take a substantial period of time. And it's a very, I think, good omen for the talks that he will have the chance to be there and to know that he will be there following the successful conclusion of these talks, if we get an agreement.

As for ratification, I think that Senator Lugar who's chairman of the Foreign Relations Committee ought to talk about that. Our role as observers does not go to the point of guiding any potential agreement through the Senate. That's Senator Lugar's and Senator Pell's.

Sen. LUGAR. My only comment would be that the observer group is politically important in forming a consensus from which ratification might occur. We do not know how many years the process may take or when an interim agreement might occur that would require hearings by the Foreign Relations Committee and activity of the Senate. But the vigorous participation of all of our colleagues presently, I believe, is of the essence in informing all Senators—for that matter, the American public, which ultimately will have to be behind a treaty to make certain that members vote in favor.

Sen. PELL. Having seen the failure of SALT II, we all realize the importance of having favorable news behind this treaty before it goes to the Senate. This is where the observers' role plays an important part. It will help guide our Chairman, Senator Lugar, in guiding the treaties through. The experience we've had and the thoughts that we brought back to our colleagues will play a very important role in the final ratification.

SUMMARY OF SCG PROGRESS REPORT TO MINISTERS, DECEMBER 8, 1983

Despite an intense, sustained Alliance effort over the last two years, Soviet insistence on retaining their monopoly in longer-range INF missiles has so far prevented achievement of an INF agreement in Geneva. Nevertheless, the basis for an agreement has been laid in the negotiations, and progress has been made towards eventual resolution of major issues. Continued Allied implementation of the 1979 decision remains essential to prospects for arms control, to ensure the security of the Alliance, and to provide the foundation for a more stable and cooperative relationship with the East.

Those are the major conclusions of a comprehensive report on INF (Intermediate-range Nuclear Forces) prepared for Allied foreign ministers and defense ministers by NATO's Special Consultative Group (SCG).

INF has been one of the most significant and intensely debated security programs undertaken by the NATO Alliance since its formation. Today's report is being released to the public in the conviction that a full accounting of the Alliance's policy on INF, the steps the United States and Allies have taken to achieve an equitable and verifiable INF agreement, and the Soviet Union's refusal to date to reach such an agreement, can inform public discussion of these issues.

The report thus provides a comprehensive account of the negotiations in Geneva up through the discontinuation of the talks by

the Soviet Union on November 23, 1983. The report recounts developments which led to the 1979 dual-track decision and the principles and criteria which form the foundation of the Allies' policy on INF. It traces the growth in the Soviet LRINF arsenal since the 1979 decision. The report chronicles in detail the six negotiating rounds which have taken place in Geneva. It also reviews the informal discussions which occurred between the U.S. and Soviet negotiators pursuant to Ambassador Nitze's mandate to explore every possible avenue for agreement. The report discusses the status of the principal negotiating issues as they have evolved over the course of two years of negotiation, and concludes with an analysis of the prospects for eventual achievement of an INF agreement.

Among the report's highlights:

"At the time the Soviet Union suspended the negotiations, all the elements for an equitable agreement were on the table in Geneva," and progress had been made on a number of major issues in the negotiations—the requirement for reductions in LRINF missiles, treatment of aircraft, and the geographic issue.

"The fundamental premises of the 1979 double decision . . . have proved valid over four years. The Alliance policy has been successful in creating and driving forward a negotiating process in Geneva, which the Soviet Union had initially rejected."

"The SCG believes that it remains in the Alliance's interest to continue the effort to persuade the Soviet Union to undertake a cooperative endeavor with the United States at the negotiating table to achieve an agreement that would meet the legitimate security concerns of both sides. To this end, the SCG deplores the Soviet decision to suspend the negotiations, and believes that talks should resume at the earliest possible moment."

"The SCG also notes that continued implementation on schedule of the deployment track of the 1979 Decision remains essential to create incentives for the Soviets to negotiate seriously and to protect Allied security in case an agreement is not reached . . . The SCG also points out that the Alliance repeatedly has made clear its willingness to halt, modify or reverse deployments under an INF agreement, including removal and destruction of all U.S. missiles deployed to Europe if justified by the concrete results achieved in Geneva."

"Allied unity and firmness in implementing both tracks of the 1979 Decision remain critical to success in the INF negotiations. The cornerstone of such unity will continue to be a close and cooperative consultation process . . . The INF issue has led to one of the most intensive and productive consultation processes in the history of the Alliance."

"In the interest of achieving an agreement at the earliest possible date, consistent with Alliance security requirements, the United States position in the negotiations has over time supplemented the ideal outcome contained in the zero/zero proposal . . . with the valuable but less preferable outcome in the President's interim agreement proposal . . . This stands in sharp contrast to the Soviet position, which has never swayed from the one-sided objective of maintaining a large and threatening Soviet monopoly in LRINF missiles."

"The U.S. and Allies have repeatedly stated their willingness to consider any serious Soviet alternative that would meet the minimum security requirements of the Alliance. The SCG notes with profound regret that in the four years since the 1979 decision the Soviet Union has not once advanced such an alternative, while compiling an unbroken string of rejections of U.S. and allied initiatives."

While concrete results have been achieved so far in Geneva, U.S. and Allied initiatives in the negotiations have laid the basis for an agreement that would substantially reduce, and preferably eliminate, the LRINF missile systems of both sides.

The key stumbling block in the negotiation is Soviet insistence on retention of a monopoly of LRINF missiles. "Even before December 1979, when the Soviets waged a major campaign to forestall the dual-track decision, the Soviet Union made clear that its goal was retention of a sizable monopoly of LRINF systems. This objective has not changed in more than four years."

While insisting on its right to maintain a force "of at least 360 LRINF warheads in Europe and a comparable number in Asia", the Soviet Union consistently has rejected any outcomes that entail deployments of U.S. missiles at any level. Specifically, it has turned down the informal "walk-in-the-woods" package of 1982, the U.S interim agreement proposal of 1983, and President Reagan's September 1983 initiatives specifically designed to meet stated Soviet concerns.

Despite Soviet efforts to make compensation for the British and French independent national deterrents the centerpiece of the public debate on INF, and to portray this demand as a fundamental Soviet objective, "the erosion of the Soviets' position on third-country systems . . . has exposed its primary purpose" as a device to support the Soviet claim for a monopoly.

"The Soviet negotiating approach is closely coordinated with and linked to the Soviet public campaign, and appears to be designed to position the Soviets so that they can claim credit publicly for flexibility and movement while blaming the United States for a negotiating stalemate . . . The Soviet propaganda effort directed at Western publics has been designed to strengthen the Soviets' hand at the negotiating table by undermining public support for NATO modernization."

INF: Progress Report to Ministers

I. Introduction *

Since the December 1979 Decision on Theater Nuclear Force Modernization and Related Arms Control, NATO has made a concerted, continuous effort to advance on the arms control track of that decision, in the hopes that an equitable and verifiable negotiated agreement could be achieved. While some verifiable negotiated agreement could be achieved. While some progress has been made, this effort to date has not brought about concrete negotiating results, and the Soviet Union has now "discontinued" the talks.

Because implementation of the 1979 decision has been one of the most significant common security and arms control endeavors undertaken by the Alliance since its founding, the Special Consultative Group believes it worthwhile at this point to provide ministers a full account of Alliance efforts thus far to bring the negotiations in Intermediate-range Nuclear Forces (INF) to fruition; of the behavior of the Soviet Union inside and outside the negotiations which has frustrated agreement; and of the key issues which will require resolution when negotiations resume.

The fundamental premises of the 1979 double decision—that the strategic and political imbalance caused by the unprovoked Soviet build-up of a sizable monoploy of modern land-based longer-range INF missiles had to be redressed, and that this could not effectively be accomplished by a dual track approach of modernization and arms control—have proved valid over four years. The Alliance policy has been successful in creating and driving forward a negotiating process in Geneva, which the Soviet Union had initially rejected. It has been successful in advancing preparations for U.S. deployments, beginning at the end of this year, in case the negotiations could not achieve a concrete arms control result which would eliminate the need for deployments. Throughout the period, it has been evident that Allied unity on the deployment track of the 1979 decision has played an essential role both in creating the incentive for the Soviet Union to negotiate and providing a means for the Alliance to maintain defense and deterrence in case no agreement was reached. Throughout the period, the commitment of the Alliance to achieving an equitable and verifiable arms control agreement has both shaped the negotiations in Geneva and laid the basis for the eventual elimination or significant reduction of LRINF missile systems on both sides.

The focus of this report is on developments in the U.S.-Soviet INF negotiations in Geneva since their opening in November 1981. The SCG takes note, however, of the parallel preparations, in fulfillment of the modernization track of the 1979 Decision, for initiation this year of U.S. deployments in the Federal Republic of Germany, The United Kingdom, and Italy, and the preparations for deployments later in Belgium and the Netherlands.

In addition to deployments themselves, a companion element of the modernization track has been the continuing review by the High Level Group of the Alliance's nuclear stockpile, in order to ensure that nuclear weapons in NATO's armory are held to the minimum number necessary for deterrence, taking account of developments in conventional as well as nuclear forces. This review was completed in October 1983, and Nuclear Planning Group Ministers, meeting at Montebello, Canada on October 27-28, decided to withdraw 1,400 warheads during the next several years. This Ministerial decision, taken together with the already accomplished withdrawal of 1,000 warheads, will bring to 2,400 the total number of warheads to be removed from Europe since 1979. This reduction will not be affected by any deployment of LRINF missiles, since one further warhead will be removed for each Pershing II or ground-launched cruise missile (GLCM) warhead deployed.

In the negotiations in Geneva, the United States and its Allies have vigorously pursued efforts to find a mutually acceptable solution, and will continue to do so. At the time the Soviet Union suspended the negotiations, all the elements for an equitable agreement were on the table in Geneva. Originally, the U.S. proposed the mutual elimination of all LRINF missile systems.

NOTE: The Greek and Danish governments have expressed their national views in footnotes to the progress report.

* Denmark places a general reservation on parts of this report. Greece recalls its position on several parts of the report and more particularly its reservations concerning the deployment of INF in Europe.

When it became clear that the Soviets would not agree, the U.S. also offered to negotiate an interim agreement limiting U.S. and Soviet LRINF missile warheads to equal levels globally. In September 1983, the U.S. introduced new initiatives in areas of stated Soviet concern, amplifying them in November with a suggestion of a specific global warhead ceiling. While these efforts have not yet succeeded in producing an agreement, they have amply demonstrated Western flexibility and commitment to the search for an agreement.

Nonetheless, the Soviet Union has continued to block agreement by insisting on preserving a substantial and threatening force of SS-20 missiles, while denying NATO any missiles of the same class. Every Soviet proposal advanced in the negotiations has had as its ultimate result the preservation of the existing Soviet LRINF Missile monopoly, reflecting the long-standing Soviet objective of weakening the linkage between the American strategic nuclear deterrent and the defense of Europe. Soviet efforts inside and outside the negotiations have sought to split Europe from the United States, the European Allies from each other, and NATO members from their friends from allies in Asia, as well as to undermine the support for NATO and its deterrent policies within NATO countries.

The overall Western approach in implementing the two tracks of the 1979 decision has produced several positive results:

Allied determination to implement the 1979 decision was directly responsible for bringing the Soviet Union to the negotiating table, despite Moscow's initial opposition.

In the negotiations, the Soviets have had to recognize the long-standing Western claim of the particular threat posed by land-based LRINF missiles in comparison to aircraft, as well as the need for reductions in these forces, albeit without acknowledging the principle of equality. They have also been brought to recognize the need to count warheads as well as missiles, given the three warheads which are carried by each SS-20. They have indicated in principle that systems reduced would be destroyed, and not simply moved elsewhere, although they continue to refuse to consider missile inventory limits or to curb production of missiles. They have also admitted the principle that, under an agreement, systems outside of Europe should not be deployed within range of Europe. While the Soviet Union has not acknowledged the validity of Alliance security concerns, it has shown some tacit recognition of the rationale for the Alliance's criteria for an agreement, and greater respect for NATO's determination to see those criteria met.

The Alliance has made clear to the Soviets that it regards the security of each of its members as of equal importance, and we have firmly rejected and publicly exposed the Soviet concept that only the superpowers have a right to genuine security.

In the development of a negotiating position and the conduct of the negotiations, the Alliance has established an intensive and highly productive process of consultation and coordination which has reinforced Alliance unity and thereby advanced the prospects for arms control.

Active public affairs efforts by individual Allied governments, drawing on consultations in the SCG, have been successful in rebutting an unprecedented Soviet propaganda campaign and in reinforcing public support for Allied policy or INF. These efforts must continue and be intensified.

It is difficult to predict when the Soviets will recognize that it is in their own interest to seek agreement in Geneva. The Special Consultative Group believes, however, that we can expect continued Soviet propaganda efforts to split the Alliance and erode public support for the Alliance's INF policy, on the pattern that has been seen since the December 1979 decision. It is in part to deal with such a Soviet propaganda campaign that this report has been prepared. Just as it remains essential for the Alliance to continue implementing both tracks of the 1979 decision, it is important for Allied governments to make a continuing effort to promote public understanding of the Alliance's INF policy, the rationale behind our negotiating position, and the basis of the deployment track, which will be implemented over the coming several years, in the absence of an agreement.

II. STATUS OF SOVIET LRINF MISSILE BUILD-UP

Because the 1979 decision in large part was intended to redress the threat posed by Soviet deployment of the triple-warhead SS-20 missile, and because Soviet LRINF missile levels are of such obvious importance to the INF negotiations, the SCG has continuously monitored developments in the Soviet LRINF missile force. The SCG notes that Soviet deployments of the SS-20 have climbed steadily since 1977, when the first such missiles became operational. Current levels are 360 deployed SS-20s with 1,080 warheads, not counting refires. In mid-1977, the Soviets had 575 LRINF warheads deployed. Counting older SS-4 and SS-5 missiles, the Soviets now deploy some 1,300 warheads on roughly 600 LRINF missiles:

SOVIET SS-20 DEPLOYMENTS 1977-83

	Launchers	Warheads
Date:		
End 1977	10	30
End 1978	70	210
End 1979	140	420
End 1980	200	600
End 1981	270	810
March 1982	300	900
October 1983	360	1,080

As the table shows, SS-20 deployments have increased despite the initiation of negotiations in November 1981. They also increased in Europe as well as Asia even after Brezhnev's March 1982, announcement of a moratorium that indicated a halt to all activities associated with further SS-20 deployments oriented against Europe.

After May, 1982, when the Soviets said that their moratorium envisaged "a termination of preparation for the deployment of missiles . . . including an end to the construction of launching positions", the Soviets continued and completed construction at four SS-20 bases in the European USSR. In addition, they since have completed three bases east of the Urals which are within range of portions of NATO Europe. The activation of these seven bases added to the Soviet arsenal 63 SS-20 deployed missiles with 189 warheads, of which 36 missiles with 108 warheads are in the European USSR. The Soviets are building three new SS-20 bases in the eastern USSR; given the SS-20's 5,000-kilometer range, missiles at those bases will be able to strike portions of northern, southern and central Europe. When completed, they will add 27 missiles with 81 warheads. The three new bases likely foreshadow further increases in SS-20s in the eastern USSR.

III. THE 1979 DECISION—MODERNIZATION AND ARMS CONTROL

For the past four years, the 1979 decision has been the point of reference for the Allied position on INF modernization and arms control. Because NATO deployments commence this year, absent an agreement eliminating the need for them, the SCG believes it useful to summarize briefly the background and rationale for the 1979 decision, as well as its description of the relationship between arms control and modernization.

The Soviet Union's achievement of strategic parity with the U.S. in the mid 1970s gave particular importance to the growing disparity between NATO and Warsaw Pact capabilities in theater nuclear forces, particularly in the field of longer range INF missiles. Although the U.S. commitment to the defense of the Alliance had not changed, there was concern that this emerging situation could give rise to the risk that the Soviets might believe—however incorrectly—that they could use long-range forces to make or threaten limited strikes against Western Europe from a "sanctuary" in the Soviet Union. There could be a misperception that without adequate theater-based systems of its own capable of reaching Soviet territory, and in an era of parity at the strategic nuclear level, NATO lacked credible and appropriate means of response.

In the face of this challenge, the Allies undertook an extensive series of consultations and analytical work both to determine Allied policy and to raise the issue before Western publics. In October, 1977, former Chancellor Schmidt forcefully brought the INF issue to the forefront as one of the principal security challenges facing the Alliance. That same month, the Nuclear Planning Group, meeting in Ministerial session at Bari, directed that a High Level Group (HLG) be established to study Alliance long-term INF modernization needs consistent with the doctrine of flexible response.

Parallel with this, a Special Group on Arms Control and Related Matters (SG) was established to formulate principles which would guide future Alliance arms control efforts involving INF (after the 1979 Decision, the Special Group was renamed the Special Consultative Group and charged with continuing consultations on the arms control negotiations).

The work of the HLG and SG came together in the Integrated Decision Document, which set forth the basic aims of Allied INF Policy as "deterrence and stability based upon a triad of forces, the coupling between these forces, and the important political principle of the strategic unity of the Alliance." The report stated that these aims "can be served by two complementary programmes, force modernization and arms control", and noted that:

"A policy of parallel and integrated LRTNF deployments and arms control will best achieve maximum improvement in Alliance security. This integration is sought both to ensure that defense decisions and implementation of them are not made hostage to expectations of disarmament agreements, and so that arms control itself has a realistic chance of success. Moreover, negotiations involving LRTNF will not be realistic or possible without an agreed modernization plan and a decision to implement it."

Since 1979, the Alliance has consistently reaffirmed that deployments must proceed on schedule while emphasizing its readiness to reexamine the scale of such deployments

in the light of concrete results at the negotiations, including elimination of the entire category of U.S. and Soviet land-based LRINF missiles. The SCG believes that the Alliance should continue to emphasize its willingness to halt, modify or reverse deployments according to an agreement, while making clear that deployments will proceed on schedule absent an agreement.

IV. THE CONSULTATIVE PROCESS

In recognition that extremely close consultations would be needed given the political and strategic complexity of the issues involved in implementing the 1979 decision, the INF issue has led to one of the most intensive and productive consultation processes in the history of the Alliance. While the Special Consultative Group remains the primary consultation mechanism, INF has been the subject of the personal communications between Allied heads of state and government and is a major item for discussion by Ministers at the semi-annual meetings of the North Atlantic Council, Defense Planning Committee and Nuclear Planning Group. In addition, the North Atlantic Council regularly receives briefing from the chief U.S. INF negotiator before, during and after each negotiating round. This close and effective consultative process has been one of the most important aspects of implementation of the two-track decision.

The Special Consultative Group has met fourteen times in 1983, two of these meetings being special sessions to coordinate on the major initiatives in the negotiations this year, the interim agreement proposal in March 1983 and the U.S. initiative in September 1983. The SCG has discussed the full range of issues related to the negotiations:

development of the U.S. negotiating position in Geneva;

analysis of the Soviet negotiating position and potential Soviet moves inside and outside the negotiations affecting INF;

information and intelligence-sharing, including developments regarding Soviet nuclear forces of relevance to the negotiations; and

public affairs, including development of extensive materials to explain the Alliance's INF policy to Allied publics.

In addition to their regular meetings (including those held between negotiating rounds to more closely monitor the evolution of negotiating positions), SCG representatives frequently communicate between consultative meetings on relevant developments. This has been especially useful in promoting coordinated Allied responses to significant developments inside and outside the negotiations, such as the Soviet effort to misrepresent the facts about the November 1981 "equal reductions" package.

To handle an increased work load this fall, the Special Consultative Group established an intensified consultation schedule, with meetings twice a month at NATO headquarters and other Allied capitals. The decision to meet this fall in London, Bonn, and Rome gave greater visibility to the consultative process and allowed expanded contact with the press. In addition, a special session was held on September 19 in Brussels to consult on specific U.S. suggestions for the three new U.S. initiatives, which were subsequently presented in Geneva and announced by President Reagan. The SCG notes that the effectiveness of these consultations has contributed to the strength of the Alliance position and the degree of public understanding for NATO's arms control efforts.

V. CHRONOLOGY OF THE NEGOTIATIONS

Overview

Since the Allied decision was taken in December 1979, there have been several distinct phases in the negotiations. The SCG notes that, throughout this period, the U.S. and Allies have demonstrated consistency of purpose in seeking an agreement that would meet the security requirements of the Alliance as set forth in the IDD, while expressing willingness to be flexible in how this goal might be achieved in an agreement. In contrast, the Soviet Union has, from the outset, sought only one outcome: preservation of its monopoly in LRINF missiles.

The period through mid-1980 was marked by Soviet refusal to negotiate unless NATO renounced the 1979 decision. Allied reaffirmation of the decision at the Spring NAC Ministerial provided the basis for the subsequent Soviet announcement, during former Chancellor Schmidt's visit to Moscow that summer, that the Soviet Union would agree in principle to participate in INF negotiations.

From the fall of 1980 to the fall of 1981, both sides developed their approach to the negotiations. The period included preliminary meetings between U.S. and Soviet negotiators in October and November 1980, during which there was no agreement on the basic focus of the talks; the change of Administration in the United States in January 1981 and subsequent review of U.S. policy on arms control; the Spring 1981 NAC Ministerial which reaffirmed the 1979 decision, and extensive Allied consultation in preparation for negotiations by the end of the year.

Negotiations began in the fall of 1981. President Reagan opened the period by announcing that the U.S. and NATO were willing to cancel the planned deployment of 572 Pershing II and Ground-Launched Cruise Missiles if the Soviet Union would agree to destroy all its SS-4, SS-5 and SS-20 missiles. The negotiations formally commenced in Geneva on November 30, 1981. The U.S. presented the zero/zero proposal, which was supported by the Alliance as an effort to achieve the most far-reaching possible arms control result, one which would avoid the need for deployments. The Soviets presented a proposal for an agreement that would establish an eventual ceiling of 300 "medium-range" missiles and nuclear-capable aircraft in Europe. The proposal, however, was designed to preclude U.S. LRINF missile deployments and include British and French independent national forces to contrive a pseudo-"balance" between NATO and the Soviet Union, as well as significantly to impair U.S. conventional capability in Europe by drastic reductions in U.S. dual-capable aircraft. Both the U.S. and the Soviet Union tabled draft treaties reflecting their positions. In addition to exchanging views on the main negotiating issues, U.S. negotiators sought to engage the Soviets in discussions on a broad range of detailed matters—data exchange, comparison of treaty texts, verification—but Soviet cooperation was minimal. In December 1982, the Soviets publicly proposed a missile sub-ceiling in Europe tied explicitly to the level of British and French missiles. During this phase, Soviet propaganda focused on a proclaimed "moratorium" on SS-20 deployments in the European USSR and on the repeated Soviet claim that a balance existed in "medium-range" systems in Europe.

After close consultations in the SCG and directly among the leaders of the Alliance, President Reagan announced in March 1983 that the U.S. and Allies were prepared to accept an interim agreement establishing equal global levels of U.S. and Soviet warheads on LRINF missile launchers at the lowest possible number. At the same time, the U.S. and the Allies reaffirmed their view that total elimination of the entire category of U.S. and Soviet LRINF missiles remained the best outcome and long-term objective for the negotiations. The Soviets made two adjustments of position during the period, expressing willingness to use warheads as a unit of account, in addition to launchers, and clarifying that reduced systems would be destroyed. Neither move altered the basic outcome of the Soviet position, which would block NATO modernization while permitting the Soviets to retain a substantial SS-20 force in both the European and Asian USSR, with no ceiling on the latter. Indeed, despite the image of flexibility which the Soviets sought to convey, their position in practice had hardened by making even more explicit the linkage between Soviet LRINF missile levels and the levels of British and French forces.

After intensive consultations among the Allies on ways to move the talks forward, President Reagan this September elaborated on the interim agreement proposal by offering to address stated Soviet concerns on aircraft, geography and the composition of the NATO. LRINF force. The Soviets put forward a package which, while not modifying the basics of their proposal, did show some potential flexibility on aircraft and the first sign of any acceptance that strictly European limits are inadequate. The U.S. suggested that a global LRINF warhead limit of 420—the same number the Soviet proposal would grant their European force—would be acceptable. This evolution in the U.S. position, and to a much lesser degree in the Soviet position, offered the potential for progress. Nevertheless, the Soviet Union, after informally suggesting a new package offer that it promptly disavowed and about which it misrepresented the facts "discontinued" the negotiations indefinitely on November 23, 1983.

Summary of the negotiating rounds

Round I (November 30, 1981–March 16, 1982)

The negotiations opened with a heads of delegation meeting between Ambassadors Nitze and Kvitsinskiy, recessed from December 17 to January 12, and closed on March 16. The sides introduced their positions, the U.S. tabling a draft treaty, the Soviets outlining their position in more general terms.

U.S. position. The U.S. used the first sessions to explain the concerns and principles underlying the December 1979 NATO decision and the U.S. position, including *inter alia* the principle of U.S.-Soviet equality, the utility in focusing on LRINF missions, the need for global limitations on LRINF missiles and the importance of effective verification measures.

On December 11, the U.S. formally presented the basic elements of the "zero/zero" proposal to eliminate the entire class of U.S. and Soviet LRINF missiles worldwide, following up on February 2 by tabling a draft treaty.

The fundamental provision of the draft "zero-zero" treaty provides for the elimination of ground-launched, nuclear-armed, ballistic and cruise missiles with ranges between that of the Pershing II (1800 kilometers) and 5500 kilometers. All such missiles, their launchers and other agreed support equipment and structures would be de-

stroyed. Further, the treaty would ban new types of missiles with comparable ranges. The practical effect of this measure would be to eliminate all SS-20, SS-4 and SS-5 missiles, as well as any Pershing II and GLCMs deployed prior to the sides reaching agreement.

The U.S. treaty also proposed collateral measures designed to enhance the effectiveness of the ban on LRINF missiles by limiting Soviet shorter-range INF (SRLINF) missiles with ranges of and between those of the Soviet SS-23 and SS-12/22 to the number deployed as of January 1, 1982. Excess such missiles would be destroyed, though modernization and replacement, within certain qualitative limits, would be permitted on a one-for-one basis. Since both sides would be prohibited from deploying ground-launched missiles with ranges between that of the Soviet SS-12/22 and U.S. Pershing II, the combined effect of the treaty would be a ban on any ground-launched, nuclear-armed missiles with ranges in excess of that of the SS-12/22.

The other articles in the U.S. draft treaty contain necessary definition and type rules, and also deal with verification and procedural matters. The U.S. also tabled a draft memorandum of understanding for establishing and updating a data base.

Soviet position. The Soviets introduced several positions in the first round. At the opening plenary, they tabled a draft proposal for a moratorium on the deployment or preparations for deployment of new or additional "medium-range" nuclear systems in Europe. They also introduced early in the round their basic position in the negotiations, a proposal for NATO (i.e., the United States, Britain and France) and the Soviet Union each to reduce to 300 "medium-range" missiles and delivery aircraft in or "intended for use" in Europe. On February 4, they tabled a "Statement of (or Accord on) Intentions" which embodied both the reduction and moratorium proposals. The basic elements of their "statement" were: the U.S. and USSR would reduce to 600 "medium-range" missiles and aircraft in or "intended for use" in Europe by the end of 1985 and 300 by the end of 1990 (British and French forces would, in effect, be counted under the U.S. ceiling); modernization and replacement would be permitted on an aircraft-for-aircraft and missile-for-missile basis (thus precluding deployment of Pershing II or GLCM since the U.S. at that time had only "medium-range" aircraft in Europe); destruction would be the primary method of reduction, though some systems could be withdrawn; the agreement would remain in effect until the end of 1990 when it could be renewed if the sides agreed; and there would be a moratorium on deployments of "medium-range" systems in Europe.

The effects of Soviet-proposed "statement" were immediately clear. Under the 300 ceiling, the Soviets would be allowed to maintain all of the SS-20s they had deployed in Europe (as well as a number of modern "medium-range" aircraft). The moratorium on deployments of a new "medium-range" systems in Europe, combined with the requirement for one-for-one replacement of aircraft and missiles, would have prohibited any U.S. LRINF missile deployments.

Moreover, the Soviets proposed to "take into account" British and French nuclear forces by counting those forces within the 300 ceiling for U.S. systems. As the Soviets attributed 263 "medium-range" missiles and aircraft to Britain and France, the U.S. would have been allowed to maintain 37 dual-capable aircraft in Europe (regardless of their actual range, all U.S. dual-capable aircraft in Europe—as well as a number of U.S. aircraft not in Europe—were defined by the Soviets as "medium-range"). Thus, the U.S. limit was, in reality, a NATO limit. The Soviet proposal would have preserved the large Soviet advantage in LRINF missiles, leaving the Soviet SS-20 force in Europe intact while denying the U.S. the right to deploy any countering systems. At the same time, the U.S. would have been required virtually to eliminate its dual-capable aircraft in Europe.

The Soviet position was premised on a contrived claim that a balance in "medium-range" forces existed in Europe. To derive this balance, the Soviets counted independent British and French systems and defined all U.S. dual-capable aircraft in or near Europe to be "medium-range", while excluding large numbers of their own comparable nuclear-capable aircraft.

The Soviets made two other proposals during the opening round. One was, in reality, a variation of their basic position; it called for Soviet "medium-range" nuclear forces in Europe to be reduced to a level equal to those of Britain and France (the practical differences between this and the basic Soviet position were slight: by Soviet count, the Soviets would have been allowed to deploy 263 "medium-range" systems in Europe vice 300 and the U.S. would not have been permitted the 37 dual-capable aircraft in Europe that it would have been allowed under the basic Soviet position). The Soviets occasionally referred to this proposal in subsequent rounds. The other proposal called for the elimination of all "medium-range" and tactical nuclear weapons in Europe (this would have had the effect of leaving Soviet strategic nuclear systems as the only nuclear forces in Europe). Even though the Soviets did not often mention this in subsequent rounds, it remained their principal counter to the U.S. "zero/zero" proposal. They called it a "true zero" since all nuclear weapons (except Soviet strategic systems) would be eliminated from Europe.

Differences. By March 16 it had become clear that the sides differed on four fundamental issues:

Treatment of LRINF missiles. The United States proposed to eliminate all U.S. and Soviet LRINF missiles. The Soviet proposal would have allowed the USSR to maintain a large force of SS-20s in Europe and an unlimited number in the eastern USSR. U.S. LRINF missiles would be prohibited in Europe.

Third-country forces. The U.S. position was that only U.S. and Soviet forces should be addressed in bilateral negotiations. The Soviets, however, sought to "take into account" the independent systems of Britain and France, in effect by including them within the ceiling on U.S. systems.

Geographic scope. The U.S. called for global limits on LRINF missile systems. This reflected the range, mobility and transportability of modern LRINF missile systems, which made global limitations necessary. The Soviets proposed to limit only systems in or "intended for use" in Europe (a formulation which they manipulated to exclude all their missiles and aircraft in the eastern USSR while including U.S. aircraft not physically located in Europe).

Aircraft. The U.S., noting that the SS-20 was the system of most concern to the West and that high-level Soviet statements had indicated they were most concerned about the Pershing II and GLCM, argued that the negotiations should focus on limiting LRINF missiles. Aircraft could be addressed in a later stage, but their complexities (such as dual roles) would overly burden the talks. The Soviets called for discussion of limits on aircraft as well as missiles (though their proposal excluded a large number of Soviet aircraft which were comparable to U.S. aircraft which they were seeking to limit, which included U.S. FB-111's based in the United States) and proposed to treat missiles and aircraft under a single aggregate.

The sides also differed over a number of other issues:

Treatment of shorter range systems (the U.S. proposed to limit certain shorter range systems while the Soviets argued, short of eliminating all non-strategic nuclear forces from Europe, that systems with ranges under 1000 kilometers should not be constrained); method of reduction (destruction (U.S.) vs. a combination of destruction and some withdrawal); and duration of agreement (unlimited (U.S.) vs. until 1990).

By the conclusion of the round, it was possible to see the immedicate objectives of the Soviet negotiating position:

To preserve the Soviet monopoly in LRINF missiles in Europe by ensuring a large SS-20 force while denying the U.S. the right to deploy Pershing II or GLCM: to preserve a free hand with regard to SS-20 deployments in the eastern USSR; and to reduce drastically the U.S. contibution to NATO's conventional deterrent by forcing large cuts in U.S. dual-capable aircraft in Europe.

They had already foreshadowed that they would concentrate on compensation for British and French systems as the primary rationale to support their first objective.

Despite the emerging differences, however, a great amount of work was accomplished in the first round. The U.S. had clarified and detailed its proposal through explanation of its draft treaty. It had also had a chance to question the Soviets on the basic elements of their position. Moreover, negotiations had been conducted in a business-like and serious manner, relatively free of polemics.

Round II (May 20–July 20, 1982)

The U.S. used the round to continue exposition of the "zero-zero" proposal while the Soviets tabled a draft treaty embodying their basic position.

Soviet draft treaty. The Soviets began the round by tabling a draft treaty based on their proposal that NATO and the USSR each reduce to 300 "medium-range" nuclear systems in Europe. The basic elements of the draft treaty were the same as those contained in the Soviet-proposed "Statement of (or Accord on) Intentions." NATO and the USSR would each be permitted 300 "medium-range" missiles and aircraft in Europe; while the Soviets would be allowed to deploy a mix of missiles and aircraft, the small number of systems allowed the U.S. (after British and French forces had been "taken into account") could be only aircraft (the draft treaty contained a specific ban on the introduction of new types of "medium-range" systems in Europe, which were defined as systems not deployed in Europe as of June 1, 1982); and there would be no restrictions on Soviet systems in the Far East.

The Soviets did introduce certain global limitations, which would ban ground- and sea-launched cruise missiles, air-to-surface ballistic missiles and ballistic missiles on

water-borne vehicles other than submarines with ranges greater than 600 kilometers. These were apparently designed to block the U.S. sea-launched cruise missile as well as the GLCM is any location. The Soviets also made a number of minor changes to their position as they had explained it in the opening round:

They agreed to a treaty of unlimited duration;

They clarified their formulation of "in or intended for use in Europe" by introducing a "zone of reduction and limitation," lines of withdrawal and a non-deployment area which would have the effect of limiting some Soviet systems east of the Urals (specifically, missiles west of 80 degrees longitude would be covered); and

They said that systems with ranges of less than 1000 kilometers should be addressed in a separate protocol.

The Soviets tried to characterize each of these as a "major" concession, although they were little more than minor adjustments to the original Soviet position. For example, the original Soviet proposal was for an agreement whose terms would have expired on the very day all obligations and reductions were fully implemented. The original Soviet position also ignored the fact that, even using the range the Soviets attributed to the SS-20, SS-20s deployed east of the Urals could strike targets in much of NATO Europe (using the U.S. range estimate, SS-20s behind 80 degrees east longitude can still strike NATO territory). Likewise, they had indicated that account could be taken of the potential of shorter-range systems to undermine limitations on systems with ranges in excess of 1000 kilometers.

Although the U.S. hoped that the Soviet treaty, when introduced, would clarify the practical workings of the Soviet proposal, unfortunately, the Soviets withheld a number of important details. For example, ambiguities remained as to the geographic boundaries of the "zone of reduction and limitation" and as to the location of the withdrawal lines. Moreover, the collateral constraints in shorter range systems were unspecified and relegated to a protocol which was not introduced. A third major ambiguity: the Soviets claimed destruction was to be the primary method of reduction but there would be provision for the withdrawal of a certain percentage of the systems to be reduced; the Soviets gave no clue regarding this percentage, which was crucial to determining whether any SS-20s would have to be destroyed.

U.S. efforts. The U.S. used the round to focus on the main issues dividing the sides—third-country forces, geographic scope and treatment of aircraft—both through further exposition of the U.S. draft treaty and by comments on the Soviet draft treaty. The U.S. compared the basic provisions of the two documents in plenary discussions, demonstrating how the Soviet position failed to address the basic concerns underlying the 1979 decision and how the U.S. proposal worked to the interests of both sides.

The U.S. pressed for progress on other issues of less immediacy, arguing that progress should be made in these areas so that there would be no delay once central issues were resolved. The Soviets agreed to U.S. suggestions for the formation of two working groups to begin adddressing some of the technical matters involved in the negotiations. The first was a data experts group, which was given a mandate to clear up ambiguities and attempt to resolve differences between the sides with regard to the numbers and characteristics of various systems. The second was a treaty text working group, which began to consider various articles in the two draft treaties where there were similarities between the two sides; it was able to agree by the close of the round on joint language for several of the articles covering procedural matters.

By the conclusion of the second round, a much more specific version of the Soviet position had been presented. While a number of important ambiguities with regard to the Soviet position remained, comparison of the draft treaties of the two sides had begun to clarify the specific areas of difference and convergence. However, it was clear that the basic Soviet objectives—as revealed in the Soviet draft treaty—remained unchanged.

The "Walk in the Woods" (June 1982)

From the beginning of the negotiations, Ambassador Nitze was authorized to probe and explore areas of Soviet flexibility. In June, apart from the formal talks, he initiated a series of private discussions with his Soviet counterpart in an effort to develop a package meeting each sides' fundamental concerns, but in the process, entailing certain concessions by both parties with regard to their formally tabled positions.

In preparing for the dialogue, Ambassador Nitze outlined four principles which would have to be reflected in any agreement in order for it to be acceptable to the United States:

No compensation for British and French forces;

The U.S. could not accept aircraft limits that radically reduced its contribution to the conventional defense of Europe;

The U.S. could not agree to shifting the threat from Europe to the Far East; and

The agreement must be, and appear to be, equal in its overall effects.

The Soviet Ambassador cited one criterion of his own: The "zero-zero" proposal was totally unacceptable, as it was viewed in Moscow as being unilateral disarmament for the USSR.

The Soviet ambassador began the actual walk in the woods with the statement that he had to insist on compensation for third-country forces. Ambassador Nitze responded that there was no point in continuing the exchange if Kvitsinskiy had no flexibility on the question of third-country forces; if the Soviets held to that position there could be no common ground. The Soviet ambassador nevertheless agreed to carry on the dialogue. The "walk in the woods" package was developed in subsequent conversation between the two.

Both ambassadors agreed that the package that was developed did not constitute an offer on behalf of either government; rather, it was a package developed by the negotiators for presentation to their respective capitals for their consideration. The package contained the following provisions: the U.S. and U.S.S.R. would each have been limited to 225 LRINF missile launchers and aircraft in Europe (including the Soviet SS-20s on the eastern slopes of the Urals at Verkhnyaya Salda); each would have been limited to a subceiling of 75 LRINF missile launchers in Europe, the USSR. within its sublimit to deploy only ballistic missiles, the U.S. within its sublimit to deploy only cruise missiles; the USSR would have been limited to 90 LRINF missile launchers in the eastern USSR; each ballistic missile launcher would have carried no more than one missile with no more than three warheads; each GLCM launcher would have carried no more than four missiles, each with no more than one warhead; all LRINF missile systems in excess of the limits would have been destroyed; limited aircraft would have been the U.S. F-111 and FB-111, and the Soviet Backfire, Badger and Blinder; U.S. and Soviet shorter-range INF missiles would have been limited to existing levels; and appropriate verification measures were to have been negotiated within three months.

The package received close study in Washington following the conclusion of the second round. There was concern about certain elements and the fact that the Soviets might simply treat the package as a new U.S. offer and then attempt to split the difference between it and the formal Soviet position. However, Ambassador Nitze was authorized to continue conversations in the informal channel.

At their first meeting at the opening of the third round, the Soviet ambassador informed Ambassador Nitze that the USSR insisted on the following principles: full compensation for third-country forces; no U.S. deployments; no constraints on Soviet deployments in the eastern USSR; radical reductions in dual-capable aircraft; and full adherence to their concept of the principle of equality and equal security. The Soviet ambassador said the package had been rejected in Moscow, particularly because of the lack of compensation for British and French forces, and that he would not pursue informal discussions in the channel. Moreover, Ambassador Nitze was informed that the Soviet Union was not prepared to destroy a single SS-20. With this Soviet rejection of both the substance of the package and of the informal channel itself, Ambassador Nitze could not pursue further informal discussions.

Round III (September 30–November 30, 1982)

The U.S. pressed the Soviets to begin to take account of NATO's legitimate security concerns and, identifying a number of areas of commonality between the two sides on secondary issues, pressed in earnest for progress on those questions. The Soviet Delegation began to unveil a "carrot and stick" approach, the "carrot" taking the form of a missile subceiling which might entail some small SS-20 reductions in Europe, and the "stick" taking the form of unspecified threats of "countermeasures" if NATO implemented the deployment track of the 1979 decision.

U.S. position. The U.S. continued to explain the zero/zero proposal and its views on the failure of the Soviet proposal to address NATO's concerns. The U.S. also introduced an amplified memorandum of understanding regarding establishment and updating of a data base; a general discussion of verification principles (noting that national technical means would be fundamental to any verification regime but adding that, given the small size and mobility of INF systems, measures that went beyond national technical means might be necessary); and some specific provisions for the destruction of reduced missile systems.

In each case, the U.S. pointed out that there was a degree of convergency between the U.S. and Soviet positions. Both sides had called for the establishment and updating of a data base. The U.S. believed that measures beyond national technical means would be necessary for effective verification; the Soviets had also suggested that some cooperative measures could be designed to assist national technical means. And both

sides had tabled positions that would require the destruction of LRINF missile systems.

Thus, the U.S. argued that these were areas where the sides could make some progress, despite their differences over the fundamental issues; that this process could well serve to facilitate progress on other issues; and that it would speed completion of an agreement once central issues were resolved.

The U.S. also attempted to accelerate progress in the two working groups. In the treaty text group, the sides began to work some of the sections of their respective draft treaties where there was a degree of convergent language, i.e., the Preambles and the Verification and SCC articles of the two draft treaties. On several points, the U.S. began to accept Soviet language where it was clear the sides shared the same understanding of their meaning. The Soviets, on the other hand, rarely conceded anything.

In the Data Experts group, the U.S. pressed for the Soviets to disaggregate their LRINF missile numbers and to enter into a detailed discussion of the SS-20's range (since much of the Soviet side's argumentation in favor of a regional limitation regime was tied to the Soviet assertion of the SS-20's range). Although the U.S. continued to maintain that the sides should concentrate on missile limits, the U.S. participants in the data group agreed to discuss technical issues pertaining to aircraft. The U.S. raised the question of Badger and Blinder numbers, where there was a wide divergence in the two sides' estimates. The U.S. also proposed criteria for determining and comparing the combat radii of aircraft, given Soviet claims about the respective radii of the Fencer and F-4 (the Soviets defined the U.S. F-4 as a "medium-range" system, even though its combat radius is under 1000 kilometers, while they excluded their own Fencer, even though its combat radius is generally considered to be well over 1000 km).

AT the close of the round, the U.S. also proposed that the sides negotiate an agreement that would provide for advance notification of test launches of LRINF ballistic missiles.

Soviet reactions. The Soviet reaction to the U.S. push for progress on secondary questions was disappointing, suggesting that the Soviets were unwilling to see progress even where there was a degree of convergence between the positions of the two sides. While the Soviets initially indicated on an informal basis some readiness to work on these questions, they soon reverted to the line that such issues could not be addressed so long as the U.S. did not accept the Soviet framework for an agreement.

The Soviet efforts in the two working groups were particularly disappointing in this regard. In the treaty text group, they rejected a U.S. proposed draft joint text which left bracketed all areas of disagreement between the sides' respective draft treaties. Instead, the Soviets tabled an outline that followed the structure of the Soviet draft treaty in a manner that would have prejudiced a number of substantive issues to their advantage.

The Soviets followed a similar line in the data experts group. The Soviets refused to disaggregate their LRINF missile data between types of missiles and by general location so long as the U.S. held to the "zero-zero" proposal (once the U.S. had tabled the interim proposal, the Soviets still refused to disaggregate their data). With regard to the question of the SS-20's range, the U.S. explained how it computes missile range; the Soviets responded with simple assertions that the SS-20 range was 4000 kilometers but refused to enter into technical discussions to support that assertion. Thus, while the U.S. tried to create an objective framework for discussion, the Soviets frustrated such efforts.

While the Soviets claimed a large number of their Badger and Blinder aircraft were not configured for weapons delivery, they refused to explain which were not so configured. On the issue of the combat radius of the Soviet Fencer vs. that of the F-4, the Soviets continued to contend that the Fencer's radius was less than 1000 kilometers while that of the F-4 exceeded 1000 kilometers. The U.S. disagreed and proposed that the two sides agree to a flight profile so that one could compare the two aircraft using the same standard; the Soviets often responded by claiming it was inappropriate to use the same flight profiles for the two aircraft. (They later claimed that their "experts" in Moscow had tried computing Fencer combat radius using U.S. methodology, and those calculations still showed the Fencer's radius to be less than 1000 km.)

Soviet moves. On the main issues, the Soviets tried to create an appearance of movement, though there was little genuine change in their position. In late October they tabled what they termed a "new" position designed to reduce the level of "U.S.-Soviet confrontation" in Europe to zero. The proposal, however, contained the proviso that the USSR would be allowed to maintain forces equivalent to those of Britain and France. Thus, rather then being a new proposal, it simply repeated a position introduced in the first round to equate Soviet and British/French "medium-range" forces and amounted to only a slight variation on the basic Soviet position.

The Soviets shed some light on their proposal for collateral constraints on systems with ranges of less than 1000 kilometers, though they still did not provide their draft protocol. The Soviets said such limits would be quantitative in nature and would apply only to missiles with ranges between 500 and 1000 kilometers. However, they gave no details beyond saying that the SS-12/22 and Pershing I would be limited.

In the latter half of the round, the Soviets introduced the concept of a subceiling on "medium-range" missiles in Europe. However, in keeping with their practice of introducing proposals only in very general terms, the Soviets did not provide a level for their proposed subceiling. It was unclear whether that subceiling would require the reduction (to say nothing of destruction) of any Soviet SS-20s deployed in Europe. Toward the end of the round, the Soviets indicated that the missile subceiling might be set at a level approximately equal to the number of missiles they attributed to Britain and France.

While making these adjustments, the Soviets also began to give increasing emphasis to threats of countermeasures should NATO proceed with U.S. deployments. They began to make these threats in plenary statements as well as in informal discussions, increasingly hinting that the Soviets would deploy new weapons systems and be compelled to review their participation in the negotiations should U.S. deployments commence.

While an implicit recognition of the U.S. position that missiles were the systems of greatest concern, the missile subceiling did not change the basic outcome of the Soviet position. The Soviets would still be allowed to maintain a substantial force of SS-20s in Europe for which there would be permitted no U.S. counterpart. Soviet SS-20s in the eastern USSR would be completely free of constraints; and U.S. dual-capable aircraft would be virtually or entirely eliminated from Europe.

It increasingly became apparent that the Soviet effort in Geneva was aimed to a significant extent, if not primarily, at public opinion. The Soviets tabled several variations of the same proposal—all of which would have had the same essential outcomes—apparenty to position themselves to claim that they had shown "flexibility" and had offered a range of solutions to the INF problem. At the same time, they increasingly stymied progress, even on the smallest of issues, in an effort to create the appearance of a negotiating deadlock, the blame for which they attempted to place on the U.S. Their calculation undoubtedly was that such a stalemated negotiation would generate pressure for U.S. concessions and against proceeding with deployments as scheduled.

Round IV (January 26-March 29, 1983)

In March, the U.S. introduced the interim agreement proposal. Prior to this move, the U.S had emphasized its readiness to consider alternative Soviet proposals and outlined criteria by which such proposals would be judged. The Soviets largely repeated basic elements of their position, which had been modified to incorporate the missile subceiling introduced the previous round.

U.S. position. At the opening of the round, the U.S. noted its belief that the proposal for the elimination of the entire class of U.S. and Soviet LRINF missiles continued to constitute the best outcome for the negotiations. At the same time, the U.S. reiterated its readiness to consider any serious alternative proposal from the Soviet side and outlined five criteria by which the U.S. would judge any proposed outcome:

(1) An agreement must entail equal rights and limits between the U.S. and the USSR;

(2) An agreement should address only the systems of the U.S. and the USSR;

(3) An agreement should apply limits to INF missiles regardless of location and should not result in an exportation of the security problem in Europe to the Far East;

(4) An agreement should not weaken the U.S. contribution to NATO's conventional deterrence and defense; and

(5) An agreement must be verifiable.

The U.S. explained these criteria in detail; by tabling them and stressing U.S. readiness to consider outcomes other than "zero-zero", the U.S. in effect had extended an open invitation to the Soviets to come forward with a serious alternative position that might open the way to progress.

The U.S. also continued to press for progress at all levels of the negotiations, tabling a draft agreement embodying the proposed confidence-building measure for prenotification of LRINF ballistic missile launches, and proposing formation of a working group to negotiate the text of such an agreement. The U.S. also proposed formation of a working group to discuss verification issues which, because both sides envisioned the destruction of at least some LRINF missiles, would have the initial task of developing procedures for such destruction.

It became increasingly evident, however, that rather than seeking ways to overcome obstacles, the Soviets were making inclusion

of British and French forces the cornerstone of their position. The U.S. therefore devoted considerable time to rebutting the Soviet claim for compensation, noting that:

Britain and France are not parties to the nogotiations;

Britain and France are sovereign countries with strategic security interests of their own;

The U.S. does not determine or control the composition or employment of those forces;

British and French forces are small in comparison to the total Soviet arsenal, representing minimum national deterrents;

The Soviet effort to include those forces amounts to a demand that the USSR should have nuclear forces equal to those of all others combined and thus violates the fundamental principle of equal rights and limits between the U.S. and the USSR; and

A correct assessment of "equality and equal "security", properly interpreted, would not justify the United States compensating the Soviet Union for British and French forces.

Soviet position. The Soviets opened the round by formally tabling their proposed subceiling on "medium-range" missiles in Europe in treaty form. As General Secretary Andropov had publicly indicated a month beafore, the subceiling would equate Soviet missiles in Europe to the level they ascribed to British and French missiles (162 by Soviet count). The Soviets, however, made clear that the subceiling was not fixed. Should the level of British and French missiles increase, in quantity or in quality, the subceiling would also increase to allow the Soviets to maintain equality in missiles with Britain and France.

The Soviets labeled this proposal a step toward NATO concerns over the previous Soviet position, but it brought British and French forces even more explicitly into the negotiations than before. Further, even if all SS-20s to be reduced in Europe were destroyed (an assumption not supported by anything the Soviets had said at that point in the negotiations), the Soviet position would have allowed retention of more SS-20s than were deployed than when the negotiations began and twice as many as were deployed in December 1979. Moreover, the Soviets would have been free to continue deploying SS-20s in the eastern USSR.

In general, the Soviet attitude during the round became increasingly intransigent. Having introduced their missile subceiling, they asserted that they had moved as far as possible without movement by the U.S. They rejected out of hand the U.S. presentation of basic criteria by which an outcome would be judged, characterizing all—except verifiability—as unacceptable, groundless and designed solely to support the "zero-zero" proposal. Toward the end of the round, they introduced their own "prerequisites" for agreement, which merely restated past positions. They included:

An agreement could not entail deployment of new U.S. missiles in Europe;

Negotiations must address only the most "urgent and acute" problem, the situation in Europe;

Negotiations should encompass all types of "medium-range" systems, land- and sea-based aircraft as well as missiles; and

Negotiations must "take into account" British and French forces.

The Soviets continued to resist U.S. efforts to move forward on secondary issues, rejecting the U.S. proposals to form new working groups, thus bringing discussions in the established groups to a virtual standstill. They stalled progress on secondary issues—even where there was common ground—maintaining that such questions could be addressed only after progress had been made on the central differences. The Soviets also continued to withhold various details of their position (e.g., they did not disclose whether SS-20s to be reduced would be destroyed or withdrawn). Soviet threats continued; they claimed that U.S. deployments would destroy the basis for negotiations and would be met by a Soviet response, both in Europe and against the U.S. itself.

Interim agreement proposal. As the round progressed, it became increasingly evident that the Soviets were not yet ready to accept such a far-reaching solution as the proposal to eliminate the entire class of U.S. and Soviet LRINF missiles. Nor were they ready to come forward with a position that met in any way the U.S. criteria or addressed the concerns that had prompted NATO's 1979 decision. Therefore, at the close of the round, the U.S. tabled the interim agreement proposal which would entail equal levels of warheads on U.S. and Soviet LRINF missiles. Specifically, the U.S. offered to reduce the planned deployment of Pershing II and GLCM provided that the USSR reduce its warheads on LRINF missile launchers to an equal level on a global basis. When introducing the new proposal, the U.S. noted its belief that "zero-zero" remained the best outcome for the negotiations, but made clear that Soviet acceptance of "zero-zero" was not a precondition for an interim agreement.

At the close of the fourth round, the U.S. had made a major change in its negotiating proposal, although the Soviets had not yet shown any indication of being ready to address U.S. and NATO concerns. While the Soviet position had changed cosmetically, its underlying objectives and fundamental consequences remained the same as those in the original Soviet position.

Round V (May 17–July 14, 1983)

The fifth round of negotiations ran from May 17 through July 14. The United States opened the round by tabling a new draft treaty embodying the interim agreement proposal and devoted considerable time to explaining the practical workings of that treaty. In the latter half of the round, the United States offered to make the collateral constraints on shorter-range INF missiles reciprocal, i.e., U.S. Pershing I would be limited in the same manner as Soviet SS-12/22 and SS-23 missiles.

The Soviets, for their part, showed no movement on the central issues. While they introduced a proposal for equality in warheads, this did not improve on the consequences of their approach, but only served to exacerbate them. Their statements increasingly took on a more rigid and polemical tone.

New U.S. draft treaty. At the beginning of the round, the U.S. tabled a draft treaty embodying the interim proposal for equal levels of warheads on U.S. and Soviet longer-range INF missile launchers. The U.S. also made clear that its proposal to eliminate the class of U.S. and Soviet LRINF missiles remained on the table and was, in the U.S. view, the prefered outcome for the negotiations. However, the U.S. also made clear that Soviet acceptance of the "zero-zero" proposal as an ultimate goal was not a precondition for an interim agreement.

In tabling the new draft treaty, the U.S. did not specify a level, in order to leave flexibility for explorations with the Soviets. It made clear to the Soviets that the U.S. was prepared to explore a range of warhead ceilings between zero and 572. While favoring a low level, the U.S. would consider any level in which the Soviet side was interested, and urged the Soviets to suggest such a level. When the Soviets refused to do so, Ambassador Nitze took the further step of suggesting a series of various specific warhead levels between 50 and 450. The Soviets rejected any level within the context of the U.S. proposal.

U.S. movement on shorter-range INF. The original U.S. proposal contained limits only on Soviet shorter-range INF missiles. The Soviets protested this position, but never offered a specific proposal of their own with regard to limits on shorter-range systems.

In the latter half of the round, in an effort to draw the Soviets into a detailed discussion on SRINF limits, the U.S. expressed a readiness to discuss limits on U.S. Pershing I missile systems. Subsequently, revised treaty language was tabled making collateral constraints on SRINF missiles applicable on a reciprocal basis, i.e., U.S. Pershing I missiles and launchers would be frozen at their levels as of January 1, 1982, as would Soviet SS-12/22 and SS-23 systems. Unfortunately, the Soviets did not enter into a serious discussion of SRINF missile limits, nor did they table their protocol on missile systems with ranges between 500 and 1000 kilometers. Instead, despite U.S. movement that should have been of interest to them, they maintained that this issue could not be addressed until after the central issues of the negotiation were resolved.

On other issues, the U.S. began a more detailed discussion of verification. The U.S. also continued to push the work in the data experts and treaty text working groups, to clarify the balance and increase the amount of agreed language for an eventual treaty. However, the Soviets showed little interest in having the groups press ahead, using them for polemical rather than technical discussions.

Soviet position. At the beginning of the round, the Soviets followed up on General Secretary Andropov's May 3 statement regarding "nuclear charges" by proposing equal ceilings on warheads on INF missiles and aircraft. The Soviets did not table new treaty language incorporating that proposal, but merely provided oral explanations as to how the limits would work.

The new Soviet position was merely a variation of the fundamental Soviet stance. It did not improve on the basic consequences inherent in the Soviet position; rather, it exacerbated them. With regard to missiles, the Soviets proposed equal levels of warheads between Soviet and British and French missiles. However, they attributed more than 400 warheads to the British and French missiles. While the new Soviet position could entail a small reduction in SS-20s in Europe below the level of 162, the extra reduction be slight. Moreover, the Soviets made clear that they would retain the right to increase the number of their warheads should the number of warheads of British and French missiles increase. Based on Soviet claims that British and French missiles will in the future carry over 1200 warheads, the Soviets could thus claim the right to deploy as many as 400 SS-20s (or successor systems) in the European USSR alone.

The Soviets otherwise maintained the basic elements of their position intact. They continued to negotiate on the basis of their

prerequisites for an agreement (no U.S. deployments, negotiations must address only the situation in Europe, negotiations must encompass aircraft as well as missiles, and negotiations must "take into account" British and French forces).

The Soviets did modify their regional approach somewhat, adjusting the line of withdrawal (which had previously run along the 80 degrees east longitude) to prohibit deployments of SS-20s from 80 degrees east, 57 degrees north to the mouth of the Lena River (something which climatic conditions made unlikely in any case). However, SS-20s launched from behind the modified line of withdrawal could still reach NATO territory, even using the range the Soviets ascribe to the SS-20. Moreover, the Soviets still had not taken proper account of the mobility and transportability of the SS-20 system.

The Soviets also tabled an article regarding confidence-building measures which provided for prior notification of "medium-range" ballistic missile launches beyond national borders, multiple "medium-range" ballistic missile launches within their proposed zone of reduction and limitation, and take-off of a significant number of "medium-range" aircraft within the zone. However, they continued to refuse to participate in a working group on confidence-building measures or negotiate on the substance of such measures until the central issues of the negotiations were resolved.

In general, the Soviet attitude in the round was notably polemical. They increasingly elevated to the forefront charges that the U.S. was not interested in an agreement and was using the negotiations as a means to secure deployments. They also increasingly threatened various countermeasures should NATO proceed with its planned deployments.

At the close of the round, the Soviets had not responded in a positive manner to the U.S. proposal for an interim agreement, despite their continual urgings in previous rounds for the U.S. to move off of "zero-zero." The Soviet position remained fundamentally unchanged; it still entailed the basic objectives and consequences of the opening Soviet position nineteen months before: a large Soviet SS-20 force would be permitted in Europe but deployment of Pershing II and GLCM would be prohibited; Soviet systems in the eastern USSR would be unconstrained; and U.S. dual-capable aircraft would be all but eliminated from Europe.

Round VI (September 6, 1983–November 23, 1983)

At the beginning of the sixth round of negotiations, the Soviet side attempted to clarify their missile liquidation offer. On September 22 the U.S. delegation introduced new proposals with regard to the geographic allocation of U.S. deployments, the mix of permitted U.S. LRINF missiles, and limits on aircraft. The Soviets refused to work together with the U.S. delegation to help flesh out these initiatives. Instead, at the end of October they modified certain elements of their own position, while retaining their insistence on retention of a Soviet LRINF missile monopoly and compensation for third-country forces. In November, the U.S. proposed a specific global number as an acceptable LRINF warhead limit. The Soviets informally presented a package which their negotiator claimed would defer their claim to "compensation" in exchange for no U.S. deployments. They then disavowed the offer and misrepresented the facts about it. Citing votes by NATO country parliaments reiterating support for the 1979 decision, the Soviets unilaterally suspended the negotiations.

Andropov's liquidation offer. Under the Soviet position in prior rounds missile launchers and aircraft were limited, but there were no constraints on the number of deployed missiles. The Soviets maintained that dismantling or destruction would be the primary means of reduction for excess systems but a certain percentage of excess systems could be withdrawn from the "Zone of Reduction and Limitation." However, they consistently refused to specify what percentage of systems would be dismantled or destroyed or to say whether any would be SS-20s. In a late August *Pravda* interview, General Secretary Andropov announced that the Soviet Union was prepared to "liquidate" all missiles made excess by the Soviet-proposed agreement (i.e., those that would be reduced in the European USSR to reach a level the Soviets termed equivalent to British and French missile systems).

At the first plenary session, the Soviets introduced this offer, citing the Andropov interview. However, in the subsequent two plenary meetings, the Soviet side gave a confusing presentation of what the proposal meant, explaining that it entailed the dismantling or destruction only of excess missile launchers and structures and equipment associated with such launchers.

Ten days into the round, in the fourth plenary session, the U.S. pointed out that, as explained, the Soviet position (1) would not require the destruction of any missiles (thus allowing existing missiles in excess of those associated with permitted launchers to be stockpiled for use as refires with permitted launchers), and (2) would not entail any limits on total missile inventory or new production (thus allowing the Soviets to produce new missiles without constraints, either for stockpiling in the "Zone of Reduction and Limitation" or for deployment in the Eastern USSR). The Soviets then formally stated that one missile associated with each excess launcher would be liquidated.

The reasons for the piecemeal and confused Soviet explanation of the missile destruction offer are unclear. In any case, the Soviets did not address U.S. concerns regarding constraints on total inventory or new production. While the Soviet position might require the Soviets to dismantle or destroy some SS-20 missiles, as presented, it would continue to permit them to build and stockpile new missiles in unlimited numbers.

Soviet attitude.—From the opening of the round, the Soviets maintained a hard line, asserting that no agreement was possible unless it barred U.S. deployments and took account of British and French forces, threatening to take countermeasures should NATO proceed with deployments, and implying that if the U.S. negotiating position did not accommodate their two central concerns, there was no reason to continue the round. In initial discussions regarding the length of the round, the Soviets refused to commit themselves to any meetings past October 12. Starting in mid-October, the Soviets began to agree to meetings for only one or two weeks at a time, despite the fact that the U.S. delegation had proposed a work schedule through December 15 and had suggested that talks could resume in mid-January. In the first half of November, the Soviets began to agree to meetings on a one-by-one basis.

The Soviets also slowed the pace of the two working groups. The Treaty Text Working Group made little progress, the Soviets being reluctant even to schedule meetings on a timely basis. While the Soviets did agree that the Data Experts' Working Group could take up the subject of destruction and there was some convergence of views on this question, the Soviets also slowed down the pace of that effort.

September U.S. proposals. Following consultations with the Allies that intensified during the first week of September, the U.S. tabled three new proposals with regard to the geographic allocation of U.S. deployments, the mix of permitted U.S. LRINF missiles, and limits on aircraft. At the September 22 plenary, the U.S. formally presented these initiatives in general outline:

Within the context of an agreement providing the right to equal levels of U.S. and Soviet LRINF missile warheads globally, the United States is prepared to consider a commitment not to offset the entire worldwide Soviet LRINF missile deployment by U.S. LRINF missile deployments in Europe, while retaining the right to deployments elsewhere, and is prepared to explore with the Soviet side alternative means of implementing this commitment.

In the context of an agreement involving significant reductions from current Soviet and planned U.S. deployment levels, the United States is prepared to apportion the reductions to be made from its planned level between the Pershing II ballistic missile and ground-launched cruise missile in an appropriate manner.

The United States is prepared to explore equal, verifiable limits on specific types of U.S. and Soviet land-based aircraft that are consistent with Allied criteria for an INF agreement.

In introducing these proposals, the U.S. noted that they responded directly to concerns that the Soviet Union had described as important to it. The Soviets had long argued that the negotiations should focus on systems in or near Europe; the U.S. was now prepared to discuss a commitment that would apply specifically to Europe. The Soviet Union had left the clear public impression that it had a particular concern about the prospective deployment of the Pershing II; in the context of an agreement involving significant reductions from current Soviet and planned NATO deployment levels, the U.S. would now be prepared to apportion the reductions of Pershing II and ground-launched cruise missiles in an appropriate manner. Finally, the Soviets had long maintained that limits should be negotiated on aircraft as well as missiles; the U.S. was now prepared to discuss limits on specific types of aircraft.

The U.S. used subsequent sessions to explain these proposals. It also pointed out that as its new proposals addressed Soviet concerns, the Soviet side should participate in the process of translating them into concrete limitations and provisions in an agreement. To foster such discussion, the U.S. proposed that in addition to or in place of some formal plenary meetings the sides meet in less formal fora, suggesting heads-of-delegation sessions and/or "mini-plenaries" with limited attendance and without formal statements.

Even before the U.S. had been able to explain its new proposals, the Soviet side maintained they could not provide a basis for progress and refused to take up the U.S. suggestion to explore and flesh out the proposals in less formal meetings. The Soviets said they could not discuss the geographic allocation or Pershing II reduction propos-

als, since those moves were in the context of U.S. deployments in Europe which the Soviet side could not "bless". But they also refused to engage in serious exploration of the aircraft proposal, though it was not linked to U.S. LRINF missile deployments.

At the same time, the Soviets increased their focus on the planned deployments of U.S. LRINF missiles to Europe, stating that such deployments would make continuation of the talks impossible. The U.S. rejected this contention, making clear the United States had negotiated while the Soviet Union had continued to deploy SS-20s; it was prepared to negotiate as long as necessary, including after the beginning of U.S. deployments; and it was prepared, as the result of an agreement, to remove and eliminate missiles that had been deployed.

October Soviet proposals. On October 26 Tass carried an interview with General Secretary Andropov in which he announced a modified Soviet position. On October 27 the Soviet side introduced the modified position by handing over the text of Andropov's interview.

As explained by the Soviets, their modified position was contingent on no U.S. LRINF missile deployments in Europe and compensation for UK/French Systems, and comprised four elements:

To ensure missile warhead equality between NATO and the USSR, the Soviets would reduce to approximately 140 SS-20 missile launchers in Europe (based on their attribution of about 420 warheads to British and French missiles);

On entry into force of an agreement covering Europe and contingent on no change in the "strategic situation" in Asia, the Soviets would unilaterally halt deployment of additional SS-20 missile systems in the eastern USSR;

In the context of equal levels of NATO and Soviet aircraft with a "medium radius" of action, the Soviets would be willing to discuss both the specific level and the composition of aircraft types to be limited; and

If the U.S. deferred deployment indefinitely, the Soviets would unilaterally scrap their remaining SS-4 missiles over a two-year period.

In discussing the modified Soviet position, it became evident the 140 figure was simply the May offer to use warheads as a unit-of-account with a number specified. Moreover, the Soviets were continuing to link their SS-20 missile systems in Europe to inflated figures for British and French missile warhead levels. Under questioning, the Soviets acknowledged that their position in fact might not result in the dismantling or destruction of any SS-20 missile systems, given their claims as to projected future increases in British and French warhead levels and the fact that reductions would be implemented over five years (and would probably first consist solely of SS-4 missiles). Over the long run, the Soviet position would allow them a right to a significant increase in SS-20 systems in Europe as UK and French forces modernized. The Soviet position would not restrict production or stockpiling of SS-20 missiles either in Europe or in Asia.

While the Soviets have implicitly conceded the principle that their eastern SS-20 deployments are relevant to the negotiations, they still refused to accept the idea of global limits under an agreement. Moreover, even on its own terms their offer of a unilateral freeze on SS-20 deployments in the eastern USSR has important drawbacks. By making it contingent on no change in the "strategic situation" in Asia, the halt would be hostage to Soviet claims about deployment of U.S. nuclear forces in range of the eastern USSR or about changes in the size or composition of Chinese nuclear forces. Moreover, the freeze would not go into effect until entry into force of an agreement, permitting the Soviets to start an indefinite number of new SS-20 bases prior to that time. The Soviets stated they would halt missile deployments, but left undefined what that meant or exactly what activities would cease. There are already 117 SS-20 missile systems deployed and at least 27 more planned for bases currently under construction in the eastern USSR.

On aircraft, the Soviets indicated that they were prepared to drop some aircraft types and agree to a level (300-400) so as not to "impinge on" conventional requirements for U.S. dual-capable aircraft. However, they also stated that the levels would include U.S. sea-based aircraft and would cover an aggregate for NATO (the United States, Britain and France) on one hand, and the USSR on the other. They identified the Mirage IV as the only non-U.S. aircraft that would be limited under the NATO aggregate.

November U.S. Initiative. After discussing the details of the modified Soviet position, the U.S. delegation explained its view of its drawbacks but noted that certain aspects were positive and, in conjunction with the September U.S. proposals, provided the potential for progress. On November 15, the U.S. formally proposed that the two sides agree to an equal global ceiling of 420 LRINF warheads, while noting our continued preference for the zero/zero outcome and willingness to discuss other equal global ceilings. The specific number advanced corresponds to the approximately 420 warheads to which the Soviets had suggested they would limit themselves in Europe, in accordance with Andropov's October 26 remarks (i.e., about 140 SS-20's). The Soviets formally rejected this number in the November 17 plenary.

Informal Exchanges. Pursuant to his instructions allowing him to explore possible areas of agreement, Ambassador Nitze met privately with Ambassador Kvitsinskiy several times during the round in an attempt to find a way around the obstacles separating the two sides in Geneva. In addition to discussing differences between the formal positions of the two sides, they discussed additional potential ways of bringing the two sides together.

Nitze told Kvitsinskiy that he had heard that some Soviet spokesmen were quoted as saying that the "walk-in-the-woods" package might be acceptable as a basis for negotiations if the U.S. formally proposed it. Kvitsinskiy stated that, even if proposed by the United States, Moscow would reject the package in its entirety.

Nitze also told Kvitsinskiy that he had heard that certain Soviet spokesmen had suggested an approach that would result in 54 SS-20s in or within range of Europe versus zero U.S. deployments. Kvitsinskiy replied that there was no substance to what those people were saying.

November 13, Kvitsinskiy privately told Nitze that he had instructions to indicate that, if the U.S. proposed equal warhead reductions in Europe of 572 on each side, the Soviets would be prepared to accept, and remaining issues could be equitably worked out. Kvitsinskiy confirmed that this would leave the Soviets with approximately 120 SS-20s in Europe, and that "equal reductions" were acceptable to the Soviets only if the U.S. reduced to zero. Kvitsinskiy indicated that, under this sort of agreement, no specific mention of UK/French forces would be made but that the Soviets would pursue compensation "in an appropriate future negotiating forum." He said that in the "future negotiations", credit would be given NATO for the approximately 120 SS-20s the USSR would have retained in Europe. His instructions were to repeat the Soviet position on aircraft and Asian systems, which remained unchanged, and that the Geneva negotiations would cease if NATO deployments proceeded.

The absence from this package of the long-standing Soviet contention that they are entitled to specific compensation for UK and French forces in INF was only formal, since they were continuing to seek de facto compensation in the form of a sizeable LRINF monopoly. At the same time, by dropping the demand for explicit compensation, they were in effect confirming that concern over those forces was never a fundamental element of their INF approach, but rather a means of maintaining this monopoly. By making this proposal when they did, and stressing that with U.S. deployments the talks would cease, the Soviets were clearly attempting to posture themselves for public advantage, rather than to advance the talks.

After Ambassador Nitze reported the discussion of November 13 to Washington, the U.S. informed NATO capitals. On November 17, the Soviets began the delivery of notes to several NATO governments, including that of the U.S., describing the Soviet contingent offer as a proposal of Ambassador Nitze, and misrepresenting its substance by retaining and explicit link to British and French forces. The Soviets subsequently made these false assertions in public statements.

Nitze met with Kvitsinskiy November 19 and noted that Washington has instructed him to convey the following points:

The Soviet "equal reductions" proposal would leave the USSR with a large force of SS-20 missile systems in Europe while barring the United States from any countering deployments. The United States and it NATO Allies had made clear that they cannot accept a Soviet monopoly in LRINF missiles.

While Washington had noted with interest the indications that the Soviets were willing to drop their explicit demand for compensation for third-country forces, any negotiated outcome must provide for equality of rights and limits on a global basis between the United States and the Soviet Union.

While the United States was prepared to study carefully any proposal that the Soviets might wish to put forward in the negotiations, Soviet attempts to misrepresent their informal suggestions of November 13 as an American proposal were unacceptable. Allied governments were fully informed and therefore aware of the truth.

The ploy of not making the proposal themselves, but suggesting that if the U.S. were to make it then everything could be worked out, and the Soviets' later unfounded assertions that it was from the start an American proposal, call even further into question the seriousness of the Soviet negotiating approach thus far.

Soviet Suspension of Negotiations. The Soviets announced in the November 23 plenary that, because of recent votes in the parliaments of Great Britain, Italy, and the

Federal Republic of Germany (all of which endorsed continued adherence to the dual-track decision), they were unilaterally discontinuing the round of negotiations without setting any date for their resumption.

VI. SOVIET GOALS, NEGOTIATING POSITIONS AND NEGOTIATING BEHAVIOR

Even before December 1979, when the Soviets waged a major campaign to forestall the dual-track decision, the Soviet Union made clear that its goal was retention of a sizable monoply of LRINF systems. This objective has not changed in more than four years.

The SCG notes that the fundamental precepts of the Soviet position are that non-superpower states, whether in Europe or elsewhere, have no independent right to security, and that the Soviet Union's right to security overrides that of any other state. Thus, the Soviets argue, since Soviet LRINF missiles can strike only Europe but not the United States, the United States has neither the right to seek equality in the arms control negotiations nor the right to deploy offsetting forces in the event that an equitable arms control agreement is not attained. In essence, the Soviets have taken the position that it is unacceptable for the Soviet Union to face a threat from Western European territory analogous to the threat the Soviet Union poses to Western Europe (and to other states on the Soviet periphery).

The SCG notes that the Soviet Union, in pursuit of this goal, has established an inseparable connection between its negotiating position, its behavior in the negotiations, and its propaganda campaign directed against NATO, particularly the European members of the Alliance.

Soviet negotiating proposals to date have consisted largely of minor adjustments or clarifications to create the appearance of flexibility while not altering the basic outcome of an agreement. Thus, the Soviet proposal advanced by General Secretary Andropov in December 1982 for a sub-ceiling on LRINF missiles was designed to create the impression of Soviet willingness to take substantial cuts in its SS-20 force; however, the effect of that proposal would have been to leave the Soviet Union with more SS-20 missiles than when the negotiations began, deny NATO the right to modernize its deterrent to that threat, allow the Soviets to have an unlimited number of SS-20s east of the Urals, and almost totally eliminate from Europe aircraft of the United States which, in addition to being nuclear-capable, have essential conventional roles.

The Soviet negotiating approach is closely coordinated with and linked to the Soviet public campaign, and appears to be designed to position the Soviets so that they can claim credit publicly for flexibility and movement while blaming the United States for a negotiating stalemate. Over the course of the negotiations, certain patterns of behavior have emerged:

Unveiling the details of Soviet positions over an extended period of time to foster the appearance of a dynamic, flexible position;

Advancing positions in public before tabling them in Geneva;

Evading clarification of such proposals at the bargaining table unless the U.S. accepts the Soviet framework for an agreement; and

Refusing to cooperate in resolving "secondary" issues until the central issues are resolved on their terms.

The Soviet propaganda effort directed at Western publics has been designed to strengthen the Soviets' hand at the negotiating table by undermining public support for NATO modernization. For instance, the Soviets refused to negotiate until it became clear that this tactic was becoming politically costly with Western publics. NATO's success in addressing the Soviet campaign has over time forced the Soviets to shift themes. Soviet efforts to claim an existing LRINF balance between NATO and the Warsaw Pact lost all credibility as SS-20 levels increased without any offsetting NATO deployments (see chart on next page), and, while the Soviets have not abandoned this theme, their emphasis on it has faded. Similarly, Soviet efforts to capitalize on their declared "moratorium" failed when the Alliance made clear, both in the reports of SCG meetings and in national statements, that Soviet SS-20 deployments were continuing.

Following de-emphasis of the "balance" argument, the Soviets have attempted to justify a claim for compensation for British and French forces as the centerpiece of their propaganda effort. Recent Soviet stress on the need for compensation suggests the Soviets see considerable negotiating, political and propaganda value in this theme. In the negotiations, it permits the Soviets to advance a position that would block U.S. deployments, preserve a substantial SS-20 force in Europe as well as Asia, and index Soviet warhead levels to any future increases in French or British warhead levels. Politically, it provides them a means to attempt to create divisions between the nuclear and non-nuclear members of the Alliance. In propaganda terms, it gives them a means to attempt to confuse publics by falsely equating the deterrent to the Soviet Union by British and French independent national systems to only a fraction of the threat which the Soviet Union poses to France and Britain.

An integral and increasingly important part of the Soviet campaign is an attempt to generate fear about the consequences of NATO modernization. The Soviets repeatedly have said that NATO modernization would increase the risk and costs of nuclear war, particularly for Europe. The Soviets also increasingly threatened to break off the negotiations, to adopt a "launch on warning" policy should NATO deploy LRINF missiles, and to take countermeasures in response to NATO modernization. At the same time, the Soviets sought to convey the impression that they, not NATO, would be the aggrieved party, and that they would be forced into policies they would not otherwise adopt should NATO proceed with implementation of the dual track decision.

This Soviet stance illuminates the Soviet political goal in INF: to weaken and if possible to break the link between the United States and the European members of NATO. The SCG believes that we can expect continuing Soviet emphasis on pursuit of this goal with the failure of the Soviet effort to prevent NATO LRINF modernization, in the absense of an equitable agreement.

VII. PRINCIPAL NEGOTIATING ISSUES

In reviewing the status of the negotiations and the lack of agreement to date, it is essential to examine the practical outcomes of the two sides' proposals and how those outcomes have—or have not—evolved over time.

The U.S. position has evolved in three distinct stages. In November 1981 the United States proposed the elimination of the entire class of U.S. and Soviet LRINF missiles systems wherever located. In March 1983 the United States tabled the interim agreement proposal providing for equal global levels of U.S. and Soviet LRINF missiles warheads. In September 1983 the United States introduced new proposals with regard to the geographic scope of limitations, the mix of permitted U.S. LRINF missile systems, and limits on aircraft. The U.S. position at each of these stages would have entailed significantly different outcomes, in each case addressing concerns that the Soviet side had described as important to it.

The practical outcome of the Soviet position, on the other hand, has remained essentially unchanged. The adjustments introduced into the basic Soviet position (that NATO and the USSR each reduce to 300 "medium-range" missiles and aircraft in or near Europe) have included the missile subceiling proposal, the offer to use nuclear "charges" as the unit-of-account, the missile liquidation offer, and the October 1983 "package". However, none of these modifications has altered the basic outcome of the Soviet position. The Soviet position of November 1983 would have entailed the same overall consequences as the opening Soviet proposal: a substantial SS-20 force in Europe but no deployments on the U.S. side and no binding arms control limitations on deployment of SS-20 missile systems in the eastern USSR, from whence they could still threaten the security of NATO Europe as well as Asian nations. Indeed, the Soviet proposals, if accepted, would exacerbate rather than redress the imbalances that prompted the 1979 NATO decision.

The following reviews the evolution of each side's position on the major issues of the negotiation.

LRINF missiles

The opening U.S. position would have resulted in total elimination of U.S. and Soviet LRINF missiles, their launchers, and certain agreed support structures and equipment. It also would have banned the testing and production of new LRINF missile systems. However, after the Soviet Union made clear that it was not ready to do away with its LRINF missile force, the United States tabled an interim proposal that would allow the Soviet Union to retain such a force, providing the United States would have the right to deploy an equal force.

In September 1983 the U.S. further modified its position with regard to LRINF missiles, stating its readiness to apportion reductions to be made from its planned deployment level between the Pershing II and GLCM, thus addressing a specific Soviet concern about prospective deployment of the Pershing II. In November 1983, the U.S. proposed a specific level for an equal global ceiling on LRINF missile warheads, matching the number of LRINF warheads which the Soviets themselves had just proposed for their own LRINF missiles in range of Europe.

The Soviet position on LRINF missiles has remained essentially the same: the USSR would be allowed to maintain a large force of SS-20s in Europe while the United States would be denied the right to any deployments of Pershing II or GLCM. Such an outcome would still result from the missile subceiling proposal, the proposal to adopt warheads as the unit of account, or the offer to liquidate excess missiles. The Soviets have never expressed an interest in any outcome that would not give them at least 360 LRINF warheads in Europe, and a comparable number in Asia, while barring any offsetting NATO deployments.

The Soviets have attempted to portray their missile subceiling as a major step: previously the USSR could have deployed up to 300 SS-20 systems in Europe but under the subceiling would be allowed only 162 missile systems. Given probable military requirements for a mix of missiles and modern aircraft, it is unlikely that the Soviets would have chosen to deploy only missiles under their original proposal. In any case, the Soviet Union would still be entitled to a large SS-20 force in Europe, while NATO would not be allowed a single U.S. LRINF missile.

Similarly, the offer to adopt warheads as the unit-of-account did not significantly change the outcome of the Soviet position with regard to LRINF missiles. As the Soviets have demanded equality with the level of British and French missiles warheads used an inflated figure for that level, the reduction of Soviet SS-20 missile systems would not have been much greater than under the original subceiling proposal. This became clear when, in the October 1983 package, the Soviets indicated that, by their count, matching UK and French warheads would require "approximately 140" SS-20s rather than 162.

Perhaps more importantly, the Soviets made explicit their claim to a right to match future increases in British and French missile warheads, a position that was inherent in earlier Soviet proposals. Asserting that the level of those warheads would increase to 1200-1300 in the future, the Soviets, by the logic of their position, might be entitled to over 400 SS-20 missile systems in Europe. Again, the United States would be denied the right to deploy any LRINF missiles.

The missile liquidation offer also did not change the basic outcome of the Soviet position. It should be noted that while the U.S. position included limits on the total number of missiles, the Soviet position entailed no limits on the inventory of LRINF missiles, not even in the Soviet-proposed "zone of reduction and limitation." Thus, even though the Soviets have stated that they would be ready to dismantle or destroy one missile associated with each launcher made excess by an agreement, nothing in their position would prevent them from producing and stockpiling (for use as refires) an unlimited number of new LRINF missiles. Thus the Soviets would be allowed a large number of SS-20 missiles for use by those launchers; the United States would still be barred from any deployments.

Aircraft

At the opening of the negotiation, the U.S. expressed the view that the sides should focus their efforts on achieving limitations on the systems over which both countries had expressed the greatest concern—LRINF missiles. However, in an effort to move the talks forward and in response to the Soviet concern that aircraft as well as missiles be limited, the U.S. in September 1983 modified its position and indicated a readiness to explore limits on specific types of U.S. and Soviet aircraft.

The Soviet position on aircraft showed little change until October 1983. Their original proposal to have NATO and the USSR each reduce to 300 "medium-range" systems in or near Europe in effect defined every U.S. dual-capable aircraft in Europe and on aircraft carriers in the Atlantic fleet, as well as FB-111s in the United States, as subject to this limit, while excluding many of their comparable aircraft. The result would have been the elimination of all but a small handful of U.S. dual-capable aircraft in Europe or the eastern half of the Atlantic, but the retention of thousands of Soviet aircraft capable of striking Europe with nuclear weapons.

In June 1983 the Soviets dropped the Vulcan aircraft from their list of British and French "medium-range" systems. This would have allowed the U.S., presumably, to retain a slightly greater number of dual-capable aircraft in Europe. However, in the same round, the Soviets introduced their proposal to use nuclear "charges" as the unit of account. While they have not fully clarified how this would apply with respect to aircraft, the Soviet Union has indicated its view that NATO aricraft carry a greater number of aggregate weapons than Soviet aircarft. Thus, using aircraft weapons as a unit of account, the Soviets apparently seek to force greater reductions in U.S. dual-capable aircraft than when using aircraft as the unit of account. In any case, the Soviet position on aircraft showed little genuine change—it would have resulted in a radical reduction in U.S. dual-capable aircraft in Europe and drastic consequences for the U.S. contribution to NATO's conventional capability. The more forthcoming language of the October 1983 package suggested that the Soviets might be willing to consider a more equitable outcome on aircraft, although they still insisted on matching Soviet aircraft against those of NATO as a whole, and on including sea-based aircraft. However, only if the Soviets were willing to negotiate on specific questions of composition and levels could it be determined if this is in fact a positive step.

Geographic scope of LRINF missile limits

The United States, in view of the long range, mobility, and transportability of modern LRINF missile systems, proposed in its "zero-zero" and interim agreement positions to limit such systems without regard to location. In an effort to move the talks forward and in response to the Soviet view that the negotiations should focus on systems in or near Europe, the U.S. stated in September 1983 that, under the terms of an agreement providing for equal global ceilings, the United States was prepared not to offset the entire worldwide Soviet LRINF missile deployment by U.S. deployment in Europe. The U.S. offered to explore with the Soviet side a specific commitment with regard to developments in Europe. The Soviets refused to consider this, arguing that no U.S. deployments are acceptable to them.

The Soviet position on geographic scope has gone through only minor changes over the course of the negotiations. Originally, the Soviets proposed to limit systems in or "intended for use" in Europe. In the second round, they introduced a "zone of reduction and limitation," and withdrawal lines that would affect Soviet LRINF missiles outside of the European USSR but west of 80 degrees east longitude (this line was modified in June 1983 to preclude Soviet developments in certain northern latitudes east of 80 degrees east longitude, but these were areas where deployment was unlikely in any case due to climatic conditions).

All variations of the Soviet proposal would leave SS-20s at bases east of 80 degrees longitude, including those around Novosibirsk, unconstrained by an agreement. The October 1983 Soviet package did provide for a unilateral moratorium on further such deployments following the entry into force of a European agreement. In addition to the free interpretation the Soviets have given the term "moratorium" in the past, the condition that this would be contingent on "no change in the strategic situation in Asia" means that deployments could recommence at any time the Soviets claimed to perceive such a change. The Soviets' retionale for their growing Asian nuclear force has sometimes been based on their claims about U.S. forces in the Pacific, at others on claims of Chinese capabilities, and sometimes on claimed developments in Japan. The one constant remains a steady Soviet build-up.

Third-country systems

The United States position of no limitation, or compensation for third-country forces has remained firm throughout the negotiations. The Soviet effort to include British and French forces (which has served as their pretext for demanding wholly one-sided limits between the United States and the Soviet Union), if anything, has toughened. From being one of the several basic questions dividing the sides, the Soviets have tried to cast British and French forces as one of the two "key" issues of the negotiation (with the other being a proscription of any U.S. deployments in Europe). Moreover, as noted earlier, the Soviets by their count of British and French SLBM warheads, claim the right to deploy even an increased level of SS-20 missile systems in Europe to match future British and French levels. By explicitly linking its future deployments to increases in British and French SLBM warheads, Moscow has sought a mechanism, in an arms control agreement with the U.S., to influence British and French modernization programs.

The erosion of the Soviets' position on third-country systems—most striking in the absence of an explicit compensation claim from Kvitsinskiy's November 1983 "equal reductions" package—has exposed its primary purpose: to serve as a device to permit the Soviets to preserve their LIRNF missile monopoly. As the Alliance has repeatedly made clear, there has been and can be no change in the position of principle that these forces can neither be included nor compensated for in an INF agreement.

SRINF missile limits

The original U.S. position entailed limits on the Soviet SS-12/22 and SS-23 but none on the U.S. Pershing I. The reason for this was that SRINF missile limits were intended to enhance the effectiveness of the limits on LRINF missile systems; the Soviet systems could fulfill the missions of Soviet LRINF missiles to a much greater extent than Pershing I could fulfill the mission of U.S. LRINF missiles. However, in June 1983, the U.S. offered to apply limitations on a reciprocal basis to U.S. Pershing I's and urged that the sides begin a detailed discussion of SRINF missile limits.

The Soviet position on SRINF missile limits has not yet been introduced in detailed form. The original Soviet position was that limits on systems with a range or combat radius of less than 1000 kilometers were not necessary. The Soviets subsequently agreed in principle to quantitative limits on missiles with ranges between 500 and 1000 kilometers, but have not tabled concrete provisions. They have refused to enter into serious discussion of SRINF missile limits, asserting that this was a peripheral question to be addressed after the central issue of the negotiation had been resolved.

Verification

The U.S. from the beginning has stressed that the sides should work on issues such as verification in tandem with work on the

central issues. In the fourth round the U.S. formally proposed that the sides establish a working group to discuss verification measures. The U.S. suggested that, since both sides' positions envisaged destruction of LRINF missiles, as a first task such a working group could discuss measures for verifying missile destruction.

The Soviets initially rejected this proposal, arguing that such discussions had little utility when the sides were so far apart on the central issues. The Soviets further asserted that detailed verification measures should be left to the work of the Standing Consultative Commission.

Following Soviet introduction during Round VI of their offer to liquidate excess missiles in Europe, the U.S. again proposed formulation of a working group to discuss measures for verifying destruction. The Soviet side resisted formulation of a new group but then indicated that the subject of destruction measures could be taken up in the data experts' working group, providing that measures for the destruction of aircraft were also addresssed. While preferring a separate group, the U.S., in the interest of opening discussion of the subject, agreed to discuss destruction measures in the data experts' group, but noted that that group would still have to address unresolved data issues as well.

VIII. THE U.S. AND ALLIED NEGOTIATING POSITION

The SCG firmly believes that the principles and criteria which underlie the U.S. negotiating position to date remain valid and should continue to provide the basis for Allied pursuit of an INF agreement. All positions taken by the United States in the INF negotiations to date have been founded on the 1979 decision, which set forth certain guidelines for the U.S. negotiating effort:

Any future limitations on U.S. systems should be accompanied by appropriate limitations on Soviet systems.

The arms control negotiations should not include non-U.S. Allied systems, nor should the U.S. negotiate with the Soviets compensation for such systems.

Any agreed limitations must be consistent with the principle of equality and therefore should take the form of de jure equality both in ceilings and in rights.

Limitations on U.S. and Soviet longer-range INF systems should be negotiated bilaterally in a step-by-step approach.

The immediate objective of the negotiations should be agreed world-wide limitations on U.S. and Soviet land-based longer-range INF missile systems.

Any agreed limitations must be adequately verifiable.

These guidelines also have formed the basis for specific U.S. and Allied criteria for an INF agreement, as enunciated in February 1983 by President Reagan:

There must be equality of rights and limits between the United States and Soviet Union;

There can be no negotiation of or compensation for third-country forces;

There must be global limits on LRINF missiles and no exporation of the security threat in Europe to other regions, such as the Far East;

There must be no adverse impact on NATO's conventional defense and deterrence capability; and

There must be measures for effective verification.

The SCG believes these guidelines and criteria establish a flexible framework for an agreement that, given Soviet goodwill, could achieve substantial reductions, and ideally complete elimination, of longer-range INF missile systems on both sides.

In contrast to the rigid Soviet adherence to a policy established even before the 1979 decision was taken, the U.S. and Allies have exercised the flexibility inherent in the 1979 decision to make every reasonable effort to achieve an equitable and verifiable agreement. Further, the U.S. position has been guided by the U.S. and Allied desire that an agreement achieve deep reductions to the lowest possible equal levels.

The SCG notes that, in the interest of achieving an agreement at the earliest possible date, consistent with Alliance security requirements, the United States position in the negotiations has over time supplemented the ideal outcome contained in the zero/zero proposal first offered in November 1981 by President Reagan, with the valuable but less preferable outcome in the President's interim agreement proposal, under which both sides would maintain some level of LRINF missiles. This stands in sharp contrast to the Soviet position, which has never swayed from the one-sided objective of maintaining a large and threatening Soviet monopoly in LRINF missiles.

The SCG also notes that, in marked contrast to the rigid Soviet adherence to its ingoing position, the U.S. has undertaken a number of initiatives intended to promote progress in the negotiations. These include the zero/zero proposal of November 1981, the interim agreement proposal of March 1983, the U.S. offer in June 1983 to include shorter-range U.S. Pershing I missiles in negotiated collateral constraints, the U.S. negotiator's proposals in summer 1983 to his Soviet counterpart regarding a range of possible equal global levels between 50 and 450 for warheads on LRINF missiles, President Reagan's major elaboration of the interim agreement proposal in September 1983, and the formal U.S. offer in November 1983 of a global ceiling of 420 within the context of the September elaboration of the interim agreement proposal.

The SCG believes that the September 1983 elaboration of the interim agreement proposal is a particularly noteworthy example of Alliance flexibility in the INF negotiations. This initiative was entirely consistent with Allied criteria and represented a major step toward reducing the areas of disagreement between the United States and the Soviet Union in the negotiations in a number of important areas:

On the geographic allocation of deployments, by providing that, in the context of an agreement on equal, global limits on LRINF missiles, the United States would be willing to consider a commitment not to offset the entire Soviet global LRINF missile deployment by U.S. deployments of LRINF missiles in Europe. This offer took account of the Soviet view regarding limits on systems in Europe while fulfilling our requirement for reductions and limitations on a global basis.

On the composition of the NATO LRINF deterrent, by assuring the Soviet Union that, in the context of an agreement involving significant reductions from current Soviet and planned NATO deployment levels, the U.S. would be prepared to apportion the reductions of Pershing II and ground-launched cruise missiles in an appropriate manner. Within the framework of the Alliance decision that a mixed force of ballistic and cruise missiles provides the best deterrent, the offer that any reductions under an agreement would include Pershing II ballistic missiles addressed Soviet expressions of concerns about the composition of the mix under an agreement.

On aircraft, by expressing U.S. readiness to explore possible limitations on specific LRINF aircraft and an invitation to the Soviets to offer their views on how such limitations could be formulated within the framework of the President's criteria. As with the other elements of the September 1983 initiative, this move addressed a major stated Soviet concern, while being consistent with the requirement that an INF agreement not result in any weakening of the United States contribution to the conventional defense in Europe.

IX. NEXT STEPS

The U.S. and Allies have repeatedly stated their willingness to consider any serious Soviet alternative that would meet the minimum security requirements of the Alliance. The SCG notes with profound regret that in the four years since the 1979 decision the Soviet Union has not once advanced such an alternative, while compiling an unbroken string of rejections of U.S. and Allied initiatives.

Nevertheless, the SCG believes that it remains in the Alliance's interest to continue the effort to persuade the Soviet Union to undertake a cooperative endeavor with the United States at the negotiating table to achieve an agreement that would meet the legitimate security concerns of both sides.

To this end, the SCG deplores the Soviet decision to suspend the negotiations, and believes that talks should resume at the earliest possible moment, to permit further exploration of possible solutions and to probe for Soviet willingness to enter serious discussions that would take account of the security concerns of both sides.

The SCG also notes that continued implementation on schedule of the deployment track of the 1979 Decision remains essential to create incentives for the Soviets to negotiate seriously and to protect Allied security in case an agreement is not reached. The NATO LRINF modernization program envisions gradual deployments of U.S. Pershing II and ground-launched cruise missiles, permitting ample additional time for an agreement to be reached prior to completion of the modernization program in 1988. Given Soviet cooperation, however, the SCG believes that there is no reason why an agreement which substantially reduces LRINF levels on both sides could not and should not be reached earlier. The Alliance should continue to seek achievement of an equitable, verifiable agreement at the earliest possible time.

With respect to General Secretary Andropov's November 24 statements about "countermeasures", the SCG believes that any Soviet action that would delay achievement of an equitable, verifiable arms control agreement, or that would increase the nuclear threat to the Soviet Union's neighbors, would be totally unjustified in view of existing Soviet force levels. The effort by the Soviet Union to characterize such long-envisaged measures as a legitimate reaction to NATO modernization is utterly unfounded.

The SCG also points out that the Alliance has repeatedly made clear its willingness to halt, modify or reverse deployments under an INF agreement, including removal and destruction of all U.S. missiles deployed to Europe if justified by the concrete results achieved in Geneva.

Allied unity and firmness in implementing both tracks of the 1979 Decision remain

critical to success in the INF negotiations. The cornerstone of such unity will continue to be a close and cooperative consultation process that permits exchange of information and ideas on the part of all Allies. The SCG therefore plans to continue its intensive effort to monitor developments in INF and consider problems in, and prospects for, the negotiations.

Mr. DOLE. Mr. President, again as I did in my statement, I thank the distinguished minority leader. I think my colleagues remember it was his resolution which passed the Senate on January 3 which made this observer group possible. I also thank the distinguished presiding officer who was a member of the group. Obviously, it was sort of the launch or the takeoff. There is a long way to go. I do not want to mislead anyone. We may have differences from time to time, we may not even agree with the negotiators, but I must say again that they are an outstanding team and they have our support. All of us made it very clear that we were there to help the negotiators, not to pick a fight with anyone, not to undercut what they were doing, not to talk about what they were doing. I think it meant a great deal to even such hardened negotiators as our former colleague, Senator John Tower. I think he felt good about it, as did Ambassador Kampelman and Ambassador Glitman and the very able deputies. Again I thank the distinguished minority leader for his initiative which started last year, and culminated in unanimous passage of the resolution on January 3.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for his kind words. Had it not been for his support, the resolution very likely would not have passed. I certainly salute the majority leader for his support of the proposal then and for his support now, as was demonstrated during our days in Geneva.

THE AFRICAN FAMINE RELIEF APPROPRIATION BILL

Mr. BYRD. Mr. President, the Democrats are ready to proceed with the African famine relief appropriation bill, and wherever the majority leader wishes to crank that into the Calendar of Business, beginning with Monday of next week, will be fine and we will be ready.

Mr. DOLE. I thank the minority leader.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

WHY CONGRESS SHOULD NOT FUND STAR WARS

Mr. PROXMIRE. Mr. President, in the past few weeks the country has been treated to a series of excellent in-depth articles in the New York Times, the Washington Post, and other papers about the President's determination to press ahead with the fabulously expensive antinuclear missile defense system that has been widely dubbed "star wars." One of the very best analyses appeared in the Sunday, March 10, issue of the Washington Post. It was written by Robert Kaiser. I hope as many Members of Congress as possible will take the time to read it. Reading the article would mean 10 minutes well spent, for these reasons: First, the cost of star wars, second, its critical significance for arms control, and third, its potential threat to the nuclear stability that has helped keep the superpower peace for the past 35 years.

The Kaiser article is a frank polemic against star wars. The Reagan administration has asked for some $3.7 billion for research on star wars in the 1986 budget. This Congress will have to act on that request over the next few months. The request represents the first really massive increase in star wars funding. It would increase the appropriations from a 1985 level of $1.5 billion by a whopping 150 percent in a single year. If we approve this funding this year, we will be well on the road to spending the $30 billion the administration is requesting over the next 6 years for star wars research. Those downpayments will put us right on the brink of the really big money, the expenditure of hundreds of billions of dollars—perhaps a trillion or more. That prospect will bring on the invasion of Congress by the military-industrial complex lobby with blood in their eyes.

The irony is that star wars is coming on with a soft-soap campaign as the wise road to the end of the arms race and a future of effective defense and arms control. How about it? Listen to Kaiser:

> Amid all the intellectual dishonesty now dominating discussion of these issues, perhaps the most dishonest suggestion of all is that somehow, creation of a star wars system would end the arms race. Why? Even the most idealized version of a successful defensive system will leave room for an opponent's inventiveness—especially when you consider that a completed system can never be tested in conditions remotely resembling the one that would prevail, if it were ever actually used.
>
> No, the very best we can expect from star wars is the ability to knock out most of the Soviet missiles launched against us in a war. We could never be so sure of the system as to launch an attack against the Soviets with confidence that they could not retaliate. In other words, the best we could get is a world of enormous technological uncertainty, in which both superpowers would have to calculate that a decision to launch a nuclear war was crazy.
>
> But that is the world we have today. There is no good reason to spend hundreds or thousands of billions of dollars to recreate the status quo on a higher and riskier level of ingenuity.

That is it, Mr. President: star wars will at best give us a nuclear stand-off, which is precisely what we have today. That is at best. But at best, it will cost hundreds of billions of dollars, and it will create greater uncertainty, greater instability, greater complexity, and therefore a greater likelihood that, through accident or the illusion that one side might win, nuclear war would begin.

Mr. President, last week the Defense Appropriations Subcommittee heard three administration witnesses; Defense Secretary Weinberger appeared, followed by the head of our Strategic Air Command, Gen. Bennie Davis, and then the President's senior arms control consultant Paul Nitze, all testifying in favor of our going ahead in the next couple of weeks with the deployment of MX missiles. This program would give the country an additional 100 MX missiles armed with 1,000 nuclear warheads, a massive add-on to our already colossal offensive nuclear force. We are asked to provide an additional $1.5 billion in the current fiscal year for the deployment of the first 21 MX's. A little later this year, we will act on the administration's request for more than $4 billion more for further MX deployment in 1986. We in Congress are asked by the administration to do this at the same time we are told that star wars will make offensive missiles like the MX worthless. We are told that funding these MX missiles will provide a stronger bargaining posture for the administration so it can negotiate a reduction of offensive nuclear missiles on both sides.

Mr. President, what chance is there that if we fund these MX missiles, we will bargain them away? The answer is, none. I challenged Mr. Nitze, our most experienced arms control negotiator who has been at it for more than two decades, to name a single, offensive weapon system that we had ever negotiated away in any arms control agreement. Mr. Nitze hesitated for quite a while. He was unable to name a single such system. And the answer, of course, is that there has been none. So we should view the administration's pledge to seek deep, sharp reductions in offensive missiles on both sides with considerable question. Make no mistake about it. Once we start funding the 100 MX missiles with their 1,000 warheads, they will be part of our permanent, nuclear arsenal.

Again, listen to Mr. Kaiser:

> The Reagan administration is arguing that the best way to get deep cuts in the superpowers' nuclear arsenals leading to a world without nukes is to complete a major

buildup of offensive weapons, then begin a huge new defensive arms race. This sort of reasoning is not based on secret information or expert knowledge about the esoterica of nuclear strategy. We're squarely in the realm of common sense. What do you think is the best way to push the superpowers toward lower levels of strategic weapons? By building many, many more? Or by starting now, at current levels, to negotiate reductions?

Mr. President, if this Congress follows the administration request and provides a 150-percent increase in funding for star wars research, it will be making two mistakes. First, we will be taking a long step toward a massively increased arms race. We will add a defensive race to a stepped-up offensive arms race. The Soviets will have no choice except to increase their offensive and defensive nuclear arms spending. Second, we will take a fateful step down the road to total fiscal irresponsibility. Today's $200 billion budget deficits will seem like piggy bank stuff by comparison.

Mr. President, I ask unanimous consent that the article to which I have referred by Robert Kaiser be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DISARMING LACK OF CANDOR

(By Robert G. Kaiser)

On the eve of nuclear arms talks in Geneva, the Reagan administration is bending itself into knots trying to pretend that it has a coherent national security policy that could produce both an American "Star Wars" defense and a sweeping arms control agreement with the Soviet Union.

There are two possible explanations for the administration's gyrations. One—the most hopeful, but also the most unlikely—is that we are witnessing a surpassingly shrewd bargaining operation by a group of master poker players, who are maneuvering the Russians into historic negotiations that could actually reverse the arms race.

The second and more likely explanation is that we have entered a strategic Wonderland, guided by a president obsessed by a doubtful idea, who is advised by "experts" whose principal expertise is concocting "rationales that don't torture the facts too badly," as a Republican Senate aide put it last week.

President Reagan's idea that we can have Star Wars and negotiated disarmament, too, is considered implausible by nearly everyone who follows these issues closely from a vantage point anywhere outside the Reagan administration. Superhawks on Capitol Hill, arms controllers, experts and officials all over Western Europe, senior members of past administrations—and numerous officials in the present American government who are never heard from in public—consider this an unrealistic approach.

Why? Because it would require the technologically inferior Russians to accept an entirely new and staggeringly expensive competition to build defensive weapons—not just another weapons system, but the biggest, boldest, most complex technological enterprise ever undertaken by the human race. At the same time, the Soviets would have to accept the elimination of a large fraction of their offensive weapons despite the fact that, if America succeeds in building a defensive system, deploying large numbers of offensive weapons will be the easiest way to counter its impact. (In other words, we're telling the Russians, there's about to be a famine, so please throw out all the canned food in your basement.)

Why should this proposition appeal to the Russians, who struggled so long to match or surpass the United States in most existing strategic weaponry, and now face a grave economic crisis in their own country? Here's an answer to that question offered by Lt. Gen. James A. Abrahamson, the Pentagon officer in charge of strategic defense:

"Remember that the Russians are afraid of our technology. That is what all this business is about. When they see that we have embarked on a long-term effort to achieve an extremely effective defense, supported by a strong national will, then they will give up on the development of more offensive missiles and move in the same direction."

One quivers at the thought that Gen. Abrahamson may have grandchildren who might be asked some day to answer for that assertion. The Russians are going to give up on the offensive weapons they rely on for their security? Like docile pussycats, they are going to fall into line behind us rather than find ways to counter what we do?

Paul Nitze, now the coordinator of administration arms control policy, who has had much more experience dealing with Russians than Gen. Abrahamson, answers the question in vaguer terms. Here's how he put it recently: ". . . We hope the Soviets will come to see the merits of our position—that it will serve their national interests as well as ours."

But they won't see that, because it won't ever be true. The Star Wars program described blithely by the president and his men (well, some of his men) as a benefit to both superpowers is in fact an ominous threat to whichever of them fails to get it first, because it would give its owner an enormous potential advantage in a war.

Don't take a journalist's word for it, just listen to Caspar W. Weinberger: "It takes very little imagination to realize what a vastly more dangerous world this would be if they [the Soviets] attained this ability to destroy our missiles, and we did not have a similar capability." Or Weinberger on another occasion: "If the Soviets get strategic defense and we don't, it would be very much like the world in which the Soviets had a nuclear weapon and we did not."

In other words, according to President Reagan's secretary of defense, for one superpower to have a functioning missile defense when the other did not would leave the other at a desperate disadvantage. Yet the United States proposes to build its defense first, and brags that the Soviets will have a hard time matching its technology.

The Russians have noticed this contradiction. Col. Gen. Nikolai F. Chervov, a senior official of the Soviet general staff responsible for arms control issues, actually quoted that second Weinberger statement to reporters in Washington last week. Chervov had memorized it.

Consider the Reagan administration's road map pointing the way from here to the ideal world of mutual missile defense. These four sentences, introduced and often repeated by Nitze, are called "the strategic concept" at the heart of the administration policy. Read them carefully:

"During the next 10 years, the U.S. objective is a radical reduction in the power of existing and planned offensive nuclear arms, as well as the stabilization of the relationship between offensive and defensive nuclear arms, whether on earth or in space. We are even now looking forward to a period of transition to a more stable world, with greatly reduced levels of nuclear arms and an enhanced ability to deter war based upon an increasing contribution of non-nuclear defenses against offensive nuclear arms. This period of transition could lead to the eventual elimination of all nuclear arms, both offensive and defensive. A world free of nuclear arms is an ultimate objective to which we, the Soviet Union, and all other nations can agree."

Got it? No, probably not, because there is almost nothing there to get. You don't need a Ph.D. in nuclear strategy to understand that this "strategic concept" contains neither a concept nor a strategy, but merely a wish.

And a wish of the most dubious sincerity, too. In order to achieve a "radical reduction" and a "stabilization" of nuclear forces, the Reagan administration is already building a dizzying array of new, often destabilizing weapons. This buildup has nothing to do with Star Wars, which would come later.

For example, we are now just a few years away from deployment of the super-accurate "D-5 missile" that will carry eight individually-targetable nuclear weapons, and will sail beneath the world's seas of Trident submarines. The MX missile gets all the publicity, but the D-5 is a considerably more important departure for the United States. It will give us an "invulnerable" (because hideable at sea) capability to wipe out Soviet missiles in their silos (because the D-5 will be so accurate), something neither side has had before.

The existence of large numbers of D-5 missiles threatening the entire Soviet land-based missile force would put enormous new strain on the stability of the nuclear balance in a crisis. (Knowing that their principal attack forces might be wiped out by D-5s, the Russians would always be tempted to use their rockets rather than lose them.) But that's what we're in for. Of course it's far from all that we're in for. We are also building new B-1 and "stealth" bombers (the Stealth is meant to be nearly invisible to Soviet radar), 760 new nuclear cruise missiles for deployment on ships at sea, about 3000 more cruise missiles to be carried by aircraft, 464 to be based on land, new Pershing II ballistic missiles for deployment in Europe, etc. Shall we now conclude that the promise of "radical reductions" and "stabilization" is more significant than this hardware, which is right now under construction?

The Reagan administration is arguing that the best way to get deep cuts in the superpowers' nuclear arsenals leading to a world without nukes is to complete a major buildup of offensive weapons, then begin a huge new defensive arms race. This sort of reasoning is not based on secret information or expert knowledge about the esoterica of nuclear strategy. We're squarely in the realm of common sense. What do you think is the best way to push the superpowers toward lower levels of strategic weapons? By building many, many more? Or by starting now, at current levels, to negotiate reductions?

The essence of the Star Wars idea is easy to grasp. It is not a path to guaranteed protection from nukes—even its strongest proponents acknowledge that fabulous new technological break-throughs will be re-

quired to make it work. It is not an end to what Reagan has called the "immoral" reliance on the mutual guarantee of nuclear destruction as the principal deterrent to nuclear war. Reagan's closest aides have said repeatedly that we will continue to rely on deterrence—that is, on that "immoral" balance of terror—even if we get Star Wars.

No, the essence of Star Wars is the promise of a fabulous new bonanza for what President Dwight D. Eisenhower called the "military-industrial complex." All that is certain if we go down this path is huge new spending programs, hundreds of billions in contracts to experiment with the mind-bending technology of space-based lasers and the like. The Soviets will spend billions on "countermeasures"—more offensive warheads and decoys to beat a defensive system; advanced, perhaps supersonic cruise missiles that could scoot under a defense; elaborate new weapons to be used to attack the space-based components of the American system, and so on.

The Soviets will also build their own defense. Their national character—plainly demonstrated again and again in the past—will push them to copy any new strategic system that we devise. So as they begin working on defense, we'll be able to spend more billions on our own countermeasures—new gizmos to beat the Soviet defensive system.

Amid all the intellectual dishonesty now dominating discussion of these issues, perhaps the most dishonest suggestion of all is that, somehow, creation of a Star Wars system would end the arms race. Why? Even the most idealized version of a successful defensive system will leave room for an opponent's inventiveness—especially when you consider that a completed system can never be tested in conditions remotely resembling the ones that would prevail if it were ever actually used.

No, the very best we can expect from Star Wars is the ability to knock out most of the Soviet missiles launched against us in a war. We could never be so sure of the system as to launch an attack against the Soviets with confidence that they could not retaliate. In other words, the best we could get is a world of enormous technological uncertainty, in which both superpowers would have to calculate that a decision to launch a nuclear war was crazy.

But that is the world we have today. There is no good reason to spend hundreds of thousands or billions of dollars to recreate the status quo on a higher and riskier level of ingenuity.

And yet, the entire subculture of defense contractors and "defense intellectuals" is speedily adjusting to the idea that Star Wars is about to become the biggest game in town. The contractors are panting after the money, and a great many strategic thinkers have succumbed to the temptation to embrace the new doctrine of defense.

Why, when it offers no demonstrable improvement on the status quo, should President Reagan's Star Wars dream be so attractive to so many people? This is a baffling question. Perhaps an answer can be found in the experiments of Erich von Holst, a student of the "schooling" instinct of fish.

Von Holst removed a common minnow's forebrain, the location of that fish's instinctive shoaling or schooling reactions. (His experiment is reported in Konrad Lorenz's "On Aggression.") Without its forebrain the minnow could still see, eat and swim as before, but it had lost the reflexes that make a normal minnow reluctant to stray from its school. In Lorenz's words:

"[The altered minnow] lacks the hesitancy of the normal fish which, even when it very much wants to swim in a certain direction, turns around after its first movements to look at its shoal mates and lets itself be influenced according to whether any others follow it or not. This did not matter to the brainless fish: if it saw food, or had any other reason for doing so, it swam resolutely in a certain direction, and the whole shoal followed it. By virtue of its deficiency, the brainless animal had become the dictator!"

There is another explanation for the popularity of Star Wars: it offers a solution to the worst problem of our epoch—not a messy, political solution, but a neat technological one. It's a very American notion: all problems are soluble, usually in mechanical ways. When Reagan speaks of Star Wars, you can hear a yearning in his voice for a fix that will make the great nuclear problem go away. Of course he's right—it *would* be wonderful to find a scientific way out of the nuclear madness mankind has created. It would be wonderful to find the fountain of youth, too.

The official talk this weekend is upbeat about arms control. But actually, Reagan administration policies, if pursued, will unravel the principal accomplishment of all previous arms control negotiations, the 1972 ABM treaty banning most deployments and testing of anti-missile missiles.

Here again the administration's position is cynical. We are assured—by Reagan, by Nitze and others—that the United States will adhere to the ABM Treaty. But the Star Wars portion of the administration's 1986 defense budget now pending in Congress contains money for the development of "prototypes" of new defensive weapons that violate Article V of the treaty, which commits both countries "not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based." These prototypes in the '86 budget, if approved by Congress could be tested by 1990—the effective duration, apparently, of the promises to adhere to the treaty.

Our European allies recognize that there is no way to make Star Wars and the ABM Treaty compatible. That is why Margaret Thatcher has sought President Reagan's pledge that he would negotiate with the Soviets before deploying a Star Wars system. The British hope that such negotiations would somehow preserve the existing arms control regime. But can anyone imagine that the United States would spend up to $100 billion to develop a plausible Star Wars system (a conservative estimate of the development cost), and then drop the whole idea because the Soviets declined to accept its introduction after negotiations?

If the ABM treaty must go, many important officials of the Reagan administration won't mind. For despite the reassuring public rhetoric, this American government is filled with people who don't really believe in arms control, and actually prefer to live with the Russians on the basis of bad relations and vigorous competition.

Arnold Horelick, formerly the CIA's national intelligence officer for the Soviet Union and now with the Rand Corp., has described the hard-line element in the administration as convinced that the current strategic trends favor the United States. In this view, we'll be relatively better off five or 10 years from now than we are now, so why rush into new agreements with the Soviets based on today's balance of power?

There is no visible cause for optimism about the arms negotiations beginning this week in Geneva. Specialists in NATO foreign ministries and many working-level officials in the United States government agree that there are no real prospects for making a deal unless the Reagan administration is willing to adhere to the ABM treaty and give up active development of the defensive weapons which it bans. But President Reagan specifically rules out using his Star Wars program as a bargaining chip.

The great irony is that the current strategic trends probably are favorable—not if the objective is to gain a meaningful American advantage, but to get negotiated arms reductions under way. The Russians are anxious to avoid a whole new competition in space—the threat of Star Wars has indeed gotten their attention, and it remains a potentially useful bargaining chip. Our allies are yearning for new negotiated agreements. The Reagan administration could get an effective, comprehensive treaty through the Senate, if one could be negotiated.

Negotiating a deal would not be easy. The issues are complex and growing more complex all the time, as new weapons come into both arsenals. The Soviets appear to be building an elaborate new radar installation that violates the ABM Treaty itself; U.S. planners are tantalized by the prospect that they might get a really usable defensive system to protect land-based American missile silos—something far short of a Star Wars defense, but a neat little improvement in our arsenal that would justify deploying lots of MX missiles (because it could protect many of them in a war). Even without a full-blown Star Wars program, the fragile arms control regime now in force could easily unravel.

And yet, whatever marginal advantages the Soviets might get from their new radar or we might get from "point defense" of missile silos would not begin to provide meaningful new security to either side. Security in a world of 40,000-plus nuclear warheads can't be bought with incremental changes in your arsenal. Security can only come from confidence that the other fellow understands the balance of terror roughly the way you do, and has decided to try to live with it in an orderly way. Security is a political matter, not a technical invention.

Increased security based on political accommodation was always the promise of the arms negotiations launched by Richard Nixon and Henry Kissinger in 1969. Curiously, those two men seem assured of a relatively positive place in history because of their diplomatic accomplishments—and despite transgressions that would sink the reputations of many other public figures.

What sort of historical reputation would a public official enjoy if he is held responsible for destroying the fruits of those earlier negotiations, and also for initiating the most expensive and dangerous round in the entire history of the arms race? Ronald Reagan, apparently surrounded by yes-men and dreamers, may not have faced that question, but perhaps he should.

THE DEATH MARCHES OF 1945

Mr. PROXMIRE. Mr. President, 40 years ago at this time, the Allied Forces were advancing into Germany and the Third Reich was nearing its end. When Americans remember the early months of 1945, they think of

triumphant armies liberating captive villages. But other horrible and grim events were also taking place.

As the allies smashed their way into German territory, the Nazi high command discovered a new way to torture and kill its prisoners. In late January 1945, Nazi generals ordered the evacuation of many concentration camps. Hundreds of thousands of starving prisoners had to march through the snow-covered countryside. These shivering columns of men, women, and children criss-crossed German-controlled territory for 4 months until the Nazis surrendered in early May. According to many prison camp survivors, the death marches were the most dreadful part of their entire ordeal.

The Nazis clearly intended that the marches would kill the prisoners, SS guards would not allow Czech railway men to give the prisoners food, preferring that the captives starve to death instead. The SS mercilessly shot any prisoner who lagged behind or faltered.

The marching prisoners had no hope for escape. Although the captives far outnumbered their guards, the SS men had machine guns. The prisoners had nowhere to run, so they marched on.

One such march began on January 22, 1945. Elizabeth Herz, a survivor, remembered:

> They chased us out of the stables where we were sleeping and drove us aimlessly over the fields away from the approaching enemy. Along the way, women who could not walk on because of exhaustion or hunger were shot. We had five to six dead every day . . . So from the original 1,000, after 11 weeks of marching, 122 were left.

On January 15, 1945, there were over 700,000 concentration camp inmates. Of these, one-third, or about a quarter of a million people, died on the death marches. More than half of them were Jews.

So, Mr. President, as we prepare to celebrate the 40th anniversary of V-E day this spring, let us not forget that thousands of people were dying as our tanks came rolling toward Berlin.

We must never forget that the Nazis tried to annihilate the Jewish people completely, and that our victory came too late to save 6 million of them. The 40th anniversary of the defeat of the Nazis is the perfect occasion for the United States to ratify the Genocide Convention and show the world that we will never allow death marches to happen again.

FAA WINS TENTH ANNIVERSARY FLEECE

Mr. PROXMIRE. Mr. President, I am awarding my 10th anniversary Golden Fleece to the Federal Aviation Administration—the FAA—for snookering the taxpayers out of $48 million by turning a blind eye while Florida airports let thousands of acres of valuable Federal land sit idle and leased other land at bargain basement prices. The FAA's stewardship makes the Indians who sold Manhattan to the Dutch for $24 worth of trinkets look like shrewd operators.

The FAA really landed on the taxpayers this time. Their behavior typifies the fiscal "decade-nce" which the fleece has come to symbolize on this its "ten-th" anniversary.

In 1944, Congress decided to assist the fledgling civil aviation industry by allowing municipal airports to use surplus Federal land and buildings. They were to use this property—under the supervision of the FAA—to help pay their operating costs.

Did this approach work? No, and its failure proves once again that there's many a slip between cup and lip.

At 23 airports in Florida, more than 9,300 acres are sitting idle, home to mosquitos and sawgrass. This land would cause real estate brokers to do cartwheels: It has an estimated rental value of about $32 million a year. That is each and every year. How much is the taxpayer receiving? A big, fat zero.

Even when airports did lease this land, the taxpayers still took a beating. One airport leased 417 acres, valued at $52 million, for use as a golf course and stables. They were paid $240 an acre as rental: the fair market rate, $14,000 an acre. In another case, an airport rented 374 acres to a famous speedway. The rental—$11 an acre. A fair market rent would be near $8,000 an acre. The taxpayers are stuck with this one for a long time—the lease is for 99 years. Overall, 21 airports were leasing Federal land but instead of receiving fair market value—$22 million a year—they settled for a paltry $6 million.

Similar abuses of the taxpayer may be occurring nationwide, not just in Florida. If they are, the taxpayers are losing hundreds of millions dollars.

"Why did this assistance bellyflop? The Federal Government began to take an active role in helping airports by handing out grants. The FAA found it easier all around to sign a Federal check than to supervise the management of surplus Federal property.

The airports started getting a handout instead of a handup. What's more, the same 23 airports have received more than $112 million in Federal grant assistance and have asked for another $208 million.

The FAA should be grounded for this fly-by-night approach to managing these valuable lands. Its "un-tenable" stewardship has earned this 10th anniversary award.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 1 p.m., with statements therein limited to 5 minutes each.

BAN SPACE WEAPONS

Mr. SYMMS. Mr. President, I was recently delighted to read a very cogent, very candid piece on space weapons and arms-control. It was not in the op-ed section of the Washington Post, the New York Times, or in a foreign-service journal.

No, I was delighted to read some interesting remarks by Capt. Thomas Wadsworth in the newsletter of the Idaho Civil Defense Association. The captain wrote:

> The Soviets want us back at the Arms Control Bargaining Table. Why? They bargain only when they feel threatened; not when they feel safe. Konstantin Chernenko wants the USA to sign a Ban-Space-Weapons drafted by the USSR. The Soviet President, in a letter addressed to U.S. scientists Carl Sagan and Richard Garvin, published by the Soviet news media TASS, urged all nations that possess space weaponry to sign a Soviet draft treaty that calls for a ban on space weapons. Chernenko wrote: "There are some who would like to turn space into an arena of aggression and war, as is clear from plans announced in the USA."

Then the captain noted that the Soviets are:

> Building the world's most powerful launch booster, with a thrust of between 11 million and 14 million pounds, twice the thrust of the old Saturn 5 boosters. This booster can deliver up to seven times the payload weight of the space shuttle with just one launching.
>
> Developing a working prototype of a "space attack fighter."
>
> Testing ASAT systems since 1968.

After noting other interesting facts about the Soviet capability in space, Captain Wadsworth concludes:

> Indeed, the Soviets now want us back at the arms-control bargaining table. And many fellow Americans say: "If we can just keep talking!" Did anyone really consider that in negotiating with the Soviets, America has made out best when we did not keep talking!

SOUTH AFRICA

Mr. SYMMS. Mr. President, in recent weeks South Africa has again been targeted by the so-called enlightened beltway liberals. As always, the concern is human rights, particularly the apartheid policy in South Africa. The critics of South Africa contend that the way to bring political rights to South Africa's blacks is to put them out of work. By restricting and curtailing American business activity in South Africa, through a policy of disinvestment, our moral policemen will succeed only in lowering the black standard of living in South Africa—where it is currently higher than in any other African nation.

Mr. President, I think there is no one in the Senate or in the country

who support the racist policies of South Africa, and I believe that those who advocate disinvestment and the imposition of other economic sanctions against South Africa do so with a very sincere intention of reversing those policies. But in my opinion, I believe that their policies will do more harm than good.

The system of legalized race separation and discrimination practiced in South Africa is repugnant to all Americans who cherish individual liberty and equality. The issue here is not whether to accept to condemn apartheid, but how best to aid South Africa in its move to dismantle this policy and bring greater freedom and prosperity to the blacks in that country. I believe that President Reagan's policy of constructive engagement toward South Africa is the right policy. In part due to this administration's policies, some changes have occurred in South Africa; others are now being implemented; still others have been promised or are being discussed and considered. The point is that progress is being made, progress which might not be possible if we were to withdraw and give the South Africans punishment instead of cooperation.

Let us look for a minute at some of the progress that has been made in the last 6 years. In 1979 the current prime labor law, the Industrial Conciliation Amendment Act, was passed. This law removed racial restrictions on labor unions and legally allowed multiracial trade unions and associations. From this legislation many other benefits, legal, economic and social, were achieved. There has been a dramatic rise in black disposable income, which has released a consumer-driven relaxation of apartheid laws in retail trade and has lead to the racial integration of the marketplace and the work place. Much of this economic progress is fueled by American businesses and their comparatively high wages and nondiscriminatory hiring policies.

When I visited South Africa last year this economic and social progress was very evident. At the Carlton Center, a shopping mall in Johannesburg, I saw the power of money and trade in operation. Currency is indeed a great equalizer. The stores in the mall were open, without discrimination, to all races; the only color anyone was interested in was the color of the buyer's money. This was the free market at its best. It was the best indication that we must encourage progress in this development and its concomitant social and racial progress, rather than trying to mandate economic and social regression.

I know of no Senator, no Member of the other body, and indeed, no American who would wish to harm the ordinary people of South Africa, but that would be the net effect of economic sanctions, disinvestment, banning bank loans and the krugerrand, and the anti-new investment proposals. I do not know of a way to surgically strike at those South Africans who advocate, enforce and support apartheid without severely hurting the vast majority of those we desire to help.

South Africa and all its citizens need our continued encouragement and support for the progressive change now underway in that country. We should endeavor to compliment and reward these changes, rather than enacting legislation which slows, stalls, or reverses this economic progress for all South Africans. Leon Sullivan, the author of the "Principles" which share his name, recognizes that his code for businesses operating in South Africa has fostered this political change and that "the enormous resources and influence of U.S. companies present a critical mass which can have a profound catalytic effect favoring fundamental change in South Africa * * * help a person gain economic rights and you will foster gains in his political rights."

Mr. President, let us not seek to undo the good that American business presence in South Africa has wrought.

To ensure that the views of South Africans are heard, I call to the attention of my colleagues an article by Mangosuthu Gatsha Buthelezi, the hereditary leader of the Zulu people of South Africa, which was pubished in the Wall Street Journal. I ask unanimous consent to have printed in the RECORD Chief Buthelezi's remarks, and I might add that I placed this article in the RECORD once, but its message deserves repeating.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 21, 1985]

DISINVESTMENT IS ANTI-BLACK

(By Mangosuthu G. Buthelezi)

In the struggle for liberation any black leader worthy of the title recognizes that the responsibility for bringing about radical change in South Africa rests on black shoulders. It is a South African struggle, and blacks have to lead in that struggle until we pass the point where the drive for improvements becomes nonracial. We have to shape events in our own chosen direction, and we have to fashion our society after the models that we ourselves emulate.

It must not, however, be forgotten that in life and death situations decency is so often under siege. Bloody revolutions fought against terrible oppression do not automatically bring about great improvements. Decency in South Africa is under siege at the moment in the sense that decency and democratic nonviolent opposition to apartheid are under threat by white recalcitrance, which is polarizing society and driving blacks to despair and anger. Decency is also under siege in the sense that time-honored civilized values and Western democratic principles are being viewed as impotent by an ever-increasing number of blacks. The struggle for liberation in South Africa still could take ugly turns; the prospects of widespread devastation of property and a sharp escalation of violence leading to a race war remain an ever-present possibility.

NEED ALL-PARTY ATTEMPT

It is against these background thoughts that I ask Americans to consider attitudes toward investment in South Africa, and attitudes toward President Reagan's constructive engagement policy. As a black leader I cannot be jubilant yet about the Reagan administration's South African policy. We don't know yet what deeds will be added to words, but we are aware that sufficient political time has not passed for anybody to make judgments on Mr. Reagan's approach to South Africa. As a black leader I must welcome his attempt to formulate a South African policy for the first time in the U.S.'s history, even if it has not yet been demonstrated that the U.S. government and the American people have the will and the ability to take South African issues out of U.S. party politics. Black South Africans still don't know whether petty politicking between Democrats and Republicans will turn apartheid into an American political football for party gain.

I make the point that for the U.S. the South African situation is distant and unimportant. The remoteness of South African issues from the daily vested interests of U.S. citizens does not demand that any U.S. government make more than vague moral pronouncements on what should and should not be happening in my country. The South African issue, however, does challenge Americans' moral fiber and the U.S.—as the world's leading democracy—should make an all-party attempt to side with the oppressed in South Africa.

This thought, however, does not belie the fact that medium- and long-term economic development in South and Southern Africa have implications for U.S. interests. South Africa after liberation will be a great gateway to the African hinterland where the process of industrialization must inevitably be talked of in terms of many millions of dollars. At this juncture, however, the immediate challenge to the U.S. is a moral challenge.

If we are to avoid a destructive conflagration of forces in South Africa, the process of change in the country must be speeded up. I fail to see how those who agree with this statement can possibly talk of our effective economic isolation. Isolation will bring stagnation to the economy and perhaps even destroy its growth base. Yet it is in the circumstances of a rapidly expanding economy, where the interdependence of black and white is vastly increased, that the propensity of the country to change is enhanced. Black vertical mobility is a concomitant of economic growth. Anybody who knows anything about a society such as our will know that the ceilings that apartheid imposes on this vertical mobility, produce the rubbing points that mobilize opposition to apartheid where it is most vulnerable.

Apartheid has lined white pockets and succored white privilege. When white privilege and standards of living are threatened through the prosperity of blacks and there is a rising claim to recognition, then the prospects of negotiated advance are the greatest. While protected by a wide range of apartheid measures, big business in South Africa has for decades sided with the oppressor and exploited black South Africans unmercifully.

That era has passed. No big business today can secure future plans without chal-

lenging apartheid. It was the large corporations that broke the apartheid barriers that led to real advancements for black workers. Ford Motor Co.'s hold indenturing of black apprentices against the law hastened the day when job reservation had to be abandoned. Progressive management talking, dealing and negotiating with workers hastened the day of black trade-union recognition.

It is big business that keeps institutions such as the Institute of Race Relations alive, and it is very often big business that provides the financial muscle to challenge the goverment in the courts on civil-rights issues, on labor issues and on contradictions and ambiguities in law; and it is international capital that can back educational and development program. For large American companies to opt out of the South African situation is to opt out of the prospects of being catalysts in the process of change.

Increased economic investment in South Africa by U.S. companies associated with a U.S. constructive engagement policy with real meaning is a moral option that the U.S. now has. In the circumstances that now appertain, withdrawal of investments in South Africa by Americans is a strategy against black interests and not a punitive stick with which to beat apartheid.

LIFE AND DEATH DIFFERENCE

There is a great deal of genuine interest in South Africa among many Americans, but I really am fearful that the upsurge of the current debate on the disinvestment issue and on Mr. Reagan's constructive engagement policy is in part fired by Americans for Americans on American issues. Apartheid should be more than some kind of looking glass in which Americans see themselves. Apartheid is real: it is out there and millions of black South Africans suffer indescribably under it. Americans should profess a humanitarian approach to the question of what the U.S. should do about apartheid. To stand on American indignant principles by withdrawing diplomatically and economically from South Africa is a luxury that the vastness of American wealth could afford. But indulgence in that luxury for the sake of purity of conscience, whatever genuine motives produce that conscience, would do no more than demonstrate the moral ineptitude of a great nation in the face of challenges from a remote area of the globe.

Black South Africans have to confine their options to realities, and we have to seek to bring about radical change in such a way that we do not destroy the foundations of the future. More than 50% of all black South Africans are 15 years old or younger. A huge population bulge is approaching the marketplace. To greatly exacerbate unemployment and underemployment, and to greatly increase the already horrendous backlog in housing, education, health and welfare services, would be unforgivable. Millions of black South Africans already live in dire squalor in squatter areas and in shantytowns. Jobs make the difference between hunger and starvation and between life and death. For Americans to hurt the growth rate of the South African economy through boycotts, sanctions and disinvestment would demonstrate a callous disregard for ordinary people, suffering terribly under circumstances that they did not create, and would be a gross violation of any respect Americans may have for the principle that people should be free to exercise their rights to oppose oppression in the way they choose. Black South Africans do not ask Americans to disinvest. The strident voices calling for confrontation and violence are the voices most dominant in calls for disinvestment.

FREEDOM FIGHTERS

Mr. SYMMS. Mr. President, I commend this administration for making a courageous statement that was long overdue on the need and responsibility that America has to help those people who are fighting for freedom and their right for self-determination in foreign lands.

Mr. President, my previous remarks that I just made in reference to the problems in South Africa tie in with what I am about to say in this statement and some of the things President Reagan has said, and I personally have encouraged the President to go one step further. We should even recognize some of our friends, and if we want to do something in the African continent to help black Africans, I think one of the greatest things that the U.S. Government could do as a people, as a nation, as our Government, would be to recognize that Jonas Savimbi is the true leader of the Angolan country.

With that recognition, we would be giving credibility to a leader who is both pro-Western, who is black, who is a Christian, and who is fighting the battle for freedom in that continent that is so important to other black people in that continent who are suffering under one party minority rule and in many cases under the dictatorships, Marxist dictorships, who have little regard for human rights and human life.

President Reagan, in his State of the Union address, outlined what U.S. foreign policy should be when he stated that "we must stand by all our democratic allies, and we must not break faith with those who are risking their lives—on every continent." The President again reiterated this plea for Americans to show their commitment to freedom and democracy by helping others seeking to establish representative governments in their own countries, in a radio broadcast in mid-February. The President noted that "one of the most inspiring developments of recent years is the move against communism and toward freedom that is sweeping the world." He recognized the resistance movements in Poland, Afghanistan, Ethiopia, Cambodia, Angola, and Nicaragua. Secretary of State Shultz repeated this theme in his recent speech to the Commonwealth Club in California.

I rarely make a complimentary remark about the Soviet leaders, but they know who their allies are, and reward them accordingly. If freedom is to survive, America must be as cooperative and helpful to its friends as the Soviets are to theirs.

Tremendous coups around the world were achieved by the U.S.S.R. with deceptive tactics, and one country after the next fell to "liberation" forces dominated by Marxist-Leninists in the 1960's and 1970's. The Soviet Union's success can be attributed to their mastery of the subtleties of warfare—through the use of terrorism, subversion, infiltration, and surrogate forces. America seemingly had no coherent policy to respond to the Soviet thrust. We appeared to be paralyzed by our self-inflicted, politically induced retreat from Southeast Asia. The climactic sign of open Soviet aggression without fear of Western retaliation was the December 1979 invasion of Afghanistan. For the first time since World War II, the Soviets brazenly deployed Red Army forces in a country that was strictly independent and nonaligned.

American attitudes about foreign intervention have changed perceptibly after experiencing our national helplessness and humiliation in Iran, Nicaragua, and Afghanistan. The concept of American impotence in shaping world events has been repudiated. In Grenada, we reasserted our responsibility to shape world events in a positive way, and defend our interests and those of our friends and allies.

Our objective should be, however, to avoid future Grenada missions. We should not be forced to use American combat troops in a moment of crisis by taking long-range actions to avoid such crises. A little foresight and planning would compel us to aid our friends now, requiring only minimal financial assistance, but lending maximum psychological and diplomatic impact. Our defense dollars could be expended more effectively against Soviet proxy forces, by giving assistance to those who are challenging Soviet imperialism in various areas of the world. Until the United States comprehends the ongoing character of Soviet warfare and implements a consistent policy to counter it on a global level, we will be condemned, as Jean-Francois Revel writes in "How Democracies Perish," to awaken "only when the danger becomes deadly, imminent, evident. By then, either there is too little time for (democracy) to save itself, or the price of survival has become crushingly high."

I commend the administration for issuing a united appeal for the cause of democratic freedom fighters. If the Congress will follow suit and exert all efforts to extend the necessary assistance to our democratic allies, they can defend themselves against foreign totalitarianism.

THE FIRST AMENDMENT STANDS IN PERIL

Mr. MATHIAS. Mr. President, the CONGRESSIONAL RECORD has been illuminated for many years by the

thoughts of Sam Ervin. Therefore, Senator Ervin needs no introduction from me, nor do his words need embellishment.

I shall only add that his warning that the "First Amendment Stands in Peril" is well taken and that the position he has held has my full support today as it has through the years.

I ask unanimous consent that a thoughtful article by Sam J. Ervin, Jr., long the Senator from North Carolina, be printed in the RECORD at this point together with a copy of a letter from him to President Reagan.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A WARNING FROM "SENATOR SAM"

(By Sam J. Ervin, Jr.)

(For 20 years (1954–1974) Sam J. Ervin, Jr. represented North Carolina in the U.S. Senate. Although he achieved fame as a result of his chairmanship of the nationally televised Watergate hearings, Ervin's strict interpretation of the Constitution and his relentless defense of its protections spanned a multitude of issues. His admirers likewise run the ideological gamut. The Washington Post has praised Ervin's "unique grasp of the Constitution," while conservative columnist James J. Kilpatrick has written that "in his keen understanding of the meaning of a free society, Ervin of North Carolina stands alone."

In a recently published autobiography, Preserving The Constitution (Michie Co.), Ervin said simply, "I love the Constitution and the freedoms it enshrines. I love America, and entertain the abiding conviction that it can not endure as a free Republic unless those entrusted by its men and women with the powers of government keep their oaths to support its Constitution.

"For these reasons, I have written my autobiography in the hope that something I may have done or said may prompt others to fight as I have fought for the preservation of the Constitution and the freedoms it enshrines."

A former National Advisory Council member of Americans United for Separation of Church and State, Ervin was awarded the A.U. Religious Liberty Citation in 1974. The following essay is a condensation of two chapters on religious freedom from his new book.)

THE FIRST AMENDMENT STANDS IN PERIL

The most heart-rending story of history is that of man's struggle against civil and ecclesiastical tyranny for the simple right to bow his own knees before his own God in his own way. This is so because the story constitutes plenary proof of the truth of the observation of the French mathematician and philosopher, Blaise Pascal, who said: "Men never do evil so completely and cheerfully as when they do it from religious conviction."

North Carolina Supreme Court Justice Walter P. Stacy, one of America's wisest jurists of all time, described in a nutshell the nature and history of religious intolerance in his 1930 opinion in State v. Beal. He said: "There are those who feel more deeply over reigious matters than they do about secular things. It would be almost unbelievable, if history did not record the tragic fact, that men have gone to war and cut each other's throats because they could not agree as to what was to become of them after their throats were cut. Many sins have been committed in the name of religion. Alas! the spirit of proscription is never kind. It is the unhappy quality of religious disputes that they are always bitter. For some reason, too deep to fathom, men contend more furiously over the road to heaven, which they cannot see, than over their visible walks on earth. . . ."

Learning from the lessons of history, the Founding Fathers of this nation desired that all Americans of all generations should enjoy religious freedom. To this end, they added the First Amendment to the Constitution: "Congress shall make no law respecting an establishement of religion, or prohibiting the free exercise thereof. . . ."

What did the Founding Fathers intend to accomplish by the establishment and freedom of worship provisions of the First Amendment?

The meaning of the freedom of worship clause is clear. This clause is designed to secure to every individual within our borders the right to entertain any religious beliefs compatible with his own conscience, to practice his religious beliefs in any mode of worship not injurious to himself or others, to endeavor by peaceful persuasion to convert others to his religious beliefs, and to be exempt from taxation for the teaching of religion.

The meaning of the establishment clause is also crystal clear. By those words, James Madison and his contemporaries intended to prohibit the government from establishing any official relation between government and religion and to prevent government from using tax moneys to support religion in any way.

While I was one of its members, the U.S. Senate was confronted by two crucial questions relating to the First Amendment. The first was whether federal courts had jurisdiction to determine the constitutionality under the First Amendment of federal financial aid to church-related schools or colleges, an issue later settled favorably by the Supreme Court. The second question was whether the Congress should amend the First Amendment to allow school prayer.

The religion-in-public-schools issue developed because of court challenges to state laws mandating prayer and Bible reading. In cases decided in 1962 and 1963, the Supreme Court adjudged that by using their public school systems to require these religious exercises, New York, Pennsylvania, and Maryland violated the establishment clause of the First Amendment and that the regulation, statute, and rule requiring them were unconstitutional.

The Supreme Court decisions provoked an uproar of nationwide proportions. Multitudes of sincere Americans deemed the decisions to be an attack on religion in general and Christianity in particular.

The offices of senators and representatives were flooded with mail from constituents condemning the decisions and demanding that Congress submit to the states a constitutional amendment authorizing prayer and Bible reading in the public schools. Many senators and representatives hastened to comply with the demand.

On March 22, 1966, Senator Everett M. Dirksen, one of the Senate's most eloquent and influential members, introduced S.J. Res. 148, which proposed an amendment to the Constitution for the avowed purpose of permitting voluntary prayer in public schools and public buildings.

The political popularity of the Dirksen Amendment was revealed by the facts that it had the sponsorship of 48 senators, and the Gallup and Harris polls indicated that 80 percent of the American people supported it.

In speaking to the British House of Commons in 1842, Thomas B. Macaulay said: "Timid and interested politicians think much more about the security of their seats than about the security of their country." In making this comment, Macaulay had in mind the agonizing temptation which confronts legislators when they are compelled to choose between what they know to be politically expedient and what they believe to be right. As an exceedingly popular proposal surcharged with religious emotions, the Dirksen Amendment presented this agonizing temptation to many senators in an excruciating way.

As the result of much study of the history of man's struggle for the simple right to worship Amighty God according to the dictates of his own conscience, I entertained this abiding conviction: When they decreed by the First Amendment that government "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," the Founding Fathers stated with precision the conditions indispensable to religious freedom in America, and any effort to alter their words by amendment poses an unacceptable threat to religious freedom in our land.

This abiding conviction impelled me to oppose the Dirksen Amendment, notwithstanding I was a senator from a Southern state where the King James Version of the Bible was generally accepted as truth, and where it was freely predicted that a senator would put his seat in jeopardy if he dared to oppose an amendment whose professed objective was simply to permit children to participate in voluntary prayer in public schools.

Fortunately for me, however, the future made it manifest that North Carolina clergymen comprehended the drastic implications of the Dirksen Amendment, and North Carolina laymen understood I was doing what I believed to be right in opposing it.

Senator Dirksen opened the Senate debate on his amendment on September 19, 1966. In a well prepared and well delivered speech, he asserted that the overwhelming majority of Americans favored his amendment; that his amendment harmonized with the traditions of the nation; that the Supreme Court has misinterpreted the First Amendment in the school prayer cases; that atheists and communists were trying to destroy religion in our country; and that prayer in public schools was vital to the moral education of our youth.

Opponents of the Dirksen Amendment selected me to bear the brunt of the debate against it. Their reason for so doing were two-fold. First, they deemed it advisable for a senator from the so-called Bible Belt of the South to lead the attack on the amendment; and, second, they knew I had studied in detail the history of the First Amendment and the Supreme Court cases construing it.

At the outset of my remarks against the Dirksen Amendment, I emphasized the value of religion and traced the history of man's struggle for religious freedom. I emphasized the supreme importance of keeping church and state separate. I noted that the Supreme Court's decisions were not concerned with the voluntary prayers of individuals, but, on the contrary, merely adjudged unconstitutional state-sponsored and

required religious exercises in public schools.

I pointed out that the Supreme Court had demonstrated (by the released time arrangement it upheld in Zorach v. Clauson) how interested groups could provide religious instruction for children attending public schools additional to that made available to them by home and church.

It is an idle dream to expect that prayer authorized or permitted by an official body will be voluntary in fact. The power conferred upon public school boards by a prayer amendment would be virtually unlimited and uncontrollable. The only professed limitation—that they could not prescribe the form or content of any prayer—amounts to no more than a pious hope. This is so because they could let others, such as ministers, priests, or rabbis selected by them, determine the forms and contents of prayers.

A school prayer amendment would confer upon public school boards a power the First Amendment now denies to Congress and the states, that is, the power to establish religion. The majority of a public school board could establish religion by directing or permitting prayers conforming to their religious opinions to the exclusion of prayers conforming to any and all other religious beliefs. Hence, the Dirksen Amendment would stir up religious discord by encouraging religious groups to fight each other for control of public school boards having the awesome power to "provide for or permit" prayer in the schools they govern.

I told the Senate that some of my ancestors were among the Scottish Covenanters who were run down and murdered upon the crags and moors of Scotland because they dissented from the doctrines of the established church in that land. Others of them were Scotch-Irish Presbyterians, who were denied political and religious liberty in Ulster. Some of them were among the Huguenots, who were massacred in France merely because they worshipped Almighty God according to the dictates of their own consciences instead of the dictates of the ecclesiastical and political rulers of France. Some of them were English Pilgrims, who were driven from their native England by way of Leyden, Holland, to Plymouth, because they did not want to use the prayers which the Church of England had inserted in the prayer book established by the act of Parliament. Some of them were Quakers who were despised because of the simplicity of their religion and way of life.

All of them came to America to obtain the simple right to bend their own knees and raise their own voices to their own God in their own way. I believe their experiences have some relation to the creation of my abiding conviction that religious liberty is the most precious of all freedoms.

In closing, I asked the Senate to ponder these questions: Why did the Founding Fathers incorporate freedom of religion in the First Amendment? What purpose did the Founding Fathers have in view when they did this?

The answer to these questions, it seems to me, appears with great clarity in the opinion of the late Supreme Court Justice Jackson in West Virginia Board of Education v. Barnette, I quoted what he had to say on this point:

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to . . . freedom of worship . . . and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

I closed with a prayer that the Senate would stand by the First Amendment as it had been written and interpreted.

When the roll was called in the Senate, 49 senators voted for the Dirksen amendment, and 37 senators voted against it. Since the two-thirds majority required for a constitutional amendment was lacking, the amendment failed. William Fulbright of Arkansas, Ralph W. Yarborough of Texas, and I were the only Senators from the eleven Southern states who voted in the negative.

In an editorial comment, the Washington Post graciously called me "the authentic hero" of the debate on the Dirksen Amendment.

If any provision of the Constitution can be said to be more precious than the others, it is the provision of the First Amendment which undertakes to separate church and state by keeping government's hands out of religion and by denying to any and all religious denominations any advantage from getting control of public policy or the public purse.

This is so because the history of nations makes this truth manifest: When religion controls government, political freedom dies; and when government controls religion, religious freedom perishes.

The First Amendment stands in peril at this moment. It is being attacked on two fronts by divergent groups who possess much political power. One of these groups is composed of multitudes of well-intentioned people, whose piety blinds them to the nature of religious freedom. They are demanding that Congress submit to the states proposed constitutional amendments which, despite their protestations to the contrary, are based on the propostion that the public schools should undertake to teach state/supported religious views to the children attending them.

If religious freedom is to endure in America, the responsibility for teaching religion to public school children must be left to the homes and churches of our land, where this responsibility rightfully belongs. It must not be assumed by the government through the agency of the public school system.

The second group consists of clergymen, educators, parents and poltiicans who want the taxes of Caesar to finance the things of God. They demand that all Americans be taxed to finance the operations of private schools whose primary purpose is to teach to the childen attending them the religious doctrines of the denominations which control them.

If religious freedom is to endure in our land, those of us who love it must heed the warning implicit in John Philpot Currans aphorism: "The condition upon which God hath given liberty to man is eternal vigilance." Otherwise we will learn to our sorrow that Justice Sutherland spoke tragic truth when he said the saddest epitaph which can be carved for the loss of a vanished right is that those who had the power failed to stretch forth a saving hand while there was yet time.

SOME ADVICE TO MR. REAGAN ON THE CONSTITUTION—IN PLAIN ENGLISH

DEAR MR. PRESIDENT: The Constitution is the wisest instrument of government the earth has ever known. If America is to endure as a free Republic as ordained by it, Presidents, Supreme Court justices, and other public officers must do what they have sworn to do, that is, support it.

Recognizing these truths, I spent my major efforts during my 20 years as a senator from North Carolina trying to persuade government to obey the Constitution.

Despite my admiration for you, I am constrained by my duty to our country to assert that what you say, do, and advocate in respect to religion shows that you do not understand the religious clauses of the First Amendment and how obedience to them is essential to the preservation of the religious freedom they are designed to secure to all Americans of all faiths.

You urge Congress to give federal tax credits to parents who send their children to private schools to be taught the creeds of their churches. Your action in this respect violates the First Amendment, which forbids government to use the taxes of Caesar to finance the things of God.

You named an ambassador to the Vatican—an act in violation of the establishment clause, which in the words of its drafter, James Madison, forbids government to establish an official relationship with any religion.

You urge the adoption of a constitutional amendment to authorize prayer in the public schools. The adoption of such an amendment would drastically alter the First Amendment, which commands the government to be strictly neutral in respect to religion, and leaves the task of teaching religion to children to the homes and churches of our land.

The Founding Fathers rightly believed that the great diversity of religious faiths in America makes governmental neutrality in religion essential if our people are to live together in peace.

The Michie Company, of Charlottesville, Va., has just published my autobiography, *Preserving The Constitution*, and it explains the religious clauses of the First Amendment in plain English.

I send you a copy of *Preserving The Constitution* and urge you to read and ponder the chapters on "The Constitution And Religion" and "Prayer In The Public Schools." These chapters make it manifest that there is a total repugnancy between what you say, do, and advocate concerning governmental action in religion and the religious clauses of the First Amendment.

The government must keep its hands off religion if our people are to enjoy religious freedom—our most precious freedom.

Sincerely yours,

SAM J. ERVIN, Jr.,
Former U.S. Senator.

THE COST OF MASS-MAIL IN THE SENATE

Mr. MATHIAS. Mr. President, as chairman of the Committee on Rules and Administration, the cost of mass-mail in the Senate is necessarily on my mind. But some recent events have put the problem on my conscience as well. First, I just signed a letter to the Secretary of the Senate, Jo-Anne Coe, advising her of the new paper allotments for 1985 based on the latest population estimates from the Bureau of the Census and reflecting the new allotment rate of 1⅓ sheets per voting age person in each Senator's State. No

Senator, however, receives fewer than 1.2 million sheets per year. The new allotment rate was adopted by the Rules Committee last year, to be effective this January, at the same time that the reforms with respect to stockpiling and transferring paper went into effect, and is an increase from the previous rate of one sheet per person of voting age. The net increase from 1984 to 1985 is more than 113 million more sheets of paper available to Senators. If each of these sheets becomes a newsletter, additional postage—just postage—will top $9 million, even if the lowest possible postage rate is used. Our experience teaches us that only about 10 percent of newsletters will use the lowest rate—most go at a slightly higher rate for third-class, bulk sort—so the cost will be even higher.

Second, I just received a letter from the Clerk of the House, who administers the joint account from which the House and Senate postage costs are paid, noting that a supplemental appropriation of $11.9 million will be necessary for fiscal year 1985 to cover an unprecedented volume of mail. The Clerk states that postage costs in fiscal year 1984 for both the House of Representatives and the Senate were at an all time high, running, in the Senate, over $43.6 million and over $110 million for both Houses. To give my colleagues an idea of the appalling cost escalation this represents, I submit a table showing the costs for the years 1979 through 1986. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Dollar amounts in millions]

	Cost	Increase over previous odd-numbered year		Increase over previous even-numbered year	
		Amount	Percent	Amount	Percent
Fiscal year:					
1979	$43				
1980	62				
1981	54	11	26		
1982	98			36	58
1983	55	1	2		
1984	111			13	13
1985 (estimate)	86	31	56		
1986 (estimate)	144			33	30

(Mrs. KASSEBAUM assumed the chair.)

Mr. MATHIAS. Madam President, as you can see from the table, by next year mailing costs will be more than triple what they were in 1979, just 7 years ago. That is an increase of $101 million despite the fact that we now use the much cheaper third-class bulk sort and postal patron rates instead of first class. So the increase in volume actually is even more dramatic than the cost figures indicate.

Third, I have just received a summary of the mass-mail costs for individual Senators for the past year. This is a compilation of the individual reports furnished to each Senator on the cost of his or her mass mailings and includes postage and paper costs and operating expenses. Without mentioning names—and I do not intend to mention names—let me share with you some of the highlights from this report, which covers the calendar year 1984. The most striking aspect of the report is the great variation among Senators in the use of mass-mail. Twelve Senators were responsible for 50 percent of the cost, with one Senator alone accounting for over 10 percent. At the other end of the spectrum, eight Senators incurred no mailing costs whatever, and two Senators had costs of less than $1,000 each for the entire year. You would expect the volume of mail to correspond with State size, but there are notable exceptions. For example, one of the eight Senators with no costs at all is from a State that ranks in the top 10 in population, and 2 Senators among the 12 largest mailers are from States that rank between 25th and 30th in population size. Further, six Senators from the six most populous States ranked 16th, 20th, 29th, 72d, 89th, and 95th in costs.

Another revealing statistic is the cost per 1,000 persons of voting age in the State. The ratios range from a high of $630 per 1,000 persons to, of course, zero for the eight Senators with no mail cost at all. The median cost is $65 per 1,000. Senators from small States tend to be near the top of this ranking because, as a result of the 1.2 million sheet minimum, they have proportionally more paper per constituent than do Senators from large States. But here again there are exceptions. Among the 12 Senators with the highest per capita costs, 2 are from States in the top 10 in population.

The largest single quarterly cost was $1.5 million and was for the same Senator with the largest total cost—$3.8 million. It may be useful to reflect on how much $3.8 million is. It represents the total income tax payments of 2,188 families of four earning $20,000 per year. There are quite a few towns in Maryland with a population of around 9,000, and I am sure the people in those towns would be shocked to know that a single U.S. Senator spends on newsletters an amount equal to their entire personal income tax payments for a year. If they ever saw one of those newsletters, I hope they would think it was worth it, but I expect that many of them want their money back.

Let us look at some other comparisons. In a list of Federal budget accounts that I have reviewed, I noticed that the Harry S. Truman Memorial Scholarship Foundation has an annual budget of $3.2 million. In 1986 the Foundation will award 4-year college scholarships of up to $5,000 annually to 105 new students with outstanding potential for and interest in careers in public service and will continue scholarship support for 315 students selected in the 3 previous years. So we see that over 100 young people could get a college education with the money used to send the newsletters of a single Senator in 1 year.

Also, $3.8 million is $1 million more than it costs to maintain the buildings and grounds of the Supreme Court, and it is twice the annual cost of the office of the Senate legislative counsel.

If you compare the Senate postage cost for 1984—$43.6 million—with collections and other programs you would find that it takes all the tax payments—think of this: all of the tax payments—of over 25,000 families of four earning $20,000 per year to pay postage on Senators' mass mail, and that the Federal Aviation Administration is able to operate and maintain the Washington National Airport and the Dulles International Airport for less money.

And if you compare the estimated total for 1986 for postage for both the House and the Senate—$144 million—with tax collections and other programs you find that it would take a city of over 330,000 people, living in families of four earning $20,000 per family, to pay the bill. We would hitch up 330,000 people with family incomes of $20,000 to pay the mass mailing bill. For example, it is $8 million more than all of the programs of the National Institute on Aging. It is $4 million more than the cost of operating and maintaining reclamation projects of the Bureau of Reclamation. It is $20 million more than the Peace Corps. It is $26 million more than the 1985 salaries and expenses of the bankruptcy courts, with 232 judges and 2,610 staff. And it is more than twice what we spend annually to carry out the provisions of the Indian Education Act.

It does make one wonder, Madam President, whether Senators and members of their staffs, when they are composing their newsletters and filling out the work orders to have them printed, are conscious of the tremendous costs of their actions. One also wonders what content is unique enough, or important enough, or urgent enough, or even interesting enough to warrant these kinds of costs. Indeed, we may be dealing here, Madam President, with the congressional equivalent of the Pentagon's $500 hammer.

And yet, in spite of these realities, I am constantly being besieged with requests for the wherewithal to send even more. But why? Is it because there are no newspapers published in the States? Or because the people there cannot get copies of the national

press? Or because it is a section of the country where there is no radio or television so that people can find out what is happening and they, therefore, need and eagerly await mail from their Senator to tell them the news? Is that the reason given to me to increase the allotment? No, those are not the reasons. It is because Members of the House of Representatives can send more mail than Senators can. So I am under the gun to take steps that would lead to a sort of newsletter "arms race" with the House.

Madam President, I would have to think a long, long time to come up with a more embarrassing example of the waste of the taxpayers' money. So I urge my colleagues to consider the costs involved in your requests. And I invite my counterparts on the Committee on House Administration to join with me in seeking ways to reduce the outrageous costs for these products which I have to say are of dubious value.

We might begin by asking a very basic question. "Why should any mail come out of a Senator's office except in reply to a constituent's question or request?" If outgoing mail were restricted to this use, the paper allowance in the Senate of one sheet (and now one and one-third sheets) per person of voting age would make perfect sense, reflecting the possibility that, on the average, each person could be expected to write to his or her Senator at least once in the year and the Senator would need a piece of paper to answer. When and how the paper allowance ever came to fuel the massive printing of unsolicited mail that it has become is a question to which we may never know the answer. But we can ask, is it something that should continue? Or should Senators if they want to paper their States with unsolicited mail, do so with money that has been freely contributed to them and not with money that has been forcibly taken away from the citizens of this country under penalty of law?

Madam President, let me close by belaboring the obvious. While we are all racking our brains, as usual, to find ways to reduce Government spending and solve the problem of the deficit, we should not forget that economy, like charity, should begin at home. Here is certainly an area where millions of dollars could be saved. Each time American citizens receive unsolicited congressional mail they should be on notice that it is costing them money and increasing the national deficit.

Mr. SYMMS. Has the Senator concluded?

Mr. MATHIAS. I have.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. As I sat here and listened to my distinguished colleague from Maryland with great interest, I believe he has brought some very interesting thoughts to this body. I had a question that I was interested in with respect to the contributions.

I thought the law had been changed so that you could not take private contributions and mail newsletters. Would the distinguished chairman of the Rules Committee enlighten me on that? I yield for that purpose.

Mr. MATHIAS. I do not think you can commingle.

Mr. SYMMS. If my memory serves me, when I came into the other body in the early seventies, the customary procedure was if you wanted to put a newsletter out to your constituents, you had to raise private funds to do it, unless you paid for it personally. Then that was changed in some of the congressional reforms. Is that correct?

Mr. MATHIAS. That is correct. This is a totally taxpayer-funded operation which is now costing a projected $144 million a year.

Mr. SYMMS. Is the Senator proposing that we should change the law back so that people could do that?

Mr. MATHIAS. Pay the postage and the cost of printing? It would be done as you do with your personal correspondence. But it seems to me that it is an outrage to have allowed this thing to get to the point of costing $144 million a year which, as I suggested, requires the total tax payments of a city of 330,000 human beings, working day and night so that the congressional mail can go out.

Mr. SYMMS. How much does the mail cost in the other body and how much is attributed to the Senate? The Senator spoke on that, I believe.

Mr. MATHIAS. Of the total, the Senate is about $43 million.

Mr. SYMMS. And the House is $100 million?

Mr. MATHIAS. The total is $110 million for the past year. That would make it about $70 million or a little less than $70 million in the other body.

Mr. SYMMS. I throw this question out to my colleague. I do not say this in any way to be argumentative.

Mr. MATHIAS. The Senator can be as argumentative as he likes.

Mr. SYMMS. I think the Senator made an interesting point. I sat here fascinated. I was not aware that it was that costly to the taxpayers for congressional newsletters.

I had a personal experience this year with a newspaper in Moscow, ID, the home of my alma mater, the University of Idaho. I had been in Moscow twice last fall and once in the summer.

The local newspaper had recently run an article that said, "Steve Symms, Please Phone Home." And then they wrote an article about how I am never seen or heard of in the town of Moscow anymore, that I have gone off to Washington and was no longer interested in my roots. It was the implication of the article written by the editor of the newspaper, who happens to be of another political persuasion than I am.

I checked it out and wrote a letter back to him pointing out that his newspaper had received 23 pieces of official news correspondence from my office since the last date that I had been in Moscow, ID. And, of course, I am back in Moscow frequently.

We have to come to some kind of an answer. If we believe in a free press, and I know the Senator does and I do, what do we do about newspapers who selectively decide what is in the public interest? A Senator or a Congressman, often finds that the only way he can reach his constituents on what he is doing is through the post office. That is the question.

I probably agree with the Senator that there should be a requirement to privately raise the cost of their mailings above a certain cost.

Mr. MATHIAS. The Senator, of course, presents a case which is a dilemma.

Mr. SYMMS. I had sent 23 press releases, none of which had been printed in the paper. They just throw them in the wastebasket if they come from someone who is a conservative Republican. But from a Democrat, they print them with great relish.

Mr. MATHIAS. I understood the Senator exactly. I am not sure that the operative factor here is partisan affiliation of the mailer. I think what the Senator has said betrays a fact of life in America that bears on this question because I think a great many recipients of congressional junk mail—I am not suggesting that the Senator's mail is junk mail, but that is how a lot a mail is perceived—just simply give it the file 13 treatment without reading it and then the taxpayers' money which has gone into the preparation, printing, and postage is literally down the drain.

Let me say I have had the same experience. I wrote a letter to a person with whom I was not acquainted but on a matter of business. He was away from home. His son was in charge at the house. He saw a piece of congressional mail come in and he thought, "Well, just another piece of congressional mail," and put it aside. He was ready to throw it away when the man to whom it was addressed came home and it finally came to his attention. But he told me the story. He said, "My son got it and thought it was another piece of congressional junk mail."

That is the kind of attitude people have toward this mail in many cases. That may have been what happened to the 23 press releases that the Senator sent. They may have thought,

"Well, one more emission from Washington."

There is so much of it that I suspect we are denigrating the importance of a letter from the U.S. Senate or the House of Representatives. When there is an oversupply of any product the value goes down, as the Senator representing a great agricultural area is all too well aware.

Mr. SYMMS. The Senator is quite correct.

Mr. MATHIAS. I think that law of supply and demand is operating with respect to congressional mail just as with the price of wheat, corn, soybeans, and all the rest. There is just too much of it on the market. We might give it a little more value by doing a little less of it.

Mr. SYMMS. I think the Senator makes an excellent point. I have to say that I do know that in almost every newspaper in my State—and I think we are all guilty of contributing to this—people say, "Write your Congressman." Every newspaper has the names of Senators and Congressmen and advises them to write their Congressmen once a week. We invite an avalanche of mail.

Mr. MATHIAS. I am glad the Senator mentioned that. If we answered faithfully, and I hope we do—I hope I always do, and I am sure the Senator from Idaho does, and every Member of the Senate tries to answer every constituent request or inquiry promptly, efficiently, and accurately—if we answered every single constituent communication we would still only be talking about 3 or 4 percent of the total mail—3 or 4 percent. Ninety-two or ninety-three percent of this total cost is unsolicited. It does not respond to any constituent. The other 4 percent is committee related: hearings, reports, and similar materials. Just 3 or 4 percent of this load is adequate to answer every letter we get. The 92 percent is what we generate on our own. That is the tragedy. It is self-generating.

Mr. SYMMS. I thank the Senator very much for his enlightening comments today. I think we should all carefully look at this matter with the thought of the taxpayers foremost in our minds.

DENNIS OLSEN

Mr. SYMMS. Madam President, I have always said, to be a good citizen and help one's political party a person first has to take care of one's family, one's country; then it helps the party.

I rise today to inform my colleagues of the recent passing of my friend, Dennis Olsen, chairman of the Republican Party of Idaho, who certainly fulfilled those ideals. He was a good family man, a good patriotic American, and, through that, he was able to make a great contribution to his political party and the things he believed in.

Dennis was a rare individual; unlike anyone else I have ever worked with in political circles. Today, we are accustomed to pollsters, media advisers, consultants, party functionaries, and the like. Dennis stood out in the middle of this crowd as someone unique. He was more like a citizen-politician, or citizen-statesman, than a politico.

Dennis cared about issues. He cared very much about the future of his State and his Nation. And it was his vital interest in issues, in policies, that led him to politics.

That same care was reflected in his home life. A father of 10, Dennis was a man who conspicously relished the joys of domestic life with his lovely wife, Shelia. He was good at all of his many roles—as father, friend, and citizen. He lived up to the Jeffersonian ideal of the honest yeoman.

Dennis was born and raised in Blackfoot, ID, where he graduated from high school. After a year at Idaho State University at Pocatello, Dennis went on to complete his degree at Brigham Young University in 1956. Having majored in political science, public administration, and history, Dennis graduated with the highest honors.

Dennis received his juris doctor from George Washington University Law School in 1960, where he was an associate editor of the Law Review in 1959-60. He was honored with membership in the Order of the Coif and the National Legal Scholastic Society.

Between his studies, Dennis served in the U.S. Air Force from 1950 to 1954. In 1957, he married Shelia Ann Sorensen, a remarkable woman and a dear friend to Fran and me.

As Dennis excelled at law school, so he excelled as a practicing attorney in the law firm of Petersen, Moss, Olsen, Meacham & Carr in Idaho Falls. Dennis was diligent—but he didn't let his work detract from his family, religious, and other duties. A high priest in the Church of Jesus Christ of Latter-day Saints, Dennis also served as a Scout coordinator.

He had also served as chairman of the Bonneville County Republican Central Committee from 1972 to 1977, and became the State party chairman in 1977.

This achievement followed many years in service to the political process. Dennis had been a block worker for the Republican ticket in 1960. Under his chairmanship, the Bonneville County Young Republicans became the most active and outstanding Young Republican groups in the Nation.

He had also been a delegate to two National Republican Conventions. As State chairman during my race in 1980, Dennis had found himself in the center of a very long and hotly contested race. He performed an active and honorable role.

Let me conclude by saying that Dennis was a good friend to me. And, I am sure he will be long remembered in Idaho as a man who unstintingly gave his best to everything he did. If I can think of one word, or one title, that best describes Dennis' life, it would be this: Citizen.

THE 1985 VFW CONGRESSIONAL AWARD RECIPIENT—SENATOR STROM THURMOND

Mr. MURKOWSKI. Mr. President, this past Tuesday evening, March 12, 1985, the Veterans of Foreign Wars of the United States held its annual congressional banquet honoring Members of Congress. At that event, the VFW presented its coveted Congressional Award to my esteemed colleague, Hon. STROM THURMOND, Senator from South Carolina. I was privileged to attend this congressional banquet and join in this salute to Senator THURMOND on his receiving this prestigious award.

Mr. President, I can think of no one more deserving of this honor than Senator THURMOND. His dedication to public services is worthy of the highest praise. During his 30 years of service in the U.S. Senate, Senator THURMOND has spoken forcefully for a strong national defense and the necessity of maintaining our military preparedness as the means of achieving world peace. Also, his strong advocacy on behalf of veterans has contributed to the establishment of programs and benefits which have assisted millions of veterans in the transition from military to civilian life, thereby ensuring that the national commitment to our veterans is not forgotten.

Senator THURMOND's record of service to the State of South Carolina and this Nation is indeed a remarkable one. The positions of great responsibility which he currently holds in the U.S. Senate—President pro tempore, chairman of the Judiciary Committee, Senior majority member of the Armed Services and Veterans' Affairs Committees—are but a small part of a distinguished career spanning over half a century. A former high school teacher and athletic coach, school superintendent, county and city attorney, state circuit judge, State legislator, Governor, major general in the Army Reserve, and Presidental candidate, Senator THURMOND enjoys the distinction of being the only Member of the U.S. Senate ever elected to that office by write-in vote.

It is a true honor and privilege to serve in the U.S. Senate with a person of the integrity and stature of Senator THURMOND. He has most assuredly earned the title of statesman.

Mr. President, I ask unanimous consent that the remarks of Senator THURMOND upon receiving the VFW 1985 Congressional Award be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR STROM THURMOND UPON RECEIVING THE VFW CONGRESSIONAL AWARD

Commander-in-Chief and Mrs. Billy Ray Cameron, Senior Vice Commander-in-Chief John S. Staum, Junior Vice Commander-in-Chief Norman G. Staab, Adjutant General Howard E. Vander Clute, Jr., Quartermaster General J.A. "Al" Cheatham, Executive Director of the Washington, D.C., Office, Cooper T. Holt, President of the VFW Ladies Auxiliary Mrs. Glenetta Vogelsang, my distinguished Congressional colleagues, Attorney General Meese, V.A. Administrator Harry Walters, and other distinguished guests and my fellow members of the Veterans of Foreign Wars of the United States:

INTRODUCTION AND HUMOR

It is a great honor, privilege and pleasure to accept the Congressional Award of the Veterans of Foreign Wars of the United States. Of course, at my age, it is a great pleasure for me to be anywhere for any reason, at any time.

After hearing that introduction, I feel a little like Mark Twain did when he said that he spent $25 once to research his family background, and then spent $50 to cover it up!

Seriously, though, when I consider the stature of past recipients—John Stennis, Barry Goldwater, Olin E. Teague, John Tower, "Sonny" Montgomery, Bob Dole, Paul Laxalt, Sam Stratton, and John Paul Hammerschmidt—and the late John McCormick, the late Henry Jackson, and the late Everett Dirksen—I am made keenly aware of the supreme honor the VFW has bestowed on me with this award. I shall always strive to remain true to your trust and high standards.

Sir Winston Churchill once said that the three toughest things in the world to do are: Climbing a wall leaning toward you; kissing a girl leaning away from you; and addressing an audience that knows as much or more about a subject as you do. As I face this distinguished audience tonight, to talk about the VFW, veterans, and our National Defense, I am keenly aware of that third challenge.

VETERANS OF FOREIGN WARS OF THE UNITED STATES

As you may know, I am a Life Member of the Savannah River VFW Post #5877 in Aiken, South Carolina, where Nancy and I maintain our permanent residence. My association with the VFW has always been a source of great pride and satisfaction to me as a military man and as an American. It has given me many friendships over the years, and the VFW has emphasized principles of citizenship and service which I value highly.

The members of the VFW are the bedrock of the very spirit of America. Having experienced the hardships and tragedies of war and having sacrificed for freedom and peace, the members of the VFW have clearly demonstrated that they are true patriots, dedicated to the best of America.

The principles of the VFW are lofty, and its work in the programs of Community Activities and Youth Activities and the Buddy Poppies program deserves high praise.

While all of the VFW programs are worthwhile, I am especially pleased tonight to recognize the Voice of Democracy program for young Americans. By sponsoring this annual competition, the VFW acknowledges that the youth of today are the leaders of tomorrow. This program teaches young people the basic values of our Nation, and I wish to commend the participants from around the Country and from overseas who are here tonight.

VETERANS

In accepting the honor you have generously bestowed upon me, I wish to pay special tribute to our men and women who have worn the uniform.

All Americans have good reason to look with pride upon our land, our institutions, and our people. Our citizens are a diverse group, but we share a common thread, that is, a commitment to the fundamental principles of this Country. Throughout the history of our Nation, our veterans have been the guardians of these principles.

In their duty—whether it was on the beaches of Normandy, or in the rice paddies of Vietnam, whether they fought in the "War to End All Wars," or in the cold battlefields of Korea—veterans were brought together from all regions of our Country, to serve under one flag, for one noble cause: the defense of freedom.

It is the highest obligation of citizenship to defend our Nation in time of need. Thus, we cannot overemphasize the respect and admiration due those Americans who have answered this call to duty.

I agree with General Douglas MacArthur, who expressed his esteem for the American serviceman in this way:

"My estimate of the American serviceman was formed on the battlefield many years ago, and has never changed. I regarded him then as I regard him now—as one of the world's noblest figures. His name and fame are the birthright of every American citizen."

No salute to veterans would be complete without a note about American servicemen still missing or unaccounted for from the war in Southeast Asia. As President Pro Tempore of the Senate, I was pleased last year to help organize ceremonies across the Nation, in which the families of POW/MIAs were presented special medals authorized by Congress. However, the best way we can honor these individuals is to continue to demand that the Indochinese governments give us the fullest possible accounting for the 2,483 servicemen who are still Missing in Action.

A tribute to our veterans must also include a comment on our veterans of Lebanon and Grenada. Those young men of Lebanon were involved in a noble attempt to bring peace to a war-torn area of the world, and our troops in Grenada were involved in an equally noble cause in our own hemisphere.

We have once again showed the world that the United States is a force for good and for freedom. Those so-called "national leaders," who called for more isolationism and who counselled against our involvement in Grenada, were wrong. If they need any more proof about the justness of our mission there, I suggest they ask the citizens of Grenada, who are now free of communist oppression for the first time in years.

VETERANS AFFAIRS

Through the years, the VFW has distinguished itself as an effective representative in matters pertaining to veterans affairs. As a result of the strong leadership of the VFW—and other dedicated veterans advocates—Congress has enacted vital programs to assist veterans in making the transition from military service to civilian life. I am proud to be the Senior member of the Veterans Affairs Committee and shall continue to rely on the VFW for valuable advice and counsel on veterans issues.

This Nation's commitment to care for its deserving veterans is an ongoing obligation for all of us. Veterans benefits and entitlements are the continuing price of war long after the last shot has been fired. While we will never be able to repay our veterans for their service, loyalty and courage, we must be sensitive and responsive to the changing needs of our veterans and make every effort to adequately meet those needs.

President Reagan has stated his firm commitment to reduce the soaring Federal budget deficit—an action which I believe is absolutely essential. Veterans have always been willing to do their full share, and I am sure that they will once again meet this "call to arms."

However, veterans should not be expected to bear an unfair share of the effort to bring Federal spending under control. Toward that end, I will vigorously oppose any plans that would undercut quality health and medical care for our veterans and the government's longstanding commitment to grant preference to our veterans in hiring for Federal jobs. I pledge to you tonight that in our quest to reduce Federal spending, the needs of our veterans will not be forgotten.

DEFENSE STRENGTH

During our debate on spending cuts, let us also keep in mind our principal obligation to the veterans who have fought to keep us free: Our duty to ensure a strong National Defense. Those who claim that our defense budget is the chief cause of our budget deficit are wrong. Defense spending as a portion of our Gross National Product is at its lowest point since just prior to the Korean War. Less than 25 years ago, defense spending accounted for nearly half of the Federal budget. Today it accounts for little more than one-fourth of the entire budget.

It is certainly true that because of our Federal deficit, no portion of the budget can be considered exempt from cuts. Each year the Congress has cut the President's defense budget, and this year will probably be no different. However, to make the size cuts some recommended would only imperil our national security and would not be in our best interest as the leader of the free world.

For instance, if we were to cut the 20 highest priority defense programs in the budget—including the MX missile system, the B-1 bomber, the Strategic Defense Initiative (sometimes referred to as "Star Wars"), and the M-1 tank—it would cut our deficit by only $10 billion in fiscal 1986.

Such cuts would save little money in the long run, but would cost our Nation a great deal: Our ability to defend the Nation against those who are willing to spend whatever it takes to carry out their goal of world domination by force.

In the years ahead, we must balance the need for necessary domestic programs with the ongoing requirements for a global defense needed to protect ourselves and the free nations of the world. Any other course of action would only be a formula for disaster and defeat. A measure of our strength not related to defense expenditures, howev-

er, is our resolve to assist those nations and groups who are struggling to be free.

CENTRAL AMERICA

A great challenge to freedom currently looms in Central America, where a determined band of "freedom fighters" are attempting to bring a democratic government to Nicaragua, while its neighbor, El Salvador, is waging a battle against Communist forces which seek to control that nation.

America simply must not turn its back on the problems of Central America. That would not only be unfair to the people of that region who look to us for help, but it would be a grave threat to our national security as well.

The people of El Salvador have voted *for* democracy and against the tyranny of Communist guerrillas. Yet there are those in the United States that would have us cut off our military aid to the government of this fledgling democracy. The fallacy of this approach has been proven in Veitnam, Laos, and Cambodia. We need not test the bankruptcy of their ideas on another group of innocent people who seek only to be free and to govern themselves.

These same critics oppose our support for the popular forces in Nicaragua. It seems that their approach is that it is permissible for communists to overthrow democratic governments, but that we must stand idly by while our neighbors are overpowered by these same tyrants.

Additionally, we must never forget the historic importance of Central America and the Caribbean Basin, and our need to insure its neutrality. During the Second World War, the Germans sank more Allied shipping in the Caribbean than they did in the North Atlantic.

There are already two Soviet client states in the region in Cuba and Nicaragua. We cannot afford any more. The Soviets are shipping planes, tanks, helicopters, and other war material both through Cuba and directly to Nicaragua. The military build up in Nicaragua is to support one goal, which the Marxist regime has repeatedly stated, and that is the spread of Communist revolution throughout the region.

If El Salvador falls, Guatemala, Honduras, and Costa Rica will surely follow. This would then threaten Mexico and Panama, to include our access to the Panama Canal. This scenario would place our enemy astride our strategic lines of communication and threaten our ability to import oil, cobalt, manganese and chromium, to name just a few of the raw materials which are critical to our defense and industrial needs.

Freedom and democracy *can* be obtained in Central America if we are patient and are willing to maintain our resolve in support of democracy. The long-term rewards for our efforts will be *peace, freedom* and *stability* throughout this hemisphere. I pledge to you tonight my wholehearted support for those causes.

AFGHANISTAN

Soviet efforts to undermine or overthrow peaceful countries is not a regional problem; it is a global problem. Since 1979, the Soviet Union has conducted a war of systematic extermination in Afghanistan. Their atrocities rival the brutalities of Genghis Khan and Hitler's Nazis. The Soviets are devoid of any respect for human life, and I would like to give you two eyewitness accounts that will underscore my concern and belief that the United States must do all it can to support the valiant rebels striving to restore independence to their nation.

On September 11, 1984, in the Logar Province, the Soviets went into a small village and seized 40 men, women, and children. They were taken into the street and bound hand and foot. The Soviets then stacked their helpless victims like cord wood, poured gasoline over them and set them afire while horrified friends and relatives watched. The provocation for this act of terror was that a group of Afghan government troops had defected to the rebels the day before.

Another of the hundreds of reported atrocities took place in the same province on September 13, 1982. On this particular day, the Soviets, while looking for rebels, found 105 people hiding in a covered irrigation canal. When they refused to come out, the Soviets poured a mixture of oil and explosives into the canal and ignited the mixture. It took the families of the victims several days to recover the bodies, many of which were not identifiable.

As if this were not enough, the Soviets routinely use chemical weapons against Afghan villages to kill or drive off the population. The Soviets have also developed a terror tactic that is specifically designed to maim and kill children. Soviet planes and helicopters dispense various types of toys that are actually sophisticated booby traps that explode when picked up. The history and horrors of communist domination are well known. It is imperative, however, that we continue our support for those forces around the world who are resisting communist oppression.

CONCLUSION

In closing, I repeat that it is a singular honor to receive the Congressional Award of the VFW, an organization which has such a distinguished record of service to our Country. I am proud to receive this award, and do so with a sense of humility, the value of which was recently underscored by a visitor to my office.

Last week, a group of Girl Scouts were visiting my Senate office when I noticed one little Scout staring at the Purple Heart medal displayed on the wall. After careful inspection, she asked me, "Where did you get that medal?"

Pleased that she was so interested, I responded, "The Army gave it to me." With a quick loss of interest, she said, "Well, in my Girl Scout troop, we have to earn ours."

I am pleased that the VFW feels that I have earned this award, and I will always strive to live up to your trust.

Today, under our great President, Ronald Reagan, there is a renewed commitment in America—a commitment to make our Nation strong again, and to reestablish our Country as a shining symbol of democracy, freedom and world peace. The VFW personifies this renewed commitment and spirit. I salute you, the members of the VFW, and commend you for your loyalty, courage, and devotion to duty. Were it not for the patriotic deeds of citizens like you, and the thousands of others who have worn the uniform, there would be no America. We are forever in your debt.

God bless our United States, and God bless each of you.

FARMING IS KEY TO ILLINOIS ECONOMIC HEALTH

Mr. DIXON. Mr. President, the health of the agricultural sector is vital to the health of our national economy, and, indeed, to the health of the economy of the State of Illinois.

Agriculture has created jobs for more than 12 percent of the workers in Illinois, as pointed out in a recent article in the February 2, 1985, edition of the Prairie Farmer.

I ask unanimous consent that a copy of the article, "Farming Is Key to Illinois Economic Health," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Prairie Farmer, February 2, 1985]

FARMING IS KEY TO ILLINOIS ECONOMIC HEALTH

In a state as diverse as Illinois, no one part of the economy can completely dominate. But if industry made Chicago "the city of broad shoulders," it was farming that earned it the title "hog butcher of the world."

Agriculture has created jobs for more than 12% of the workers in the state, points out University of Illinois agricultural economist David Lins. In addition, farmers produce and sell about $7.6 billion in agricultural products each year.

"We have something like 55,000 people employed in this state in direct agricultural processing and distribution," he says. "Another 55,000 work in agricultural input industries. And about 320,000 others are employed in businesses such as grocery stores."

At the center of this economic ripple effect are the state's 113,000 farm residents. With income earned from farming, they buy cars, clothes, food, and other consumer items.

"But they also purchase tractors, fertilizer, and other agricultural inputs," Lins says. "Not counting the jobs created in other areas of the economy, each farmer creates three jobs for workers in agriculture-related businesses."

In fact, companies with headquarters in Illinois produce half the tractors used in the United States. The farm machinery and equipment manufacturing industry employs 21,000 people in the state.

Still, in the midst of hard economic times, the outlook for farm-related businesses is decidedly mixed. The equipment manufacturing sector has been particularly hard hit.

"In that area," Lins says, "we've had a major reduction in employment in the past three to five years as sales of farm machinery have come down. Some 11,000 jobs have been lost in that industry alone."

On the other hand, Lins says that the farm service industries are still expanding. The strongest growth areas are in consulting services, crop scouting, and financial management services.

"Within the complex of agribusiness, we have some industries decreasing and some increasing," he says. "But without question, agriculture remains an extremely important component in the economy of this state."

SMALL BUSINESS IN RHODE ISLAND

Mr. PELL. Mr. President, the economy of the State of Rhode Island is uniquely based on the fortunes of small business. In 1983 there were 23,995 small businesses in the State employing 126,092 people. Some 62 percent of total Rhode Island employ-

ment is in establishments of less than 100 employees, and 96 percent of the State's industrial establishments have less than 50 employees.

These figures reflect a true flowering of the entrepreneurial spirit in a State which has perhaps endured more than its share of cyclical adversity. The decline of the great textile mills, a process which began in the 1920's, and the more recent withdrawal of much of the Navy's presence in the State, deprived Rhode Island of two of its biggest institutions of employment. Today, much of the economic vitality of the State is to be found in new small businesses—high tech electronic firms, small jewelry manufacturers, metalworking plants and boat building companies.

It was against this background that I recently joined in cosponsoring S. 408, Senator WEICKER's bill authorizing appropriations for the Small Business Administration for fiscal years 1986, 1987, and 1988. The bill maintains funding for the SBA's guaranteed loan programs as well as its management assistance programs, while making certain economies, such as deletion of direct lending programs, in the interest of deficit reduction.

In usual circumstances, cosponsorship of an authorization bill is not an occasion for comment, but the circumstances confronting the small business community today are anything but usual. The Reagan administration has proposed deletion of the Small Business Administration and most of its programs, and if my mail is any indication, the small business people of my State are up in arms. In a world of big business, big finance, and big government, they feel that they are being threatened by the proposed elimination of their one sure voice of advocacy and support.

One of the clearest statements of the value of SBA support came in a letter from Roland L. Theriault, executive director of the Providence Industrial Development Corp. He wrote to tell me how his organization, with the help of a crucial $500,000 SBA loan guarantee, was able to rehabilitate Providence Steel, Inc. and not only save the business from liquidation but set it on the road to recovery and a 50 percent increase in its work force. I ask unanimous consent that Mr. Theriault's letter be printed at the end of my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1).

Mr. PELL. Mr. President, the importance of the Small Business Administration to Rhode Island statewide has been eloquently summed up in a letter from our distinguished and energetic Lt. Gov. Richard A. Licht who has assigned high personal priority to the advocacy of small business. He states that over $400 million in small business loans have been granted in the State and that SBA loans were responsible for creating or retaining over 2,300 jobs in the State in fiscal 1984 alone. I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
Providence, February 15, 1985.

Hon. CLAIBORNE DEB. PELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing to urge you to support continuation of funding for the Small Business Administration.

Since 1953, the Small Business Administration has been the only agency that has provided consistent and effective assistance for small businesses. With a budget that is just one-quarter of its 1980 commitment, SBA has continued to service businesses which contributed over $4.8 billion in federal taxes last year, a return of ten-fold beyond the SBA budget.

The expansion of small business presents the single greatest opportunity for job creation and economic development in Rhode Island. As Rhode Island has no state based assistance program, the SBA is essential to the growth of our economy. Elimination of vital SBA services will deal a severe blow to our state's 25,000 small businesses.

For many, SBA represents the only hope of building a business that can flourish and contribute to Rhode Island's tax base. Over $400 million in small business loans have been granted in our state. In fiscal year 1984 alone, SBA loans were responsible for creating or retaining well over 2300 jobs in Rhode Island. Currently, 2400 Rhode Island businesses utilize SBA loans, with a substantial portion being made to veterans, women, and minorities. The Small Business Administration has also provided more than 1600 Rhode Island businesses with critical disaster loans which saved thousands of jobs throughout the state. The $18.5 million base closing loan in Newport has played a significant role in helping Newport become one of America's major turnaround success stories.

Thirty-six percent of the 25,000 small businesses in Rhode Island have received assistance, counseling and/or training from the Management Assistant Division of the Providence District Office. During the past year alone, the Management Assistance Division served over 9000 Rhode Island based businesses, utilizing the resources of the Small Business Development Center, Small Business Institute, Service Corps of Retired Executives and Management Assistance Staff.

Most importantly, the continuing existence of the Small Business Administration is a symbol of America's commitment to its small businesses. It is a recognition of the vital economic contribution our small firms play in the financial health of our nation.

I am enclosing herewith Senate Resolution 85-S315 and House Resolution 85-H5441. These two resolutions demonstrate the Rhode Island General Assembly's unanimous, by-partisan support for continuation of SBA. I trust you will carry the message of these resolutions to the United States Congress and voice Rhode Island's opposition to eliminating the Small Business Administration.

Sincerely,

RICHARD A. LICHT,
Lieutenant Governor.

Mr. PELL. Mr. President, reaction to the President's proposal has been prompt and emphatic. Within days after the budget was released, both houses of the Rhode Island General Assembly unanimously passed resolutions memorializing Congress to restore funds for the Small Business Administration. The resolutions were conveyed to me by Senator Leo J. Gannon, chairman of the legislature's joint committee on small business, who noted that there was strong, bipartisan support for continuation of SBA services in the State. I ask unanimous consent that Senator Gannon's letter, together with the text of resolution 85S 315 of the Rhode Island Senate and 85H 5441 of the Rhode Island House of Representatives, be printed in the RECORD.

There being no objection, the letter and resolution ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
Senate Chamber, February 8, 1985.

Hon. CLAIBORNE DEB. PELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR PELL: I am writing to inform you of two very important resolutions passed unanimously in the Rhode Island General Assembly this past week. The resolutions demonstrate overwhelming support for continuation of funding for the Small Business Administration.

Both the Senate and the House feel strongly that the Small Business Administration is a vital link for Rhode Island's Small Business Community.

As Lieutenant Governor Richard A. Licht, Rhode Island's Small Business Advocate, has stated: "The expansion of small business presents the single greatest opportunity for job creation and economic development in our state, and the Small Business Administration is essential to the development of Rhode Island's economy. Curtailment of essential SBA services would deal a severe blow to Rhode Island's small business development opportunities."

I have enclosed copies of the Senate and House resolutions. After reviewing 85S 315 and 85H 5441, I am sure you will see Rhode Island's strong bi-partisan support for continuation of important SBA services in our state.

Sincerely,

LEO J. GANNON,
Chairman.

SENATE RESOLUTION MEMORIALIZING CONGRESS TO RESTORE FUNDING FOR THE SMALL BUSINESS ADMINISTRATION

Whereas, For years numerous Rhode Island businesses have received invaluable assistance from funding provided by the Small Business Administration; and

Whereas, Without this assistance, many of Rhode Island's businesses would not be in existence today; now, therefore, be it

Resolved, That this senate of the state of Rhode Island and Providence Plantations hereby memorializes Congress to restore the

funding for the Small Business Administration which has assisted Rhode Island businesses throughout the years; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.

HOUSE RESOLUTION MEMORIALIZING CONGRESS TO RESTORE FUNDING FOR THE SMALL BUSINESS ADMINISTRATION

Whereas, For years numerous Rhode Island businesses have received invaluable assistance from funding provided by the Small Business Administration; and

Whereas, Without this assistance, many of Rhode Island's businesses would not be in existence today; now, therefore, be it

Resolved, That this house of representatives of the state of Rhode Island and Providence Plantations hereby memorializes Congress to restore the funding for the Small Business Administration which has assisted Rhode Island businesses throughout the years; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.

Mr. PELL. Mr. President, my cosponsorship of S. 408 is intended to convey a clear signal of my commitment to the continuance of the Small Business Administration and many of its time-tested programs. That commitment is based on the clear call of my constituents and I intend to do all I can to assure its fulfillment.

EXHIBIT 1

PROVIDENCE INDUSTRIAL DEVELOPMENT CORP.,
Providence, RI, February 1, 1985.

Hon. CLAIRBORNE PELL,
U.S. Senator,
Washington, DC.

DEAR SENATOR PELL: We want to take this opportunity to outline our experiences with the U.S. Small Business Administration. Our hope is that you will take these factors into consideration as you debate the President's proposal to abolish this agency.

Our experiences with the SBA have been very positive. Seven small businesses, so vital to the economy of the City of Providence, were provided essential financing with PIDC. All these firms are growing and successful. I have to add that this aid was absolutely not available from any other source.

An outstanding example of how critically important the U.S. Small Business Administration was is in the instance of Providence Steel, Inc. During 1979, former owners of Providence Steel had tried unsuccessfully to secure financing for an employee, William King, who wanted to buy the business. Numerous attempts to get banks or investors involved were unsuccessful. Early in 1980, the owners announced that they were going to liquidate the business. Fifty jobs would be lost (90% Providence residences).

PIDC was asked, as a last resort, to see if it could save the firm. The Corporation accomplished its mission. It was able to secure the direct lending participation of a consortium of banks for $450,000. Those participating banks are R.I. Hospital Trust National Bank, Fleet National Bank, Citizens Trust, Columbus National Bank and the Newport National Bank. PIDC was also able to secure a critical 7A loan guaranty from the , SBA for $500,000. PIDC injected $150,000 of its own funds subordinated to the banks and SBA. Mr. King, the new owner also invested $150,000. Total financing $1,250,000.

Without the SBA 7A loan guaranty for $500,000, the banks would not have been willing to participate beyond their initial $450,000. When Providence Steel was revived, the firm had only 50 employees. Today, employment has grown to 73 employees. A remarkable achievement in just a few years.

PIDC has other success stories; however, we will just highlight them for you.

The SBA 4503 Program has been successful in four cases. The SBA has provided $401,000, in financing and PIDC with our banks have provided nearly $700,000. Employment at these firms has reached 236.

A total summary of U.S. Small Business Administration financing in the City with PIDC has produced the following results:

Number of firms assisted	7
Number of jobs impacted	439
SBA funds	$1,027,000
Total funds (banks, PIDC, etc.)	3,070,325
SBA funds/per job	2,339

We believe that the SBA has played an important role in assisting small businesses to expand in the City. Our experience has been very positive.

We ask for your consideration as you debate this critical issue in the upcoming weeks.

Sincerely,

ROLAND L. THERIAULT,
Executive Director.

COMMUNICATION FROM AMBASSADOR DOBRYNIN

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD for the information of all Senators a communication received from Ambassasor Dobrynin of the U.S.S.R.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

Hon. STROM THURMOND,
President Pro Tempore of the Senate, U.S. Senate, Washington, DC.

March 11, 1985.

DEAR MR. PRESIDENT PRO TEMPORE: I have the honor to inform you, with profound sorrow, of the passing away of the General Secretary of the Central Committee of the Communist Party of the USSR, Chairman of the Presidium of the USSR Supreme Soviet Konstantin Ustinovich Chernenko on March 10, 1985.

The Book of Condolences will be open for signature at the Embassy, 1125, 16th Street, Washington, D.C. on Tuesday, March 12 and Wednesday, March 13 from 10 a.m. to 4 p.m.

Please accept, Mr. President Pro Tempore, the assurances of my highest consideration.

A. DOBRYNIN, *Ambassador.*

SENATOR CHAN GURNEY

Mr. PRESSLER. Mr. President, former U.S. Senator Chan Gurney, who was one of South Dakota's most outstanding citizens, died on March 9, 1985. During his long and illustrious career, he worked constantly for programs that would bolster South Dakota's economy and attract new business to our State. His work in the aviation field helped to bring about the expansion of airline service to rural South Dakota. Chan was a remarkably versatile man. I World War I veteran, he became a national authority on defense matters.

In his youth he also excelled as a radio and sports announcer at Radio Station WNAX in Yankton, which he founded. Later he successfully managed the family seed and nursery business and then went on to found his own successful oil company. He ran for the U.S. Senate because he sincerely wanted to be a public servant. During his 12 years in the U.S. Senate, Senator Gurney earned a national reputation for his devotion to duty, his expertise, and his strong convictions.

Senator Gurney was a personal friend of mine. I have learned a great deal from his fine record of service in the Senate. Mr. President, I ask unanimous consent that a chapter on Senator Gurney from my book on South Dakota's U.S. Senators, "U.S. Senators From the Prairie," be printed at this point in the RECORD. "U.S. Senators From the Prairie" was published by the University of South Dakota press.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAN GURNEY

Date of Birth: May 21, 1896.
Place of Birth: Yankton, South Dakota.
Parents: Deloss Gurney, Henrietta Klopping.
Spouse: Evelyn Bordeno.
Children: (3) John, Deloss, Ida Elain.
Date Entered Senate: January 3, 1939.
Age at Induction: 42.
Date Left Senate: January 3, 1951.

As a prominent member of the U.S. Senate during World War II and the post war era, John Chandler Gurney, a World War I veteran himself, was an effective and outspoken advocate of U.S. defense and foreign aid programs. Gurney's convictions regarding the military preparedness of the U.S. and the western allies were so strong that, although a conservative Republican, he voted frequently with the Roosevelt and Truman administrations. After the war, Gurney introduced and helped steer through Congress two landmark defense measures: the National Security Act of 1947 which unified the armed forces and the Selective Service Act of 1948 which reinstated the draft.

Gurney's credentials as a loyal member of the GOP were never questioned when it came to domestic programs. He consistently joined his Republican colleagues in opposing government regulation and New Deal spending programs, especially those that might put the government in competition with the private sector. He also worked vigorously for programs to provide fair prices for farmers, and he fought for funds for Missouri River development and rural electrification projects in South Dakota.

Gurney was born on May 21, 1896, in Yankton, South Dakota, and was graduated

from Yankton High School in 1914. When World War I broke out, Gurney enlisted in the United States Army and served for roughly a year in Europe, as a sergeant with Company A of the Thirty-Fourth Engineers. Gurney later said that his wartime experiences and his lasting impressions of the German soldiers—"of how unbeaten they were, even behind barbed wire"—contributed to his continuing concern about the state of the country's military forces.

Gurney returned to Yankton after the First World War and became a well-known and versatile businessman. For several years he helped to operate the family seed and nursery business. In 1926 he established South Dakota's first radio station, WNAX of Yankton, where he worked for several years as a sports and news announcer. In 1932 he moved to Sioux Falls and established the Chan Gurney Oil Company.

Gurney first ran for the U.S. Senate in 1936. He won the Republican nomination but was defeated by the Democratic incumbent, William Bulow, in the general election. When he ran again in 1938, Gurney defeated Governor Leslie Jensen in the Republican primary and turned back the challenge of former Governor Tom Berry in the general election to win his seat in the U.S. Senate. He was reelected in 1944.

Gurney started his twelve-year Senate tenure in 1939, the year World War II began in Europe. In the next two years, pressure mounted for a U.S. military commitment. Gurney, although a freshman senator and a member of the Senate minority, was able to steer some of the administration's key military measures through Congress before the U.S. became involved in World War II in both the Atlantic and Pacific theaters.

In 1940 Gurney supported the Selective Training and Service Act which provided for the first peacetime program of compulsory military service in the U.S. In 1941 he steered through the Military Affairs Committee the bill calling for an 18-month extension of the act. This was quite an accomplishment since Chairman Thomas of Utah had been adamantly opposed to extending the draft in peacetime. The bill was signed into law by President Roosevelt August 18, 1941, just a few months before Pearl Harbor. (It had squeezed through the House by a vote of 203–202.)

The following September (after a German submarine attacked the USS Greer), Gurney voted with the administration for repeal of restrictive sections in the 1939 Neutrality Act. In October 1941 he called for outright repeal of the act. Gurney also supported President Roosevelt's lend lease program providing for military and other aid to the Allies. And he introduced the bill, passed in 1942, that lowered the draft age to eighteen.

Time Magazine, noting Gurney's efforts to build a strong defense establishment, said that the South Dakota Republican was behind President Roosevelt's defense policies "virtually 100 percent."

Gurney did not forget his home State. Throughout 1940 and 1941 he worked closely with Francis Case, then a member of the House, to promote Rapid City as the site of one of seven major new air bases throughout the nation.

When the Armed Services Committee was formed in 1947, Gurney, by now an established authority on military matters, was chosen as the panel's first chairman. In this capacity he introduced the National Security Act which unified the armed forces. He described the measure as "a sincere and earnest attempt to put into effect a security organization that is effective and modern—and yet economical."

An earlier draft had expired when Gurney introduced the Selective Service Act of 1948. Passed in June of that year, this provided for registration of all men between eighteen and twenty-five for twenty-one months' service. The draft was extended by law again in June 1950.

In addition to the Armed Services panel, Gurney served on the important Senate Appropriations Committee. As chairman of the Military Appropriations subcommittee he guided through the Senate large peacetime defense budgets.

In the postwar period Gurney also continued to support foreign aid programs, including loans to Great Britain, the Marshall Plan, and the North Atlantic Security Pact. But he consistently opposed any open-ended foreign aid commitments.

Burney's efforts to bolster the nation's defenses often overshadowed his other Congressional work. But Gurney was a strong supporter of increased benefits for veterans and a strong advocate of civil rights. In 1946 he voted for the Fair Employment Practices Act prohibiting discrimination in employment on the basis of nationality, race, or creed. In 1950 he opposed an amendment to the Internal Security Act that permitted detention of suspected saboteurs in periods of national emergency.

Besides Armed Services and Appropriations, Gurney served on the Senate Committees on Interstate Commerce, Public Lands and Surveys, and Irrigation and Reclamation.

When Gurney ran for a third U.S. Senate term in 1950, he was confronted by tough opposition from a fellow Republican, Representative Francis Case. Gurney campaigned on his record, pointing to his seniority and standing in the Senate. Case appealed to isolationists and argued that Gurney "only reflects the opinions of the military and the (Truman) administration on important policy decisions." More important, perhaps, Case concentrated on local issues. Republican voters chose Case as their nominee in the 1950 primary and Gurney left the Senate in January 1951.

Two months later, in March 1951, Gurney was appointed a member of the Civil Aeronautics Board. He served with distinction on the CAB during a period of remarkable growth in air travel. He was the board's chairman from 1954 to 1957 and continued as its vice chairman until his retirement in 1964.

THE STATUS OF THE REPUBLIC OF CHINA AS A MEMBER OF THE INTERNATIONAL CRIMINAL POLICE ORGANIZATION

Mr. DENTON. Mr. President, since 1961 the Republic of China has been an important, active member of the International Criminal Police Organization [Interpol] with respect to the territory under its exclusive control. On September 5, 1984, the continued membership of the Republic of China was brought into question by the admission into Interpol of the People's Republic of China.

The problem arose as a result of extraneous statements made by the People's Republic of China in its admission application that "the People's Republic of China is the sole legitimate government of China," * * * that "Taiwan is an inseparable part of Chinese territory," and that "after joining Interpol, the Chinese [PRC] delegation shall be the sole delegation for the Chinese [PRC] government, and it shall be incumbent upon us to appoint the delegation head and exercise the right to vote."

The acceptance of the membership application of the People's Republic of China apparently was considered by some members of Interpol, including the Secretary General, as an endorsement of the extraneous declarations contained in the application. The Republic of China immediately protested that such an interpretation would be in violation of the Interpol Constitution. The delegate from Nigeria expressed his understanding, and that of other members who voted to accept the People's Republic of China, that its membership application "simply drew attention to the possible consequences of acceptance of the application" and that he "did not think that the Assembly's acceptance of the application meant that one of its members had to be expelled * * *. The Assembly could consider that it had purely and simply accepted a new member * * *. Membership on the part of the People's Republic of China should not have any effect on the presence of the Delegation of the Republic of China in the Assembly."

The Interpol Executive Committee, which includes several representatives of the United States, met on February 11, 1985, to discuss the controversy about the status of the Republic of China. Prior to the meeting, Senator THURMOND, Senator HATCH, Senator EAST, Senator GRASSLEY, Senator DECONCINI, and I sent a letter, dated February 8, 1985, to President Reagan expressing our deepest concern about the possible expulsion or disenfranchisement of the Republic of China. We urged the President to instruct the U.S. delegation to the Interpol Executive Committee to take the necessary action to ensure that the full membership rights of the Republic of China were not prejudiced by the membership of the People's Republic of China.

Because of the extreme time constraints we faced in getting this letter to the President, only five Senators on the Judiciary Committee were able to sign it. We know, however, that more Senators on the committee were supportive of our effort and would like to have had the opportunity to cosign the letter.

Mr. President, I ask unanimous consent, that the text of the letter be printed in the RECORD immediately following my remarks.

I also ask that the text of a memorandum of law prepared by the Wash-

ington, DC, law firm of Vance, Joyce, Carbaugh, Huang, Fields, and Crommelin be printed immediately following the letter.

The memorandum thoroughly analyzes the legal issues surrounding the application and acceptance of the People's Republic of China as a member of Interpol. It concludes, incontrovertibly, that the inclusion of the People's Republic of China into Interpol did not and could not, under either the Interpol constitution or international law, affect the status or rights of the Republic of China within Interpol, and that any attempt to disenfranchise or exclude the Republic of China from membership would be in direct violation of article 3 of the Interpol constitution, which explicitly and unambiguously prohibits the organization from undertaking any intervention or activities of a political nature.

Mr. President, unlike the United Nations, Interpol is not a treaty-regime grouping of nations. It is a voluntary, nonpolitical association of governments with the sole purpose of providing mutual cooperation for practical and mutually beneficial internal governmental ends. In conformance with the explicit prohibition in its constitution, the members of Interpol have traditionally avoided any activities of a political nature. It would be not only in violation of the Interpol constitution but also detrimental to all of the members of Interpol if the organization takes a partisan stand on a highly controversial political issue.

Mr. President, the resolution of this issue will also have a direct effect on the interests of the United States. As you know, the United States has no extradition treaty with the Republic of China, but, our common membership in Interpol has provided us with a means for our law enforcement agencies to cooperate with each other in anticrime efforts. If the Republic of China ceases to be an active, voting member of Interpol, the relationship of cooperation that has developed between our two countries could be significantly impaired.

The Executive Committee of Interpol will reconsider the issue when it meets in June of this year. Although the People's Republic of China is an important and welcome addition to Interpol, the continued membership of the Republic of China is equally important. The worldwide law enforcement community will reap the greatest benefit if it has access to police information from both governments.

I urge each Member of this body to express to President Reagan your utmost concern about the situation and to support a resolution of this issue that will avoid any diminution of the membership rights of the Republic of China in the International Criminal Police Organization.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 8, 1985.

Hon. RONALD W. REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On September 5, 1984, the People's Republic of China was admitted to the International Criminal Police Organization (Interpol) by vote of the Interpol General Assembly meeting in Luxembourg. At that time, the assertion was made that the admission of the PRC automatically had caused the Republic of China, a member of Interpol since 1961, to be expelled.

Nevertheless, the Republic of China since September 5 has continued serving as a Member of Interpol, has assisted in the past few months in a large number of criminal investigations at the request of other Interpol Members, and has fully exercised the rights and fulfilled the obligations of Membership as it has always done in the past. The Republic of China has done so because any purported change in its status as a result of the admission of the PRC would be in violation of the Constitution of Interpol, which is non-political in character, contrary to the principles of equality and justice, and, above all, inconsistent with reality.

The entity which is the Republic of China has not changed in any manner whatsoever since its original admission to Interpol. It is now, as it has been throughout 24 years of Membership, Perfectly competent to fulfill its obligations in every respect. In fact, except for the Republic of China, no other entity can ensure that the police authorities under the jurisidiction of the Republic of China could provide assistance and cooperation when required. On ground of competency alone, therefore, the Republic of China should remain a Member.

Moreover, treaty and sovereign recognition issues of the type which arose in connection with the PRC Membership in the U.N. are not involved. Interpol is not in any way an international organization analogous to the United Nations or any similar treaty-regime grouping of obligated nations adhering as organization Members in their sovereign capacity. Interpol is instead a purely voluntary intergovernmental association formed purely for cooperative governmental purposes in suppressing crime.

The past President of Interpol, on September 11, 1984, stated in the Interpol General Assembly that there were legal aspects concerning the status of the ROC and that he had decided to submit the matter to legal experts for advice. As a result, the Interpol Executive Committee will discuss ROC status in Interpol at its next scheduled meeting in France on February 11, 1985. As you know, representatives of our government serve on the Executive Committee and the newly-elected President of Interpol is John R. Simpson, Director of the United States Secret Service. As President, John Simpson, will thus play a crucial role in resolving the issue.

Accordingly, we urge you to instruct our delegation to take, at the Executive Committee meeting, whatever action may be necessary to insure that the full Membership rights of the ROC are not prejudiced. Such action would be consistent with the spirit and intent of Section 5(d) of the Taiwan Relations Act which forbids any activity under the Act "supporting the exclusion or expulsion of Taiwan from continued membership in any international organization."

The work of our delegation on behalf of the ROC would also be of critical importance to our own country because the United States has no extradition treaty with the Republic of China, and Interpol remains one of the few practical means by which United States law enforcement agencies can cooperate with and receive the cooperation of the ROC in attaining shared anticriminal objectives. If the ROC should, for any reason, cease to be a Member of Interpol that cooperation would be seriously impaired, if not ended.

In short, the issue is not one of government recognition or of sovereign treaty obligations in a treaty-regime organization. It is, however, a clear issue of practical effectiveness in criminal law enforcement and one in which our Interpol delegation can be decisive in ending any further unnecessary difficulty.

Your strong personal support for that judgment would be deeply valued by each of us and would do much to insure an end to an unfortunate episode in the history of Interpol and to strengthen the international effort to suppress crime.

With warmest personal regards, we are

Respectfully,

JOHN P. EAST,
ORRIN G. HATCH,
STROM THURMOND,
JEREMIAH DENTON,
CHUCK GRASSLEY,
DENNIS DECONCINI.

INTRODUCTION

On September 11, 1984, the past President of the International Criminal Police Organization (hereinafter "Interpol" or the "Organization") stated in the Interpol General Assembly that the Executive Committee had determined that there were "legal aspects" which had arisen in connection with the status of the Republic of China (hereinafter, occasionally, the "ROC") as a Member of Interpol and that the Committee had decided to submit the matter to legal experts for comment.

The question thus submitted is essentially whether the admission of the People's Republic of China (hereinafter, occasionally, the "PRC") to the Organization on September 5, 1984, modified in some fashion the status of the ROC as an Interpol Member or caused its expulsion.

This memorandum is respectfully rendered, therefore, to provide additional analysis of the relevant law and facts. It is also submitted in the sincere hope that the information herein will assist the President in fulfilling his intent to make to the General Assembly an unbiased and well-founded report which will serve to strengthen Interpol organizational objectives rather than detract from them.

STATEMENT OF FACTS

On October 14, 1960, the Republic of China applied by letter to the Interpol Secretary General for admission to Interpol. The application contained no extraneous claims regarding the identity (territorial extent, population, etc.) of the Republic of China and pledged payment of one budget unit under the Interpol dues assessment system.

On September 4, 1961, the Interpol General Assembly admitted the Republic of China to Membership and "The Republic of China" was declared a Member country.

(See the Record of Proceedings in the General Assembly—hereinafter the *"Record"* at 30/AGN/PV/1, page 5.)

On May 17, 1984, the Criminal Police Authorities of the People's Republic of China filed (in English) a request for Membership in Interpol. The request "reiterated" the "stand that the People's Republic of China is the sole legitimate government of China and that Taiwan is an inseparable part of Chinese territory." The request further asserted that "after joining Interpol, the Chinese [PRC] delegation shall be the sole delegation for the Chinese [PRC] government, and it shall be incumbent upon us to appoint the delegation head and exercise the right to vote." In closing, the request advised additionally that the "number of membership dues we will pay is 30 units."

On June 14, 1984, the text of the PRC application was sent to each Interpol National Central Bureau (hereinafter "NCB") with an annexed circular letter in which the Interpol Secretary General advised the NCBs to consult with their governments on the PRC application for Membership.

On August 14, 1984, perhaps in response to a request for clarification from the Interpol General Secretariat and possibly after consultation of French counsel, a representative of the PRC made to the Secretary General, in French translation, a declaration (apparently oral) of the PRC concept of the effect of its Membership with regard to various matters including the status of the Republic of China in the Organization.

In pertinent part, the August 14 PRC declaration (in English translation) stated:

1. That—"the problem will remain the same in 1985 as in 1984. We understand what could happen in the General Assembly, however, we are persuaded that, thanks to the efforts of the Secretary General and of friendly Member countries, the problem will be able to be managed in a satisfactory fashion . . . we are certain that thanks to your influence [the Secretary General's] the *position* of China [the PRC] could be accepted . . . We ought however to work still on the other member countries;" and,

2. That—the PRC held the position that *"the resolution* which *ought* to be adopted by the Secretary General *ought* to include the following points: the PRC is the sole legitimate government of China and Taiwan is a part of China; that the Criminal Police Authorities [of the PRC] understand that the sole legitimate delegate adhering to the organization *should* be itself; and that the name of the entity of Taiwan in Interpol *ought* to be changed to 'the Department of Taiwan of China';" and that "the head of the delegation *ought* to be named by the competent department of the PRC to serve in the General Assembly and to exercise the right of the vote of China in Interpol." (Emphasis added.)

On September 4, 1984, in Luxembourg, at the second meeting of the 53rd Secretary General Session of Interpol, the Secretary General reported to the Assembly the receipt of the request for Membership of the PRC with declaration (but *not* a resolution containing the points urged by the PRC). During the course of the lengthy debate on the effect of admitting the PRC to Membership when the document requesting Membership and related declaration also stated the position of the PRC vis-a-vis the ROC, the Secretary General have the opinion that if "the *application* for membership was put to the vote and accepted . . . only the People's Republic of China would have the right to vote." (Emphasis added; *Record*, 53/ABN/PV/2 at page 11.)

During the course of the debate, many delegates (including the delegates from the United States) expressed contrary opinions and, for example, the delegate from Nigeria stated that he was "surprised at the views expressed by the Secretariat and the President who had given no warning about the difficulties that they now seemed to perceive." *Record*, 53/AGN/PV/2 at page 8. The PRC "application" for Membership (as perhaps then perceived, but more validly the simple question of admission of the PRC), not receiving the required two-thirds of votes cast, was rejected.

On the following day, September 5, 1984, the Interpol President "read out Article 21 of the General Regulations" and declared that since the vote taken on the admission of the PRC "had not resulted in a two-thirds majority in favour of *Membership*, a second vote would be taken." (Emphasis added; *Record*, 53/AGN/PV/3 at page 1.)

Neither the PRC position nor the previously implied effects of the request were mentioned by the President, and without debate or notice, the General assembly admitted the PRC to Membership by the required two-thirds.

Immediately following the vote the delegate from the Republic of China, apparently fearing that the ballot would be interpreted as expelling the ROC, stated the view that in such regard the Interpol Constitution (hereinafter, occasionally, the "I.C." or the "Constitution") "was clearly being violated" and that he would "defend the Republic of China's right to remain within Interpol." *Record*, 53/AGN/PV/3 at page 2.

Responding, the Nigerian Delegate stated the apparent view of many who voted for the admission of the PRC that he "had understood that the application for membership by the People's Republic of China simply drew attention to the possible consequences of acceptance of the application" and that he "did not think that the Assembly's acceptance of the application meant that one of its members had to be expelled . . . The Assembly could consider that it had purely and simply accepted a new member . . . Membership on the part of the People's Republic of China should not have any effect on the presence of the Delegation of the Republic of China in the Assembly." *Record*, 53/AGN/PV/3 at page 2.

Similarly, the Interpol President (in direct response to the ROC delegate's stated view that there was a need for a "study group to try to solve the problem") "repeated that the decision taken raised no problems". . . and reiterated simply that "the People's Republic of China had been accepted as a member of Interpol." *Record*, 53/AGN/PV/3 at page 4.

Later, however, the Secretary General, in tabulating the total number of Interpol Members, implied that the ROC had been expelled: "the vote on the representation of China meant that there was no change in the number." *Record*, 53/AGN/PV/3 at page 5.

During the session of 5 September, 1984, the ROC delegation, *at the insistence of no one either in open session or in private*, voluntarily and temporarily withdrew from the Assembly meeting room to avoid any situation which might needlessly embarrass the ROC, Interpol, its President, or its other Members. (See, in confirmation, the letter dated September 9, 1984, from the ROC Chief Delegate to the Interpol President.) At no time did the ROC delegate relinquish or withdraw ROC Membership in Interpol nor was he authorized (nor did he have apparent authority) so to do in any event. (Contrary assertions in other memoranda do not comport with the *Record* or the facts.)

On September 11, 1984, The Interpol President, "noted that there were legal aspects" involved, resulting in the present and other memoranda. (See Appendix hereto and *Record*, 53/AGN/PV/6 at page 1.) At no time, however, did the General Assembly take any action to expel the ROC. *Record*, 53/AGN.

Accordingly, during the time since the conclusion of the 53rd General Assembly Session of Interpol, the Republic of China has continued in every respect, as it has done since 1961, to exercise its rights and to fulfill its obligations as a Member of Interpol, has responded to numerous requests for assistance in criminal investigations from other Members, has continued to receive the full and reciprocal cooperation of other Members, and expects to remain an Interpol Member both now and in future years.

ISSUES PRESENTED

Issue I.—Under the Interpol constitution was any question purporting to affect ROC status in Interpol either actually or *validly* before the Interpol General Assembly on September 5, 1984; did the vote of that day purport to affect that status or did it merely admit the PRC to membership and, at most, take note of the PRC declaration vis-a-vis the ROC?

Issue II.—If the action of September 5, 1984, admitting the PRC to membership *did* purport to affect the status of the ROC, was it in that regard to the Interpol constitution and hence void?

Issue III.—As a voluntary intergovernmental association not founded by treaty, is Interpol governed in *internal* organizational matters by international law *qua* law; does the Interpol constitution, voluntarily and severally adhered to and implemented under the domestic law of members, independently control instead?

Issue IV.—Assuming *Arguendo* that international law *qua* law does apply to *internal* Interpol organizational matters, under accepted norms of international law so applied, did the admission of the PRC to membership *per se* expel the ROC; is the simultaneous membership of the PRC and the ROC contrary to such norms applied in the Interpol constitutional regime?

Issue V.—With respect to the territory under the effective control of the ROC, as a practical matter (and assuming the applicability of the principle of international law that organizational membership is based on the ability to perform), can the overall inter-governmental goals of Interpol expressed in I.C. article 2 and the specific *domestic* anti-criminal government objectives of members be met *at all* by any member other than the Republic of China?

ARGUMENT

Issue I.—Under the Interpol constitution was any question purporting to affect ROC status in Interpol either actually or *validly* before the Interpol general assembly on September 5, 1984; did the vote of that day purport to affect that status or did it merely admit the PRC to membership and, at most, take note of the PRC declaration vis-a-vis the ROC?

Discussion

Article 4 of the I.C. provides in relevant part, as follows:

"The *request for membership* shall be submitted to the Secretary General by the appropriate governmental authority."

"*Membership* shall be subject to approval by a two-thirds majority of the General Assembly." (Emphasis added.)—*Constitution and General Regulations*, September, 1977, at page 3.

The above language is unambiguous in specifying constitutional procedures for submitting "requests for membership" to the Secretary General and thereafter for the General Assembly acting solely on approval of "Membership." Stated differently, under Article 4, the precise issue subject to a two-thirds majority vote of the General Assembly is purely and simply admission to Membership.

Admission only permissible question

It is *not* approval or disapproval of the *application* itself or of the *words* of the request (or especially of an accompanying transcribed and translated oral declaration), either as to form or substance, but it is instead exclusively whether an entity requesting Membership shall be admitted to Membership. Under an Article 4 procedure the issue is and can be nothing more.

Because of the expressly limited scope of Article 4 and its special voting procedures, an action under it can not therefore validly include any other question nor can it validly incorporate any *substantive* motion, even that of a Member. Otherwise, among other results, the constitutional requirement of a two-thirds vote of the General Assembly could easily be misapplied to substantive questions requiring either a simple majority only or an extraordinary two-thirds majority of *all Members* with three months advance notice.

No parliamentary standing

Moreover, at the time the question of admission of the PRC to Membership was put before the General Assembly, the PRC was *not* a member and hence could not vote, present a question, or make or second a motion of any type, including obviously one to expel another Member or to modify its Membership rights. Besides the fundamental unseemliness of the PRC requesting Membership while simultaneously stating the position that its admission ought to require the expulsion of another, the PRC had no parliamentary standing to make *any* proposal, much less one which sought to prejudice the rights of a Member. That is why even the PRC declaration itself used repeatedly the term *ought* with respect to a proposed resolution (which was never proposed) concerning the ROC.

In short, under Article 4, notwithstanding the extraneous matters in the PRC "request for membership" or in the subsequent precatory "declaration" received by the Secretary General, only the question of admission to Membership could validly be put before the General Assembly on behalf of the PRC in response to its request. To attempt to present or to move any other substantive question was unauthorized.

Accordingly, constitutional authority was exceeded (and parliamentary procedure violated) in the purported presentation of positions and declarations concerning ROC status or its expulsion as part of the exclusive question mandated by Article 4: the admission of the PRC to Membership.

At most, the General Assembly could be deemed to have taken note of the PRC positions and declarations (having, obviously, been made aware of them) because any substantive proposal of such nature could only be presented as a question by a Member, and not by an Interpol official with no right to vote or move the adoption of a question nor by a supplicant for Membership also without those rights.

Constitutional amendment required

Moreover, since there is no I.C. provision for expulsion or modification of Membership status (beyond temporary administrative suspension under the General Regulations for non-payment of dues), any question seeking to expel a Constitutional Member, or to modify permanently its other Constitutional rights, would necessarily require a Constitutional Amendment and a vote not merely of two-thirds of the General Assembly, but instead, of two-thirds of all Interpol Members and that only after three months notice.

During the debate of September 4, 1984, much was said regarding the "receivability" of the extraneous declarations involving the ROC during the procedures under Article 4 even though the Article provides only for consideration of admission to Membership. Because the I.C. thus does not authorize under Article 4 the submission to the General Assembly of any question except admission to Membership, this discussion and debate concerning the receivability of the PRC declarations was moot.

Worth noting, however, are the observations of many delegates on September 4 objecting to the inference that the Membership question entailed any other issue. Similarly, 41 Members (more than one-third) voted to separate the extraneous question invalidly under discussion in the General Assembly from the simple question of PRC admission. Although this procedural exercise, on close examination of Article 4, is also seen as moot, it does evidence the large number of delegates who intended to adhere to the Constitution and consider PRC admission to Membership only.

Finaly, "receivability" under the I.C. of the extraneous question of ROC status during consideration of the question of PRC admission to Membership was not decided by the rejection of the purely procedural motion for a point by point vote on a question that could constitutionally have only one point: PRC admission. As such, the vote was moot, and since procedural in the first instance, no substantive inference can be drawn from it.

The ballot of September 5 decided only the issue of PRC admission to membership

The vote of September 4, based on the tone and tenor of the debate preceding it, rejected PRC Membership because a significant number of delegates favoring PRC admission to Membership also did not wish to prejudice existing ROC Membership and feared that, in view of the discussion preceding it, the vote might be misinterpreted as an action doing something more than simply admitting the PRC.

As such, the rejection of PRC Membership, under conditions inferring that the ROC might be downgraded or expelled, amounted to rejection also of the procedurally and constitutionally invalid positions which were extraneous to PRC admission but had been discussed at length during the debate. As such, the vote was also a rejection of the paradoxical assertion of the chair that it could take no position on the "receivability" of the extraneous issues while at the same time purporting exactly to present them. (See in that regard the instructive comments of the delegate from Senegal; *Record*, 53/AGN/PV/2 at page 9.)

Immediate vote

As a result, the vote of September 5, under the procedures specified in Article 4, occurred only on the question of PRC Membership but before the General Assembly *immediately* without discussion of "receivability" of extraneous matters. Since these matters were never received, they were clearly not acted upon, nor could they validly have been.

The General Assembly acted therefore only on the question of PRC admission, it being properly determined that the extraneous statements in the PRC application and declaration discussed the previous day had not been received or had been rejected *on* the previous day (if they had ever been before the General Assembly in any event). In sum, an Article 4 question only, i.e. admission to Membership, was before the body.

In this latter aspect, the remarks of the Nigerian delegate on September 5 are again particularly illuminating.

"[He] had understood that the application for membership by the People's Republic of China simply drew attention to the possible consequences of acceptance of the application. He did not think that the Assembly's acceptance of the application meant that one of its members had to be expelled. The Assembly could consider that it had purely and simply accepted a new member. Membership on the part of the People's Republic of China should not have any effect on the presence of the Delegation of the Republic of China at the Assembly."—*Record*, 53/AGN/PV/3 at page 2.

In addition, the vote on September 5 occurred as a result of the presumed requirement of Article 21 of the General Regulations (hereinafter, occasionally, "G.R.") providing for a second vote if a question requiring a two-thirds majority is not acted upon favorably on the first ballot.

Article 21, in English text, reads as follows:

"Voting shall be done by single ballot, except where a two-thirds majority is required."

"In the latter case, if the required majority is not obtained the first time, a second vote shall be taken."—*Constitution and General Regulations*, September, 1977, at page 16

Vote Confined to Admission

Since "in the latter case" equals "where a two-thirds majority is required," for G.R. Article 21 to have applied "where a two-thirds majority is required," it could only apply under Article 4 to the exclusive question "subject to approval by a two-thirds majority," i.e. admission to Membership. Hence, the ballot of September 5, as specified in Article 21 of the General Regulations, was necessarily confined to that issue.

It may also be advisable to note, at least in passing, that the Spanish text of Article 21 does not *require* a second ballot but only *permits* a second ballot. Therefore, under the Spanish text, there is a presumption that a request from a Member must precede a second ballot. Moreover, under the English text, there is a fair inference that the second vote must occur contemporaneously with the first.

In view of these difficulties, perhaps it should suffice to say that the presentation of the second vote on the second day without notice, warning, or debate was unusual and was so perceived by many delegates. (See *Record*, 53/AGN/PV/3—pages 1 through 5; Cf. at page 4, the Bolivian dele-

gate who "regretted that the General Secretariat had not notified the Assembly the day before that a second vote would be required" . . . and the General Secretariat which was said, at page 5, to be "*overloaded* with work and . . . unable to fulfill all its duties *as it should.*") (Emphasis added.)

Membership tabulation

Under these circumstances and contrary to Interpol President Bugarin's flat statement after the second ballot that "the decision taken raised no problems: the PRC [has] been *accepted as a Member* of Interpol," it was indeed unfortunate, if not unfathomable, that in the subsequent administrative tabulation of the total number of Members of Interpol it was implied that the ROC had been expelled. (See *Record*, 53/AGN/PV/3 at page 5.) That particular implication, however, arose from a purely functionary task and not from an action of the General Assembly nor any Member. It is, therefore, best characterized instead as an expression primarily of opinion perhaps evoked on the spur of the moment by the exigencies of administrative duties being performed under pressure when "overloaded with work."

This much at least is certain: at no time did the question presented on September 5 openly purport to include the expulsion of the ROC, or any proposal for the modification of its status, and the patent impropriety of now so characterizing that ballot is therefore as overwhelming as would be the unconstitutionality of any such purported effects.

Issue II.—If the action of September 5, 1984, admitting the PRC to membership did purport to affect the status of the ROC, was it in that regard contrary to the Interpol constitution and hence void?

Discussion

Although the analysis thus far attempts to make clear that the ballot of September 5, 1984, intended in actuality only to admit the PRC to Interpol Membership, even if it is assumed, in the alternative, that the ballot was meant to expel the ROC or to modify its status, the end result preserving ROC Membership is the same.

It is the same because otherwise the Constitution would be violated in two aspects: the prohibition of any political activity and the absolute constitutional protection of Membership.

With regard to the latter, during the debate on September 4, the assertion was made that the General Assembly is the supreme authority of Interpol and could therefore presumably act as it might choose in using procedures under Article 4 to expel a Member or modify its rights. This perception of the role of the General Assembly reflects a grave misconception of the role of the Assembly in a constitutional system.

Constitution supreme

First, it is important to note that under I.C. Article 5 the General Assembly is declared the "supreme authority *in*" Interpol. (Emphasis added.) Nowhere is it declared the supreme authority *of* Interpol. That authority rests, by the very nature of constitutional organization, in the Constitution itself.

Hence, the General Assembly is necessarily limited in its power by the Constitution, as are all the other constituent parts of the Interpol organization (e.g. the General Secretariat) over which the General Assembly is superior. Otherwise, there would be no reason for having a constitution at all, nor would there be any reason for specifying procedures for its amendment or for the promulgation of interpretative General Regulations.

There would also have been no reason nor logic for having mandated in I.C. Article 8 that:

"The functions of the General Assembly shall be . . . to carry out the duties *laid down* in the constitution." (Emphasis added.) *Constitution and General Regulations* September, 1977, at page 4.

Moreover, if the authority of the General Assembly is not limited by the Constitution, there would have been no need to have allowed the original Members six months in which to decline Membership under the Constitution or to specify a constitutional procedure (Article 4) for receiving subsequent "request for membership" and for acting thereafter on admission of Membership.

In addition, the manner in which the General Assembly applies the constitution is specified in Article 44 which *directs* the Assembly to use the procedure of interpretative General Regulations adopted after notice and a two-thirds majority vote. Even so, such General Regulations of the General Assembly are specifically declared to be *inferior* to the constitution, and overruled by it in case of conflict. (See G:R. Article 1 in *Constitution and General Regulations*, September 1977, at page 13.)

Membership constitutional

From these facts it can be determined that Interpol Membership and the rights associated therewith are *constitutional* in nature. That recognition is, as already indicated, evident throughout the Interpol Constitution; however, one need only look at I.C. Article 45 to understand conclusively that Membership itself (as well as its constitutionally expressed rights) is fundamentally constitutional in character because Article 45 actually incorporates by reference in the Constitution itself *the names* of the original Members and declares them to be Members as so named *based on* their adherence to the Constitution.

By analogy, the status of the States comprising the United States under the American Constitution is—as in many other constitutional federal systems throughout the world—purely constitutional in nature, based on adherence to the American Constitution in the case of the original North American States and on admission in that of subsequently joining States. Their resulting status in the American federal system cannot be changed except by constitutional amendment.

Since Membership status in Interpol is also, by its definition, constitutional in nature and is also achieved by original adherence or through compliance with constitutional procedures of admission, in the absence of a voluntary act of the Member (e.g. withdrawal, non-payment of dues) the *only* valid way that Membership status can be permanently modified, *if at all*, is likewise by constitutional amendment.

The certainty of this result is strengthened by the observation that the Interpol Constitution has no provision for expulsion of a Member nor for modification of the rights and status of Membership once those rights and status have vested—either as a result of the operation of Article 45 regarding original Members adhering to the I.C. or under Article 4 governing acceptance of new Members. (Except, however, in accordance presumably with I.C. Article 2 and 38, General Regulation Article 53 appears to permit *suspension* of the right to vote and other benefits as a remedy for chronic non-payment of dues. Such suspension is purely administrative and temporary, results from the voluntary actions of Member involved, and can easily be lifted by its voluntary action.)

Rights vest at time of admission

In summary, the rights arising from Membership obtained under either Article 45 or Article 4 vest at the time Membership status is obtained, and those constitutional rights of Membership (e.g. *name*, power to vote, move a question, and speak, to designate a head of delegation, etc.) arise from *that time* and attain constitutional protection then and thereafter; otherwise, the concept of Membership for all Members would be essentially meaningless if the rights of Membership or Membership itself were constantly subject to subsequent modification or revocation at whim by any action of less dignity than that of constitutional amendment.

If the ballot of September 5 is asserted to have affected the constitutionally protected rights and Membership status of the Republic of China, or to have expelled the ROC, it is in such regard also void because it would in that aspect violate I.C. Article 3 which is unambiguous and clearly broad in scope in prohibiting political activities of any kind.

During the debate on September 4 there were occasional statements that the Interpol prohibition on political activities was meant to extend to police investigations only and that, because the question of admission to Membership was inherently political, political activities could be undertaken with respect to particular *Members*. (See, for example, *Record*, 53/AGN/PV/2 at page 2.) These pronouncements, although undoubtedly well-intentioned and well-motivated, were ill-advised and ill-informed.

Article 3 specifies as follows:

"It is strictly forbidden for the Organization to undertake *any* intervention or activities of a political, military, religious or racial character." (Emphasis added.) *Constitution and General Regulations* September, 1977, at page 3.

The location of Article 3, at the beginning of the Constitution suggests the paramount importance to be attached to it, and its proximity to Article 2 (Goals) and to article 4 (Membership) implies the interrelation of these three primary provisions and is added strong evidence that the broad prohibition of Article 3 is particularly to be applied in achieving organizational goals and in dealing with matters directly affecting Members.

Prohibition broadly worded

Article 3 is furthermore *on its face* completely unambiguous and is clearly broad in scope as a prohibition of political activity of any kind. The Article is open to no other reasonable interpretation since it uses the broadly prohibitive term "strictly forbidden" with respect to a determination of the degree of political action which might be allowed and, with respect to what cannot be political, the widely encompassing term *"activities"*—a word which by its obvious generality must contemplate virtually every conceivable action involving the Organization. The inclusion of an express prohibition of political [criminal] "intervention" *in addition* to that of political "activities" also shows that *not just* interventions were involved; otherwise there would be no reason for the addition of the phrase "or [any] activities".

Prohibition based in history

That conclusion is confirmed by the publication entitled *Interpol—History and Constitution* which the Organization distributed after the adoption of the 1956 Constitution. This contemporaneous official document states unequivocally, at page 10:

"*All* activities of a political, military, religious or racial nature are *strictly forbidden* by the new constitution." (Emphasis added.)

Taking account of a similar broad prohibition in the 1946 statutes, the booklet further states, also at page 10:

"The word 'military' is the only innovation on this subject."

To say now, contrary to these blunt assertions made when the adoption of the 1956 Constitution was fresh in mind, that Article 3 applies today only to criminal investigations is to ignore completely the difficult history of Interpol which the post-Nazi Constitutions of 1946 and 1956 sought to rectify permanently. In short, the encompassing scope of Article 3 is also proven in that only a broad interpretation will support the cooperative goals of Article 2 toward which Interpol has heretofore striven successfully for almost forty years and with which the political interests of individual Members (or even of more than two-thirds of the General Assembly) are forbidden to interfere.

Action of admission expressly authorized

Finally, contrary to remarks in the General Assembly and elsewhere, the suggestion is highly misleading that the admission of a Member is itself a "political" act and hence serves to demonstrate the newly-acquired "limited" scope of the Article 3 prohibition. Obviously, there is an inevitable "political" character to any General Assembly action admitting a new Member, but that *highly limited*, yea or nay, "political" action is *expressly authorized* by the Constitution itself. In the absence of an express and specific authorization, Article 3 must control.

The maxim of Constitutional interpretation, and indeed of all statutory construction, that *the specific governs the general*, has as an obvious corollary in the principle that a general and broad prohibition on actions controls in the absense of an express specific authorization of action.

There is no constitutional authorization to engage in the political activity of expelling a Member nor of modifying its Membership status (only the practical, apolitical "suspension" of voting rights and other benefits for non-payment of dues) *nor certainly is there authority for deciding between competing political claims regarding disputed territory;* hence any action purporting to have that effect is forbidden by Article 3 and thus void.

Issue III.—As a voluntary intergovernmental association not founded by treaty, is Interpol governed in internal organizational matters by international law QUA law; does the Interpol constitution, voluntarily and severally adhered to and implemented under the domestic law of members, independently control instead?

Discussion

Interpol is not an entity organized under international treaty-regime. Members have not joined in accordance with their respective constitutional process for forming international agreements. The Organization does not have a treaty foundation as does the United Nations or its agencies.

In that regard, neither the 1971 resolution of the U.N. Social and Economic Council nor the subsequent U.N. recognition of Interpol as an intergovernmental organization make Interpol a part of the U.N. treaty-regime structure. They merely evidence an intent to cooperate in seeking mutual goals.

Membership in Interpol is voluntary and *not* obligated by reason of any international agreement. All that is expressed is a voluntary "willingness" to abide by the Interpol Constitution. Participation is normally authorized by domestic statute or administrative procedure of Member countries. Unlike the Charters of the United Nations, the International Labor Organization, and countless other treaty-regime organizations, the Interpol Constitution may be amended by its Assembly *without* national ratification.

No treaty obligation

It is *not* an international organization in the sense of a Membership league of treaty-obligated sovereign States; it is simply a voluntary intergovernmental association resulting from the unobligated participation of *governments* (with wholly independent legal systems exercising effective independent control over populations and territory) for practical and mutually beneficial *internal* (i.e. *domestic*) governmental ends.

Each Member operates exclusively within the framework of its own independent domestic law and of ordinary international law as the same pre-existed, exists now, is modified, and continues (e.g. extradition treaties), all entirely independent of Interpol.

As a result, *specific* international law as it might apply to, or form a basis for, the United Nations or other treaty-regime organizations (and might govern the exercise of rights and performance of obligations therein) *does not apply* to Interpol and especially does not apply with regard to internal *organizational* matters. It cannot, therefore, provide a basis for interfering with the constitutional Membership rights of a voluntarily participating Member whose rights have vested and who is in good standing.

For similar reasons, the Interpol agreement with France (November 3, 1982) regarding Interpol headquarters and its juridical personality is an agreement made under French domestic law only and has no applicability, nor can it govern (or any inference be drawn from it), in purely internal organizational issues within Interpol; otherwise, a fundamental intent of the new Interpol (which finds full expression in its current Constitution) to avoid any potential for a repetition of national interference (Cf. Nazi Austria) would be frustrated.

The concepts and distinctions were well appreciated by many delegates at the 53 General Assembly Session in Luxembourg. They were succinctly expressed by the delegate from Cameroon who pointed out that:

"Interpol was an *intergovernmental*, but apolitical, organization and *could not be compared with the organizations in the United Nations family.* The authorities of the People's Republic of China and those of the Republic of China each considered they had [effective] authority over different territorial entities. Why should the Organization wish to take an extreme position by refusing to give a seat to each?" (Emphasis added; *Record*, 53/AGN/PV/2 at page 6.)

Specific international law inapplicable

In summary, because Interpol is not an organization of treaty-committed States and is more properly characterized as an unobligated association of voluntarily participating governments, the international law *qua* law of a treaty-regime organization (having as its source the regime itself) is totally inapplicable, except for the possible instructional value of its analogies. (See "The Creation [Sources] and Application of International Law" in Kelsen, *Principles of International Law.*) This conclusion is confirmed by the apparent complete absence of jurisdiction of any international tribunal over any Interpol matter—the principle at work in Interpol being international cooperation not international obligation.

Because international law *qua law* does not govern with respect to Interpol Membership, internal Membership issues are controlled *exclusively* by the Interpol Constitution itself without reference to inferences which might be drawn or created from the law source of a treaty-regime. In these circumstances, it is necessary therefore only to note that under the provisions of the Interpol Constitution the admission of a new Member cannot divest the vested rights of an existing Member, especially when the character and nature of the existing Member has not changed in any way since its own admission and it is as able to perform its obligations and exercise its rights as always.

Issue IV.—Assuming *arguendo* that international law *qua* law does apply to *internal* Interpol organizational matters, under accepted norms of international law so applied, did the admission of the PRC to membership *per se* expel the ROC; is the simultaneous membership of the PRC and the ROC contrary to such norms applied in the Interpol constitutional regime?

Discussion

Articles 7 and 13 of the Interpol Constitution read in relevant part as follows:

"Article 7. Each Member may be represented by one or several delegates; however, for each *country* there shall be *only* one delegation head appointed by the *competent governmental authority* of that *country.*" (Emphasis added.)

Article 13. Only one delegate from *each country* shall have the right to vote in the General Assembly." (Emphasis added.) *Constitution and General Regulations*, September, 1977, at pages 4 and 5.

These provisions have been used by the PRC and others to buttress the assertion that the admission of the PRC to Interpol, because of the international law of the recognition of governments or (more properly) of States, requires the automatic expulsion of the ROC or, at least, the subordination of its Membership position within the Organization to that of the PRC.

In that regard, it is maintained that since some countries and international organizations assert that there is only one China, it must follow that the People's Republic of China Government is the "competent governmental authority of that country" and that since "only one delegate from each country" can have the right to vote, that right must rest with the delegate designated by the PRC Government.

The argument goes essentially that the ROC was admitted as "China," that the PRC was admitted as "China," that international law acknowledges only "China," and that the latter action of admission governs the former.

This line of reasoning, while appealing in its simplicity, reflects a profound misunderstanding of the facts, of the Interpol Constitution, and of international laws—even conceding its applicability.

First, the facts have been misunderstood, if not misrepresented.

In accordance with I.C. Article 4, the Republic of China in 1960 applied for Member-

ship in Interpol by letter in English text to Secretary General Marcel Sicot. The application was dated October 14, 1960.

ROC application made no territorial claim

Perceiving correctly that Interpol is an intergovernmental organization seeking practical apolitical goals, the application of the ROC refers to the admission of "the Government of the Republic of China." *It contains no claim whatsoever regarding the extent of its territory or jurisdiction.* It declares the willingness of "the Republic of China" to "cooperate with Interpol and all member *bodies* and to pay eight group member's subscriptions, namely, *one budget unit.*" (Emphasis added.)

Dues assessed on basis of effective control

In connection with the above, please note particularly that the proffered subscription (later increased to three budget units) was accepted and was (and is) obviously *based on the territory under ROC effective control.*

On September 4, 1961, the question of the admission of the ROC to membership was decided favorably by the General Assembly after "Mr. Hwan You (Republic of China)" said that "his *country* . . . had submitted an application for membership to the ICPO (Interpol)" and that "his *government* was prepared to accept the terms of the Organization's constitution and to collaborate with all Members." (Emphasis added; see *Record,* 30/AGN/PV/1 at page 4.)

ROC and PRC but not "China" proclaimed members

Thereafter, the "President *proclaimed* the following *countries* to have become Members . . . The Republic of China . . ." (Emphasis added; see *Record,* 30/AGN/PV/1 at page 5.)

At no time during the proceedings under Article 4, either in its formal application or ensuing debate, did the Government of the ROC assert any claim regarding its jurisdiction or attempt to assert its concept of the identity of the country it represented and *very significantly* the ROC was *not* "proclaimed" a Member "country" as "China" but rather as "The Republic of China."

Similarly, on September 5, 1984, immediately after the admission of the PRC to Interpol Membership, *not* "China" but "the *People's Republic of China* was declared a Member of the ICPO—Interpol." (Emphasis added; see *Record,* 53/AGN/PV/3 at page 2.) Moreover, notwithstanding extensive unilateral declarations by the PRC concerning one China, even the request for Membership of the PRC states in its formal operative part that "the Ministry of Public Security of the *People's Republic of China* hereby files its application for Membership of Interpol." (See PRC application dated May 21, 1984.)

These facts should be kept in mind while examining the second area of misunderstanding and misinterpretation: the meanings and implications of the terms "country" and "member" as used in the Interpol Constitution.

The term "member" is defined in I.C. Article 49 to mean "a Member or Members of the International Criminal Police Organization as mentioned in Article 4 of the Constitution." Article 4 specifies that "any country may delegate as a Member to the Organization any official police *body* whose functions come within the framework of the activities of the Organization."

It follows that police *bodies* are Members *delegated* by countries. For purposes of this analysis and to concede the argument of others, it is probably accurate enough therefore to say that the Members represent the countries and that as a result the countries are Members by proxy or, in effect, Members themselves. This conclusion is supported by the nearly interchangeable use of the two terms in the Constitution and General Regulations.

FGR not "Germany" named member in 1956

In this connection, it is important to recall that both the "People's Republic of China" and "The Republic of China" have been declared Members. Similarly, in 1956 when the Holstein doctrine of the Federal German Republic was in full force and the FGR claimed jurisdiction over one-Germany notwithstanding its effective control over only a part of German territory, *not* "Germany" but the "Federal German Republic" was *declared* by I.C. Appendix 1 to the Constitution to be the "country" referenced in Article 45 which read "all *bodies representing the countries* mentioned in Appendix 1 shall be deemed to be *Members* of the Organization." (Emphasis added.) In other words, the Member represented the FGR *not* Germany.

In short, the FGR, the ROC, and the PRC have all been declared "countries" and, by inference, "Members" (or represented by Members) notwithstanding their extraneous jurisdictional claims, expressed or not, at the time of admission. This comports with reality, with the practical goals of Interpol, and as will be seen, with international law.

Meaning of "country" and "pays"

Before making that examination, however, a final point should be made regarding the word "country." In the English language, it can have a broad generic meaning that implies primarily a geographic region. It can also mean a separately organized geographic entity with independent or autonomous government. It can finally mean, as contemplated in international law, a State with the required attributes of territory, population, and independent government.

The French text of the Interpol Constitution is helpful in this context in gaining an understanding of the meaning of the term "country" within the Constitution. The French text uses the term "pays" and *not* the term "Etat." In French, "pays" connotes with the greater precision the more encompassing and indefinite meaning of the English term "country" and implies less dignity than "Etat" which equates with the more narrow definition of "country" as a national "State" in English. (An "Etat" is always a "pays" and a national "State" always a "country," but not always the reverse in either language.) From this reasoning, it can be inferred that the term "country" in the English text is used in the more encompassing sense that is perhaps more clearly implied by "pays" in the French text.

This usage in the Interpol Constitution is consistent with the lack of any sovereign treaty-regime of Member-States underpinning Interpol, and it is consistent as well with the past practice of admitting even territories and regions to Interpol Membership (e.g. the Sarre).

With these understandings of the facts and of the specialized juridical personality of Interpol, it is possible to apply international law with greater clarity to the circumstances of the present analysis.

To ease that process, and because the result is the same, the word "country" will be treated in its most narrow sense i.e. national State, even though it is clear the Interpol Constitution, to achieve the practical goals of Article 2, permits a less restrictive and far more generous interpretation.

Two Principles

In the present analysis, two general principles of international law are crucial.

The first is the principle that a State exists if it has the key attributes of population, territory, and independent order of law. With these attributes, a State exists at international law regardless of its political recognition or non-recognition by second States or particular treaty organizations and regardless of the political recognition or non-recognition of its government or of the presence or lack of diplomatic relations. (Cf. Kelsen, Principles of International Law, at pages 394-5, wherein constitutive significance is attached to legal recognition.)

Hence, for one of very many examples, the existence of Belgium as a State at international law was accepted in the London Conference Protocol of February 19, 1831, even though Belgium was an unrecognized State insofar as concerned the very States drafting and signing the Protocol. Solely the objective norm of population, territory, and independent order of law determined the existence of Belgium as a State not the mere declaratory aspects entailed in recognition. Thus, existing as a State, Belgium was deemed bound by international law through its existence rather than as a result of its recognition.

Similarly, the Soviet Union existed as a State and State Government in 1919 yet was unrecognized by Great Britain, Hungary, Austria, Denmark, Belgium and France. Nevertheless, these exact States (before recognition of the Soviet State) concluded repatriation agreements with the Soviet Government. Yet international agreements, clearly, cannot be concluded with entities which do not exist, and so here again declaratory recognition has nothing to do with legal existence.

In fact, non-recognition does not even estop a claim against a non-recognized government brought by the same State which refuses recognition. (The Tinoco Case, A.J., 1924, p. 155; The George Hopkins Claim, A.J. 1927, p. 166, etc.) The reason is simple: political non-recognition of a State by one State or by most or even possibly all other States does not mean international legal non-existence, and it never has. The State, if satisfying the objective criteria of Statehood, is sui juris in international law regardless of the declaratory policies of other States. (This result is, of course, reinforced when there is also declaratory recognition, as in the case of the ROC, by a significant number of third States and legal recognition, in a variety of forms, by most of the balance.)

Marek's Identity and Continuity of States in Public International Law (1954), at pages 144-5 and 149, explains:

"A State exists in accordance with such objective norms [territory, population, and independent order of law] *alone* and the denial of such existence must equally be based on objective norms. Thus, it follows that just as *no amount of non-recognition can divest a State of its State character,* so no amount of recognition can make what is not a State into a State . . . in other words, *nothing* can replace [territory, population, and independent order of law] as a means of determining the existence of States. (Emphasis added.)

* * * * *

"Recognition, as a test of State identity and continuity, must be rejected. (Emphasis added.)

The Taiwan Relations Act

Thus, while the United States, for example, takes "no position" on the "sovereignty" of "Taiwan," the Taiwan Relations Act (P.L. 96-8; 93 Stat. 14, April 10, 1979), which was enacted after the termination of diplomatic relations between the United States Government and the ROC Government, takes account throughout of the *existence* of the ROC Government as a State Government and of the *existence* of the Republic of China as a State at international law.

Hence, Section 4(b)(1) of the Taiwan Relations Act provides:

"Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan."

Similar considerations account for very large number of third States which recognize the PRC Government but only acknowledge (as did the United States) or note its claims.

All the same, in the present case, a great noise has been made by some regarding the number of States politically recognizing the PRC as if some score board tallying recognitions could effect the existence or extinction of the ROC as a State. It cannot, and inferences to the contrary ignore a second established principle of international law which is derived from the first.

State continuity and the ROC

The second principle is that a State continues, subject to international law and having legal existence as a State under it (the doctrine of continuity of States), unless and until it loses either its population or its territory or its government.

Please note that "government" in this context means independent order of law not form, type, or political composition which may change while the identity of the State remains continuous. Please note also that the existence of the State *continues* even though it may decrease or increase (or even change, Cf. The Orange Free State and The Transvaal) either its territory or population. A State continues as well regardless of what name the State may choose to give itself or regardless of that by which other States may choose to call it. (E.g., "Taiwan" by America.)

In sum, what matters is the maintenance of the objective attributes, not their variation, denomination, or declared recognition.

(For a full discussion of the general principles of identity and continuity, please review in detail:

(For a full discussion of the general principles of identity and continuity, please review in detail: Whiteman, *Digest of International Law* Vol. 2; Marek, *Identity and Continuity of States in Public International Law;* Kelsen, *Principles of International Law;* Kunz, "Identity of States Under International Law," 49 Am. J. Int'l L. (1955); and O'Connell, *The Law of States Succession.*)

At the time of its admission to Interpol in 1961 the Republic of China had (1) a territory—irrespective of its politically claimed extent, (2) a people—irrespective of their politically claimed numerosity, and (3) an independent and effective government—irrespective of its politically claimed authority. Thus, in 1961, the Republic of China was a State, as such was deemed a "country" within the even more encompassing meaning of the Interpol Constitution by the very act of its admission to membership as a *country,* and was (under any test at international law) properly admitted to Interpol with rights as a country vesting under the Interpol Constitution including those rights given by Articles 7 and 13 together with the protection afforded by G.R. Articles 18 which forbids "the representative of one Member [to] vote for another Member."

Additionally, as seen, the admission of the Republic of China was not conditioned on its political claims, and those claims were *not asserted* by the Republic of China as a basis for Interpol Membership (since they were unrelated to Interpol Membership (since they were unrelated to Interpol Membership). Moreover, even if the ROC had insisted that its territorial and population claims be acknowledged by Interpol, for Interpol to have considered those claims would have been as improper and unnecessary in 1961 as it is now to consider similar claims of the PRC.

Thus, the Republic of China was admitted as it was then found (and now is) without regard to extraneous political claims not affecting the ability of the Republic of China to perform its obligations as a Member of the Organization.

From the time of its admission to Interpol in 1961 the Republic of China has not lost (1) territory, (2) people, or (3) its independent government. Nothing at all has changed which could affect the existence of the State under international law, and the Republic of China has not, under any test, become extinct either as a State or as a "country."

Thus, its existence as a State has continued *without interruption of any kind whatsoever.* It is therefore *still* today a State and hence certainly a "country" within the meaning of the Interpol Constitution, and it is *still* able to perform unimpaired its obligations in the Organization.

Furthermore, its own political claims (being extraneous to Interpol) and even the monetary presumed ascendancy of the competing international political claims of the PRC (or the related more numerous declaratory recognition of the PRC by third States) have nothing to do with the existence of the ROC either as a State as defined by the norms of international law or country as the more inclusive and indefinite term is used in the Interpol Constitution.

That is why, for example, Bishop, *International Law* at p. 330, in the section dealing with recognition of *States,* under the heading "The following *states* are *members* of the international Community" lists "China, People's Republic" and "China, Republic of" and does not list "China." (Emphisis added.)

In short, under the international law of the recognition of *States* (or more precisely the international law of the existence of States), the ROC was a State and hence a country in 1961, it continues now both as a State and as a country, and *not being extinct* nothing can be done now to *extinguish* its rights as a country under the Interpol Constitution which vested in 1961—except (possibly) by amending the Constitution itself specifically to exclude the ROC (which would nevertheless remain a State and a country at international law even after such exclusion).

Declaratory positions inapplicable and forbidden

The various political declaratory positions of other nations and organizations, and even the positions of the PRC and of the ROC themselves, on subsidiary political claims concerning territory, population, and governmental authority have *no bearing* on the existence of the ROC as a State and as a country in Interpol, and in fact the Organization is "strictly forbidden" (Article 3) from considering those political issues.

However, it is very important to emphasize at this point that, *even without the prohibition of Article 3,* because of the political claims of the PRC and those expressed in other contexts by the ROC itself are entirely extraneous to the non-extinction of the ROC as a State and a country, the Republic of China continues to be a country under the Interpol Constitution unaffected by the admission of any other entity or by whether political claims are prohibited or not. The prohibition on political activity does not make the ROC a country at international law; the facts make it a country. The General Assembly of Interpol, as a result, lacks power or authority at international law applied to the Interpol Constitution to declare extinct that which is not or to affect otherwise the Membership status of the Republic of China *as a country* except (possibly) through the process of Constitutional amendment.

The process of Constitutional amendment must be used because international law mandates no change in ROC status, because there is no other process specified in the Interpol Constitution, *and* because rights which vested in 1961, which continue now, and which are themselves constitutional in nature and constitutionally protected cannot be altered except by an action of equal dignity to the Constitution involving a change by amendment.

The apparent anomaly of simultaneous membership

There remains however, the vexing logical inconsistency which appears to arise from the unilateral PRC declaration that it represents "China" and that there is only one "China" and frankly from the related position, albeit deemed unnecessary of statement in the Interpol context, of the ROC. If both governments claim, in various circumstances, that there is one country, how can there be, consistent with I.C. Articles 7 and 13, two Members representing two countries and casting two votes?

On closer study, it is seen that the suppleness and ultimate rationality of the norms of international law give, not surprisingly, the exact same result as obtains under the Interpol Constitution alone when the Constitution is considered without resort to those norms.

Recognition policies do not provide an answer

Before proceeding, however, it is perhaps useful at this juncture to recall again that at international law the recognition of governments through the process of establishing diplomatic relations is distinct from the legal recognition of the existence of a State.

Thus, for example, with respect to sovereign governmental recognition, only nine of 83 countries which recognized the PRC government between 1970 and 1983 have also expressly recognized PRC sovereignty over the territory under the effective control of the ROC. For example, neither the United States, Canada, nor Japan have done so. And the U.S. Department of State official position, as noted, is that "the United States takes no position on the question of Taiwan's (sic) sovereignty."

In fact, it appears that a majority of Interpol Members, even including a majority of those with diplomatic relations with the

PRC, has not expressly recognized the PRC position concerning the sovereign extent of its representation (most have merely "acknowledged" or "taken note of" it). Yet, ironically, if the ROC were deemed expelled, Interpol, unlike most of its Members, would take an express position—and a position contrary to reality and to the accepted norms of public international law as applied in the specialized circumstance the Organization.

Interpol not bound by political recognition policies or claims of members

The key point is this: simply because there are parallel policies of both Governments regarding "China" and opposing claims to the right to administer territory does not mean that Interpol as an intergovernmental or even international organization is bound by or must for any reason follow the political concept of the two governments (and, ironically, of only a few other governments) regarding the scope of their jurisdictional representation.

This point was implicitly understood by many delegates participating in the Interpol debates of September 4-5, 1984. Perhaps it was best and most wisely put by the delegate from Chad who:

"Could not understand why [PRC] membership would necessarily result in the exclusion of the Republic of China which had a different capital and a different identity. What would happen to the Organization if it had to exclude one of its members every time a dispute arose between two countries? Record, 53/AGN/PV/2 at page 7.

Consideration of political claims forbidden

In fact, should Interpol allow itself to be governed by the extraneous political assertions of the two governments (which assertions have no applicability whatsoever in the Interpol nontreaty organizational regime) or to choose without any practical necessity between their competing territorial claims, then Interpol would violate its own Constitution (Article 3), strictly prohibiting activities of a political character and would, of greater significance, defeat the objects and cooperative purposes of I.C. Article 2.

To reiterate: even though the political positions of the ROC and of the PRC may be that there is one China, Interpol cannot take any action based on those political positions and, if international law is to be applied, must instead follow ordinary norms of public international law *without* reference to the political claims of either party, *without* reference to the declaratory and inapplicable recognition policies of various third States, and *without* reference to any particular treaty-regime since there is *none* underpinning the existence and operation of Interpol.

A practical and a legally required solution

In short, the question for Interpol is not whether there is "one China" nor is it which government is the proper government of "China," but it is instead simply whether at ordinary international law the Republic of China is a State and hence a *country*, as contemplated by the I.C., regardless of its own political and territorial claims and of those of the PRC and, in fact, even regardless of the political recognition policies of various other governments with respect to the two governments. And it has been seen that the Republic of China is a State, is dealt with as such even by those States which do not have diplomatic relations with the ROC Government, and, by any test, is a "country" as the term is used in the Interpol Constitution.

In view of the foregoing, it is essentially unnecessary to assert but nevertheless worth observing that, in fact, neither the political recognition of governments nor even legal recognition of States is finally controlling in this case. It is instead merely the determination of the existence of a particular entity within the meaning of the term "country" or "pays" as used in the Interpol Constitution. The true *underlying* question then is whether the entity called the Republic of China is a "country" as the term is used generically in I.C. and even more precisely whether it was a country at the time its rights vested under the Interpol Constitution at the time of its admission to Membership in 1961. A complete answer is given by the act of admission itself, by the performance of obligations and exercise of rights since that date, and by the obvious non-extinction or change in character of the admitted entity *as admitted*. Or, to state the matter with final simplicity, *what was a country then, being today neither more nor less than represented at the time, is a country now.*

In summary, the anomaly of both the PRC and the ROC having simultaneous status in Interpol as States, or (if either prefers to so consider itself or the other) as "countries," is an anomaly for the two governments *only*, which can either live with it or not as they choose. It is *not*, however, as the delegate from Chad perceived, an anomaly for Interpol under its apolitical Constitutional structure applying basic norms of internationl law. And again, if this anomaly cannot be accepted by the PRC or by the ROC, then either could voluntarily withdraw since neither is under any treaty-regime commitment nor is either a treaty-obligated Member in a sovereign capacity.

Finally, since the PRC has been particularly strident on these points, it could perhaps find solace in making the further claim that since its declarations concerning its identity were formally made known to the General Assembly prior to its admission, the fact of its admission implied that its position was noted. This added assertion would be inconsistent with I.C. Article 3 but consistent with the policy of most governments which recognize the PRC Government and hear its claims *without agreeing, in the face of reality, that the ROC is extinct as a State or country.*

Issue V.—With respect to the territory under the effective control of the ROC, as a practical matter (and assuming the applicability of the principle of international law that organizational membership is based on the ability to perform), can the overall intergovernmental goals of interpol expressed in I.C. Article 2 and the specific *Domestic* anti-criminal government objectives of members be met *at all* by any member other than the Republic of China?

Discussion

As a practical matter, there can be no dispute that only the Republic of China can fulfill the obligations and exercise the rights of Interpol Membership with regard to the territory under its effective administrative control. The overall specialized goals of the Organization as mandated by I.C. Article 2 and the *internal* domestic goals of its voluntarily participating Member governments cannot be served by the PRC *at all* with respect to matters involving territory under the exclusive control of the ROC.

Recognition of these realities was undoubtedly a reason for the General Assembly decision to admit the ROC to Membership in the first instance in October 1961. Recognition of these realities was, no doubt, a reason the ROC made no issue of its politically claimed identity in its application at the time of its admission and committed to payment of dues on the practical basis of territory effectively controlled. Recognition of these realities is no doubt the reason so many Member countries, represented by their Member police authorities whose objectives are anti-criminal and not political, opposed any inference that admission of the PRC implied the expulsion of the ROC.

Moreover, even if Interpol has to choose between the ROC and the PRC (*and it does not*), with the highly restrictive travel, immigration, and emigration policies of the PRC, it could be fairly proposed that greater practical benefit to this specialized organization lies with choosing the Membership of the ROC. What is clear is that the expulsion of the ROC (besides being legally impermissible except, possibly, by constitutional amendment) would hold the *least* benefit because the greatest practical benefit *to the Organization* ought to lie in the simultaneous Membership of both the ROC and the PRC.

This result comports with the situation as it exists *de facto*. It also comports with the general concept of international law that the competency of Members to participate in international organizations is premised on the ability to exercise rights and perform obligations.

Able and willing

Hackworth, *Digest of International Law*, Vol. 1, explains this latter concept, at page 58:

"International law is not especially concerned with *names* or *classification* of States or with their internal organization, so long as they are *able and willing* to perform their international obligations." (Emphasis added.)

Hence, this principle of international law *also* mandates continued ROC Membership—as do the practical goals of the Interpol Constitution, with or without reference to international law.

After September 5, 1984, the Republic of China, *as a continuing Member of Interpol*, has received innumerable requests for assistance in criminal investigations from the national bureaus of other Members. It has responded to all NCB requests and intends to continue to do so as it has done always in the past.

If *ultra vires* efforts attempting to expel the ROC are allowed to succeed without any clear action by the General Assembly (and certainly without any constitutional action by that body), then the national bureaus of the Interpol Members and criminal justice generally will be the true losers.

SUMMARY

This memorandum has analyzed five issues bearing on the status of the Republic of China as a Member of Interpol. The results of that analysis are summarized hereafter.

First, the vote of September 5 did not affect the status of the ROC because 1) no issue involving the ROC was actually before the General Assembly at all or, in the alternative, 2) no such issue was *validly* before the General Assembly since it could not be presented under procedures pursuant to I.C. Article 4—especially when the Article 4 question, i.e. admission to Membership, was simply submitted without notice or debate under G.R. Article 21, which applies *only* to

specific and precise constitutional questions requiring a two-thirds vote.

Within the confines of an Article 4 submission, therefore, no other parliamentary or constitutional method for raising extraneous substantive issues was available *nor was any used* since no *Member* moved any question whatsoever involving the ROC. Thus the General Assembly took no effective action against the ROC.

Second, even assuming the vote of September 5 *did* purport to affect the status of the ROC and was effectively before the General Assembly, the purported action violated the Interpol Constitution, was not within the power of the General Assembly to take, and exceeded the authority of the General Assembly. Hence, since *ultra vires* and unconstitutional, any such purported action is void and a nullity.

Third, international law *qua* law does not apply to organizational questions involving Interpol because Interpol is not a treaty-based international organization depending on the agreed sovereign commitments of obligated States and is instead a voluntary intergovernmental association with Member police authorities representing countries acting in their domestic rather than their international capacity.

As a result, the Interpol Constitution, being voluntarily implemented pursuant to the domestic law of Members and *not* implemented by operation of international law, is paramount in organizational issues, and that Constitution does not permit the involuntary expulsion of a Member except possibly through constitutional amendment.

Fourth, even assuming international law *qua* law were applicable to an Interpol organizational issue, the simultaneous Membership of the ROC and PRC as either States or countries may be inconsistent with their own mutually exclusive political claims but is not inconsistent with international law applied to the Interpol Constitution nor with the specific provisions of I.C. Articles 7 and 13, and, in fact, any other result is "strictly forbidden" by I.C. Article 3 because the organization would otherwise be guilty of adopting a clearly political position in a political dispute between Members.

This result obtains because the politically claimed identity of one government cannot make extinct under international law a State which is *not* extinct either as a matter of fact or law or within the legal cognizance even of States recognizing the contrarily claiming government and acknowledging its declarations.

Any anomaly in the PRC and the ROC asserting in various circumstances similar or parallel claims of their representational identity is, therefore, an anomaly for the two governments but *not for Interpol.*

Fifth, in their own right and at international law, practical considerations involving the effective ability to exercise rights and fulfill obligations with respect to the territory which is under the exclusive control of the ROC (as the sole "competent governmental authority" therein) mandate continued ROC Membership on the basis of its unique ability to perform and require that no actions be permitted which prejudice the rights of the Republic of China as an Interpol Member because, unless such *ultra vires* activities are recognized as such and prohibited, the cooperative intergovernmental goals of Interpol as specified in I.C. Article 2 could be seriously impeded.

Moreover, as a further practical matter, any proposals for modified status of ROC Membership—even those which might be properly undertaken through Constitutional amendment—besides being inequitable (and entirely unnecessary in the specialized circumstances of Interpol), are also unlikely to be attained.

CONCLUSIONS

The Republic of China has not been expelled from Interpol, nor has its Membership status been modified, either by any effective action of the General Assembly under the Constitution of the Organization or by operation of international law.

The Republic of China has not withdrawn from Interpol, continues to meet its obligations as a Member, and wishes and expects to be treated as such.

Respectfully submitted,

QUENTIN CROMMELIN, Jr., *Esq.*

[Appendix]

MEMORANDUM IN REPLY TO THE CONSULTATION OF PROFESSOR PAUL REUTER CONCERNING THE REPUBLIC OF CHINA AND THE INTERNATIONAL CRIMINAL POLICE ORGANIZATION

INTRODUCTION

At the request of the Interpol Secretary General, Professor Emeritus Paul Reuter of the University of Law, Economy, and Social Sciences of Paris, submitted on December 5, 1984, a written Consultation responding in French to several questions concerning the effect, if any, of the admission of the PRC to Interpol on the Membership status of the Republic of China. Professor Reuter concludes, in essence, that the ROC was automatically expelled.

Professor Reuter's presentation is scholarly and facile, and his analysis demonstrates an impressive knowledge of international law. (His credentials were well established long ago in his *Droit international public*, 1958.)

He pledges at the outset to limit his study to the facts and juridical aspects and to avoid political considerations. He declares that his opinion is only that of an impartial expert given by necessity in the absence of any international court with jurisdiction to judge.

Nevertheless, despite his obvious expertise and *intended* impartiality, one is also impressed by his almost relentless drive toward a definitive result which is the most prejudicial to the Republic of China. His consultation, therefore, has all the qualities of an advocate's argument, and it deserves an advocate's response.

DISCUSSION

Stripped of its extensive erudition, Professor Reuter's thesis is actually very simple: there is one China, the ROC originally represented China in Interpol because it originally pretended to do so, and the PRC now represents China because its admission and its own political pretense is later in time.

The fundamental problem with the above is that its *assumed* premise that in Interpol "there is one China" presupposes, indeed requires, the result ultimately reached.

Fortunately for the achievement of the practical objectives of the Organization, the assumed premise, in the Interpol context, and even in that of the public international law of the legal existence of States and governments, is—respectfully—entirely false.

It is false because the political claims of the two entities do not (and under I.C. Article 3 *cannot*) bind Interpol.

It is false because Professor Reuter *erroneously* assumed that the Republic of China asserted claims extraneous to Interpol Membership in connection with its admission in 1961.

It is false because Professor Reuter glides past the central problem raised by the misapplication of the United Nations Treaty Regime (by analogy) to an organization which is not analogous, not based in treaty or on obligatory international agreement of any kind, but is instead an entirely voluntary intergovernmental association exclusively implemented through the domestic law of participants.

It is false because it thus ignores and denigrates, rather than recognizes, the paramount importance of the Interpol Constitution and General Regulations in determining internal matters.

It is false because it misapplies the declaratory (political) recognition policies of particular third States and related organizations to a specialized organization concerned *by its own definition of itself* with the legal and factual existence of its Members at international law rather than with their declaratory political recognition by other entities.

Finally, it is false because it applies, and applies wrongly, abstract theoretical concepts to an association engaged in facilitating the practical police work of jailing criminals rather than in the empty posturing of international diplomacy.

CONCLUSION

Because Professor Reuter accepts at the beginning as a premise (one China) what he concludes in twenty-seven pages as a result (one China), he has—with genuine respect for his many academic accomplishments and well-recognized reputation—missed the forest, which is profound and profoundly flexible, for a single mischosen and brittle tree.

TRIBUTE TO THE FLYING TIGERS LIFELIFT FOR ETHIOPIAN RELIEF

Mr. CRANSTON. Mr. President, today I would like to pay tribute to the Los Angeles headquartered Flying Tigers and its 6,000 worldwide employees for their contribution to the victims of the Ethiopian famine. In early February, the Flying Tigers' Lifelift for Ethiopian Relief flew a mercy flight of 7,400 miles from John F. Kennedy Airport in New York to Addis Ababa, Ethiopia, to deliver 234,771 pounds of medical supplies, food, and clothing valued at $1,066,537. The cargo was a gift from thousands of individuals and U.S. companies to the famine and drought-plagued people of Ethiopia.

Marilyn Folkes, a traffic agent for Flying Tigers at JFK was fundraising chairman of the Lifelift and integral to its success. She and dozens of other Flying Tiger employees, from cargo handlers to pilots, volunteered their time and energy without pay to coordinate the Lifelift. These people deserve our praise and recognition for their noble effort.

In reaching out to starving people thousands of miles away, Flying Tigers and its employees have set an admirable example for the rest of us. Their generous contribution of time,

effort, and money is well worth emulating.

I ask unanimous consent that an article from the Los Angeles Times regarding the Flying Tigers' effort be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FLIGHT TO ETHIOPIA: FOOD, SUPPLIES, COMPASSION

FLYING TIGERS, OTHERS DONATE MONEY, TIME TO STARVING AFRICANS

(By Charles Hillinger)

ADDIS ABABA, ETHIOPIA.—The American Boeing 747 had been flying south over Ethiopia for more than an hour, covering 600 miles from the Red Sea at the nation's northernmost tip, across barren desert and bone-dry, rust-colored mountains indented with narrow, deep valleys.

Visible below were scattered settlements on high plateaus and in valleys where perhaps 200,000 people have died from famine in the last year alone, where thousands continue to starve and die each week in primitive huts or en route on the network of trails seeking help.

The incredible harshness of the landscape—not a sign of water or a patch of green—makes it remarkable that human life is possible there at all.

CAPITAL SIGHTED

"There it is! There it is! Addis Abada!" exclaimed Hal Ewing, 41, of Sumpter, S.C., captain of the Flying Tigers air freighter, as the 747 descended through puffy cumulus clouds. Ethiopia's 7,625-foot-high capital suddenly burst into view amid a patchwork quilt of dry, brown farms.

The plane was on a mercy flight sponsored by the Los Angeles-headquartered Flying Tigers and its 6,000 worldwide employees. The 747 carried 234,771 pounds of medical supplies, food and clothing valued at $1,066,537, a gift from thousands of Americans across the nation to vicitms of one of the greatest calamities of all times, Ethiopia's famine of the 1980s.

A few minutes later Ewing and his crew in the cockpit, First Officer Mick O'Connor, 32, of Key Largo, Fla., and Second Officer Paul Zahner, 31, of Danbury, Conn., landed the huge jet, using all but a few feet of the narrow, short runway with a hump in its middle. At the end of the airstrip lay the remains of wrecked Soviet planes that overshot the runway and ended at the bottom of steep cliffs, testimony to the airstrip's tricky nature.

The Flying Tigers Lifelift for Ethiopian Relief had flown 7,400 statute miles from New York's John F. Kennedy Airport to Addis Abada in 16 hours, 48 minutes counting a 3-hour, 50-minute refueling stop in Brussels.

For Marilyn Folkes, 35, traffic agent for Flying Tigers at J.F.K., who as fund-raising chairman for the Lifelift flight played a key role in its success, the arrival was one of enormous joy. During the stop in Brussels, while walking through the 185-foot-long main cargo deck loaded with tons of relief supplies, she commented:

"I am happy knowing the medicine will help save thousands of lives, prevent a lot of blindness and stop the spread of disease, that the food aboard the plane will provide needed nourishment, that thousands will be a little warmer because of these blankets and clothes. . . ."

For Marilyn Folkes, hunger is no stranger. She has worried about the starving people of Ethiopia for years. She has sponsored two Ethiopian children since 1976 at a cost of $60 a month. She has lectured about hunger in Africa in New York-area churches, primarily black churches, urging involvement in aid programs.

IMPACT OF BBC FILM

Then last November, not long after a BBC film crew jarred the conscience of the world with its startling footage of starving Ethiopians, Folkes decided: "The bottom line is I am my brother's keeper. I wouldn't want other people to ignore me." So, three months ago she took two weeks' leave from her job and flew to Ethiopia to do what she could in the camps set up for the victims of the famine.

During this, her second flight to Ethiopia, she told of the agony she witnessed: "I have not been the same person since. I feel absolutely miserable inside every time I think about it. I saw thousands of people lying on the dirt motionless, nothing more than skin and bones, obviously going to die. I saw physicians pick and choose who was going to live because of limited food supplies.

"I saw thousands of emaciated children, their faces covered with flies, staring into space. At Alamata in the refugee camp I saw the Mother Teresa Sisters of Charity comforting dying people, helping them to die with some sense of dignity. I have had nightmares ever since, waking up weeping," Folkes said as she wiped away tears.

Now, she was back to see firsthand the distribution of aid flown in by her fellow employees, back again to visit the sorrow, starvation, sickness and death at the refugee camps.

Within minutes after the 747 landed, cargo doors opened and the offloading operation began under the direction of Jochem Derschow, 29, of Amsterdam, Flying Tigers' European load master and charter operations supervisor who boarded the plane in Brussels.

Ethiopian cargo handlers moved the 86,751 pounds of medical supplies, 32,754 pounds of food and 115,266 pounds of clothing and blankets to a nearby section of the tarmac where trucks belonging to American-based relief agencies were waiting to transfer the material to famine camps 150 to 400 miles from the capital city. Some of the supplies would be airlifted.

In the boxes and fiber sacks were tons of vitamins, bandages, cotton swabs, emollient ointment, antibiotics, IV solutions, nutritional supplements for infants, butter oil, cereals, oral rehydration salts, blankets and warm clothing for the camps in the high mountains where temperatures are often below freezing.

The lifesaving items had come from humanitarian and church groups that had collected contributions from thousands of individuals and materials from several U.S. companies.

"Everything shipped here on this huge plane is needed desperately now," said Bekele Biri, 41, an Ethiopian who is president of the 35,000-member Ethiopian Union of Seventh-Day Adventists, as he met the plane. "The magnitude of the problem is so great resources will never be able to match it.

"The world came late. If it had come a little earlier perhaps things would have been much easier," said Biri with a sigh after each sentence, an idiosyncrasy of the Ethiopian melodious manner of speaking.

WIDESPREAD FAMINE

"Sad as it is, nearly every country in Africa is experiencing famine to varying degrees."

The Adventist Development & Relief Agency is one of several U.S. relief organizations active in Ethiopia shipping and receiving supplies on the Flying Tigers "Lifelift" flight. Others are Catholic Relief Services, Africare, Mennonite Central Committee, World Vision, MAP (Medical Assistance Programs) International, the Red Cross and Sudan Interior Mission.

Coordinating the assemblage of the 117-plus-ton shipment for the Flying Tigers flight was Interaction, headquartered at 200 Park Ave., New York, a coalition of 125 humanitarian and church relief groups, including those mentioned and others such as the American Friends Service Committee, Baptist World Aid and the American Jewish Joint Disaster Committee. Since last November, Interaction has shipped $40 million worth of medicine, food and clothing to Ethiopia for the consortium of voluntary groups.

"This airlift is of tremendous help. I hope this flight by Flying Tigers will have a domino effect and inspire other airlines to do likewise. The need is so urgent to get these vital items to Ethiopia as quickly as possible," said Julius Weeks, 31, of New York City, Interaction official aboard the Flying Tigers flight.

"It takes so long by ship, then by land once it arrives in an Ethiopian seaport. We have warehouses full of supplies in America waiting for ships and hopefully for planes destined for Ethiopia," added Weeks, a former Peace Corps worker who is a native of Liberia. His father was president of the University of Liberia and former secretary of state for Liberia.

It was an anonymous letter sent from an employee to Lewis Jordan, executive vice president of Flying Tigers, at the company's Los Angeles headquarters late in December that triggered the airlift.

While seeing the plane off in New York at the start of its mercy mission, Jordan recalled receiving the letter, which said: "We have a saying in our company. We care about people. We should do something about the victims of the Ethiopian famine."

Jordan mentioned the correspondence in the company's weekly newsletter. The response from employees was overwhelming. A committee was formed. Posters were printed and hung in all Flying Tigers offices showing an emaciated Ethiopian child and stating:

"Someone must care. Is that someone you? Give from your heart and save someone. You can help the famine and drought-plagued people of Ethiopia."

FUND DRIVE CONTINUES

Contributions poured in from throughout the company's worldwide system, from Japan, Taiwan, Australia, Hong Kong, Singapore, Europe, from across the United States.

"We're especially proud of this effort because to our knowledge no other air carrier employees have organized an airlift for the famine victims of Ethiopia," Jordan said.

The Flying Tigers company provided the airplane for the mercy flight without cost. Crew members volunteered their time to fly the 747.

The fund drive by employees, which is still going on, will offset a large part of the $95,000 fuel bill for the flight, the balance of which is being paid by contributions from

four aviation fuel firms and by relief organizations that have goods on board. Flying Tigers employees in the Los Angeles office have already contributed $7,500.

To charter a 747 from the company to fly a comparable weight load the same distance would cost about $300,000. To get the plane back in the Flying Tigers system it was necessary to fly it empty from Addis Ababa to Taipei, another 6,000 statute miles.

Two crews alternated flying the big cargo jetliner on the long journey. Capt. Randy Patterson, 48, of Palm Coast, Fla., First Officer Charles Cozad, 37, of St. Helena, Calif., and Second Officer Charles Gallardo, 34, of Atlanta, flew the first leg to Ethiopia. Also aboard were mechanic Charles Millman, 41, of Long Island, N.Y., flight attendants Becky Rasmussen, 33, of Hermosa Beach, and Michele Rizza, 27, of Rancho Palos Verdes, Lifelift committee members Stephen Hanks, 40, of Fountain Valley, and Colleen Ferguson, 39, of Westwood, and a Times reporter.

"All 600 pilots in the system wanted in on it," said Capt. Hal Ewing, in charge of assembling the cabin crew for the mercy mission. A native of Long Beach, he has flown other disaster efforts in the past—including the Honduras hurricane and Cambodian famine.

For Hanks, director of labor relations at Flying Tigers and chairman of the Lifelift committee, it was hard to believe that only 25 days had passed since the company decided to set in motion the airlift to the famine-stricken people of Ethiopia.

"It took the efforts of dozens of people within the company to make this all possible, to plan a way to free a plane from service for three days, to obtain landing permits and every so many other details," Hanks observed.

WORKED WITHOUT PAY

At Building 262, Tiger Corner at J.F.K. Airport Cargo Complex, a dozen volunteer cargo handlers led by Vince Buscarino, 30, worked through the night without pay loading the 747 with the relief supplies in preparation for the flight to Ethiopia. Typical comments from the cargo handlers:

Jerry Alston, 38: "My feelings, especially because I'm black, are I am so proud of everyone in this company for picking up on this great cause."

Jim Morrison, 38: "I have a 13-month-old daughter, Heather, at home. I see my daughter, how healthy she is. Then I see on TV those starving and dying kids in Ethiopia. It makes me sick at heart. I can picture my daughter in the same situation. I am saving money for my daughter's college education. I took some of that money and gave it for this flight."

Joseph Acanda, 54, truck driver who drove supplies to Flying Tigers from Maryland without charge: "I am a Comanche Indian. I got 13 children. I can't imagine people starving in this world of plenty. I got my health. Got a job. I'm giving to this cause because of the horror I saw in Ethiopia on TV."

The small airport at Addis Ababa was jammed with airplanes from various parts of the world, eight Soviet Antonov AN12 transports, two Antonov 26 (Russian made) Libyan Air Force planes, a French cargo plane, a Spanish Air Force Hercules, two British Royal Air Force Hercules, two West German Transall transports, an East German Interflug passenger jet, four Ethiopian Airlines passenger planes.

There are more planes moving in and out of Addis Ababa than ever in recent memory, said the airport manager, an Ethiopian who would not give his name but said he lived in Inglewood, while attending Northrop Institute.

The French plane was chartered by an organization of French doctors called Doctors Without Borders to bring in 36 tons of milk, medicine and blankets. The Spanish Air Force plane brought 15 tons of medical aid, food and clothing from the Spanish government.

A Libyan Air Force pilot said his country had been flying relief supplies in two planes to famine areas from Addis Ababa every day for two months. Aboard the two cargo planes this day were sacks of grain from Sofia, Bulgaria.

Ethiopia is a Marxist country. There are many Russians and Cubans here. Russian planes are resettling thousands of Ethiopians from the famine areas in the north to the southern part of the country unaffected by the drought. West Germany and Great Britain are shuttling food and supplies daily to the refuge camps. The British report handling more than 13 million pounds of supplies from Addis Ababa to Gondar, Axum, Mekele and Alamata refugee camps since Nov. 3, material donated from non-Soviet bloc nations from all over the world.

The Russian and British crews live in tents directly across the airplane parking area from each other. Do you have personal contact with one another, British Flight Lieutenant Phil Jones 29, was asked.

"They're not the friendly type. They don't talk to us," he replied. "When we're playing football (soccer) and our ball happens to go over on their side of the airport parking area, we yell: 'Can we have our ball back?' They yell back: *'Nyet.'* "

Jones said the Russians were still holding several British soccer balls.

Ethiopians at the airport were friendly, quiet-spoken. Almost to the person, they asked not to be quoted for fear of retaliation by the government. Those interviewed expressed dislike of the Russians and Cubans.

One Ethiopian airport worker said: "We don't like the idea of the Russians flying people from the northern famine areas to the south where the famine doesn't exist. They are bringing people with diseases from the north to areas where the diseases do not exist.

"They are resettling people of one tribe with people of other tribes who traditionally do not get along with one another. The Russians are disrupting the social fiber of this country."

The resettlement issue is control versial. The Soviet say they are flying thousands of people out of the famine area to save them from starving and dying. The people in the south are encouraged by the government to build shelters for them and help care for them.

Another worker at the airport observed: "The food, medicine and clothing people from other nations are sending Ethiopia are greatly appreciated. But please show us how to farm and bring us farming equipment so we can learn to feed ourselves and prevent future famines. . . ."

GENEVA ARMS TALKS

Mr. PELL. Mr. President, the distinguished majority and minority leaders and members of the Senate Arms Control Observer Group have just returned from Geneva, where we witnessed the opening of new arms control negotiations. While in Geneva, we were able to discuss in detail the preparations and prospects for these talks with the three American negotiators, their deputies and other officials.

This was the first working trip to Geneva for the Senate Observer Group, following weeks of extensive discussions with administration officials and nongovernmental experts here in Washington. As a Cochairman of the Group, I conclude that this new Group will play an important and useful role in ensuring both that the Senate remains informed on developments in the negotiations and that the negotiators will have the benefit of carefully weighed Senate judgments as they endeavor to forge new accords.

The preparations made for these new talks were impressive. It is evident that the President has given these talks high priority. I know that I and my fellow Senators wish the President every success, and will do our best to bring about that success.

Mr. President, we want to help ensure that the talks end—not as, in 1983, in acrimony—but in good, productive agreements. We and the Soviets are entering these talks with profound differences. I hope that the sides can move wisely and soon past empty options to those which can lead to productive compromise. For example, the Soviets need to recognize the need for major reductions in offensive forces, particularly in the very threatening land-based missile force. We need to be willing to consider real controls on space weapons. The leaders on both sides must be personally involved and must insist that their senior officials explore every opportunity.

Mr. President, I hope that there is strong bipartisan support for success in the new talks. After all, our national security—perhaps, our national survival—is at stake. We must understand that our defense programs and arms control can go together to form a strong national security fabric. With only arms control and weak defenses, we could be helpless before our unrelenting adversaries. Without arms control and with only defense programs, we will spend our national treasure with no certainty that we will increase our national security one jot.

This is a new opportunity—and possibly the last—for nuclear arms control. Without agreement, we may have only a costly new arms race and greater insecurity at the end of the course. I have no doubt, however, that these talks can succeed if there is commitment to success. It is a chance waiting to be seized.

CANCER RESEARCH

Mr. HEFLIN. Madam President, the administration's fiscal year 1986 budget and recent Office of Manage-

ment and Budget directives to officials of the National Institutes of Health have caused considerable concerns throughout the national biomedical research community in general and the cancer research community in particular. I share these concerns.

Through Mr. David Stockman, Director of OMB, the administration is seeking to sharply reduce the number of new and competing biomedical research grants in fiscal year 1985. In fact, the OMB directives would require that the number of competing grants proposed for funding in 1985 will be cut to 5,000 instead of the 6,526 grants that were allowed in the 1985 appropriations bill for the Department of Labor, Health and Human Services, Education and related agencies. Further, approximately 800 of those projects are to be funded on a multiyear basis and the research centers which have been mandated by Congress will not be funded if OMB is successful in its efforts to require NIH to use the fiscal year 1985 appropriations to support a significant number of projects for a 2- to 3-year period, rather than the traditional 1-year period.

Mr. President, this unwarranted action by OMB raises some very serious procedural issues apart from its programmatic effects. Last year, the Congress overwhelmingly adopted and the President signed into law the aforementioned DHHS appropriations legislation providing for a significantly increased investment in biomedical research.

Both Houses of Congress in their respective committee reports on the fiscal year 1985 DHHS appropriations bill instructed NIH to use the additional funds provided in the bill to award an increased number of grants during fiscal year 1985. More sepcifically, in its report accompanying H.R. 6038, the Labor, HHS, and Education appropriations bill for fiscal year 1985, the Committee on Appropriations in the House of Representatives cleary stated that funding for NIH had been increased "* * * to support an estimated 6,200 new and competing research project grants" (Rept. 98-911, p. 30, July 26, 1984). For its part, the Senate Committee on Appropriations in the report accompanying S. 2836, the Senate version of the appropriations bill, pointed out that it had increased the appropriations to support "* * * an additional 1,850 new and competing renewal research project grants" over and above the 5,000 grants specified in the President's budget (H. Rept. 98-544, p. 50).

The House and Senate conferees assigned to work out the differences in the respective chambers' versions of the fiscal year 1985 Labor, HHS, and Education appropriations bill reached a compromise on the number of new and competing renewal research projects to be funded in fiscal year 1985 and appropriated $1,183,806,000 for the National Cancer Institute.

Now, only a few months later, OMB apparently has determined this action by the Congress to be ill-advised and proposes to undo its effect via an accounting mechanism—spreading the actual expenditure of some of these funds over a 3-year period. In my view, OMB chose this approach because it knew that Congress would not agree to a straightforward request for a recision of NIH funds. In this regard, the Congress appropriates funds to NIH under a general authority and Appropriations Committee reports have traditionally served an authorizing function for biomedical research programs. Thus, OMB's directive is clearly legislative in character and policymaking in effect: as such, it intrudes on the responsibilities and constitutional prerogatives of the elected representatives of the American people.

I cannot overemphasize the importance of the research efforts being carried on at the National Institutes of Health. As the principal biomedical research agency of the Federal Government, NIH seeks to improve the health of the American people by increasing the understanding of the process underlying human health. Our doctors at NIH are developing methods of preventing, detecting, diagnosing, and treating disease and are disseminating these research results to the medical community for review and ultimately for medical application. In addition, this prestigious and world renown health agency conducts research in its own laboratories, trains talented researchers, and promotes the acquisition and distribution of medical knowledge throughout the country. Over the years, the research activities at NIH have uncovered new methods of preventing disease and disability.

One of the major components of the National Institutes of Health is the National Cancer Institute which has developed a national cancer program to expand existing scientific knowledge on cancer cause and prevention, as well as on the diagnosis, treatment, and rehabilitation of cancer patients.

The National Institutes of Health supports the majority of basic medical research in the United States through its extramural research programs. Principally among these programs are the grants from the National Cancer Institute to research facilities and university-based programs throughout America.

In my State of Alabama, important research through grants from the National Institutes of Health is being carried on at 13 universities and hospitals. Research crucial to our efforts to conquer cancer is being done at the University of Alabama in Birmingham, the University of South Alabama in Mobile, and the Southern Research Institute in Birmingham.

Over the years, the magnitude of financial support from NIH to Alabama institutions has been tremendous and has allowed great work to be accomplished. Approximately $46 million annually has been awarded to UAB and the Southern Research Institute. Currently, UAB has requested more than $27 million in competing grants from the various NIH institutes, which would be directly affected by the 25-percent cut in grants sought by the administration.

These institutions are well known for their important contributions to cancer research. In fact, the cancer research community throughout America and indeed the world knows that one of the flagships of cancer research in our Nation is the Cancer Core Center at the University of Alabama in Birmingham. The UAB center is among the three top centers for cancer research in our Nation. This center was one of the first eight new centers recognized by the National Cancer Institute when comprehensive centers were designated in 1973. The UAB Cancer Center has experienced remarkable growth and made many significant contributions to the war on cancer. It has developed some of the most sophisticated resources for basic science and clinical care in the Southeast and is now a regional, national, and international resource for patient care and research.

A number of remarkable research advances and improvements in patient care have taken place at the UAB Cancer Center. For example: First, its scientists were the first to identify the human natural killer cell, thought to be the normal target for interferon and to play a key role in the body's destruction of cancer cells; and second, its scientists were the first to discover that about 20 percent of leukemic children have a disease of primitive antibody forming cells, the pre-Bell, which requires more aggressive treatment in order to cure the patient.

During the time that the center has been in existence, it has grown from virtually nothing to the place where it now has over 1,000 net square feet of new space to which the National Cancer Institute contributed $5.94 million and the University of Alabama in Birmingham contributed $11.2 million from its own resources. Its faculty has grown from a mere handful to more than 120 professionals with Ph.D's or M.D.'s. It has built entirely with its own resources an 80-bed tower dedicate solely to care for patients with cancer. Funding from the National Institutes of Health for "core grants" for this center and others throughout the country has often been described as "the glue that holds a cancer center together."

Madam President, because of the great work and the priority of these research efforts, I have fought hard over the past 6 years to make sure that Congress appropriated adequate Federal funding for the National Institutes of Health programs. Therefore, it was with considerable alarm and dismay that I read of the recent directive of the Office of Management and Budget instructing the National Institutes of Health to fund only 5,000 biomedical research competing grants rather than the 6,526 that Congress intended in fiscal year 1985. This action by the Office of Management and Budget effectively rescinds congressional intent for previously appropriated funds and submits the national biomedical research efforts to precedent-setting and arbitrary political influence. It is clear that unless the Office of Management and Budget's initiative can be thwarted, NIH support of critical biomedical research will be adversely affected both in 1985 and in subsequent years. Not only will there be 1,500 fewer new and competing grants in fiscal year 1985—almost 500 fewer than in fiscal year 1984—resulting in a loss of research opportunities and personnel, but by forwarding funding a certain number of competing grants, NIH would be reducing its commitment base for funding in future years.

When the Congress took action to fund 6,526 NIH grants, it was acting on independent studies of biomedical research needs. The Congress recognized that our scientists are on the verge of critical breakthroughs in the diagnosis and treatment of diseases that have imposed unimaginable hardships on millions of our American families. Cancer in particular, is a disease that knows no class, income level, lifestyle, race or sex. Cancer is a disease that can strike anyone at any time. Cancer remains a major killer. This is why it remains imperative that we continue to support the important work being carried on in cancer research. We have come too far in our fight against this horrible disease to abandon our research efforts now.

I hope that the entire Congress will join me in stopping this disruption of our battle against cancer, particularly since we have made so many sweeping advances.

Madam President, I ask unanimous consent that a letter I recently wrote to the Comptroller General of the United States pertaining to the actions by the Office of Management and Budget to rescind the congressional appropriations for the NIH budget be included in the CONGRESSIONAL RECORD. I ask unanimous consent, also, that three letters I have received from scientists at institutions in Alabama involved in biomedical research be included in the CONGRESSIONAL RECORD: First, a letter from Dr. David O. Wood, assistant professor in the Department of Microbiology and Immunology at the University of South Alabama; second, a letter from Dr. Jenifer Turco, assistant professor in the College of Medicine at the University of South Alabama; and third, a letter from Dr. Herbert C. Chung, a professor of biochemistry and senior scientist at the University of Alabama in Birmingham Cancer Center.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 5, 1985.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: It is my understanding that you have already been contacted by some of my Senate colleagues to seek your opinion regarding the availability and use of FY 1985 appropriations for the National Institutes of Health.

I, too, have a deep interest in the appropriations for the National Institutes of Health, particularly the National Cancer Institute.

As you of course know, last year, the Congress approved a Fiscal Year 1985 Budget of $5.1 billion for the National Institutes of Health. This action by the Congress included funds to support 6,526 new and competing research grants. This figure is 1500 more than the 5,000 originally requested by the Administration for FY 1985. The Congress has recently received information that the Administration, through the FY86 Budget and other supporting documents that it intends to rescind Congressional intent with respect to the use of previously appropriated funds and reallocate NIH funds for new research project grants to pay multiyear projects and limit the number of new and competing renewal research projects to be funded in FY85 to 5,000 instead of the 6,526 grants that the Congress has authorized.

The purpose of my letter is to request that you expedite your opinion with respect to the actions by officials of the Office of Management and Budget to fund projects on a multi-year basis contrary to the intent of the Congress, as set forth in the FY85 Appropriations Bill.

Thank you for your advice and with kindest regards, I am

Sincerely,

HOWELL HEFLIN.

UNIVERSITY OF SOUTH ALABAMA,
COLLEGE OF MEDICINE,
Mobile, AL, February 7, 1985.

Hon. HOWELL HEFLIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HEFLIN: Many of my colleagues and I recently learned that the Office of Management and Budget has instructed the National Institutes of Health to reduce the number of competing grants funded in fiscal year 1985 to 5,000 instead of the 6,526 agreed to by Congress. According to the OMB, this is a cost saving measure that will allow funding of multiyear grants for a few select projects. I believe this will be detrimental to biomedical research in this country and is contrary to the intent of Congress when the budget was approved by Congress last fall and signed into law by the President.

We have witnessed a steady reduction in government commitment to basic research over the past five years. This has had a serious impact on biomedical research that will become even more evident as the attrition rate of personnel and the loss of research opportunities continues to grow. Our strength in this area is a direct result of providing an environment where new ideas can be pursued. Governmental policies that destroy this environment are doing irreparable harm to basic biomedical research and ultimately to the health of our citizens.

I wish to protest this action by OMB and urge you to investigate the matter. The impact will be felt here in our own district at the University of South Alabama College of Medicine, where several investigators stand to lose hundreds of thousands of research dollars.

Thank you for your consideration.

Sincerely,

DAVID O. WOOD, PH.D.,
Assistant Professor.

UNIVERSITY OF SOUTH ALABAMA,
COLLEGE OF MEDICINE,
Mobile, AL, February 12, 1985.

Senator HOWELL HEFLIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR HEFLIN: I am writing to express my concern about the future of biomedical research in the United States.

I am highly disturbed by the recent directive of the Office of Management and Budget, which will substantially reduce the funding of investigator-initiated research grants by the National Institutes of Health. It was clearly the intention of Congress to fund 6,500 new and competing grants in FY 1985. However, the Office of Management and Budget has directed the National Institutes of Health to fund only 5,000 grants in FY 1985, and to use the leftover funds for "forward funding" some of these grants. Such a directive nullifies the intention of Congress and spells disaster for the biomedical research effort in this country. If this directive stands, many quality research applications will not be funded, and many highly competent scientists will be unable to apply their training and experience to biomedical problems. The result will be a weakening of the biomedical research effort.

I strongly urge you to take action NOW toward reversing the directive of the Office of Management and Budget and restoring the level of funding intended by Congress for investigator-initiated grants in FY 1985. Thank you.

Respectfully yours,

JENIFER TURCO, PH.D.,
Assistant Professor.

THE UNIVERSITY OF ALABAMA IN BIRMINGHAM,
Birmingham, AL, February 16, 1985.

Hon. HOWELL HEFLIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HEFLIN: My colleagues and I have read lately about the possibility of President Reagan's administration attempting to reduce the 1985 National Institutes of Health appropriation which is contained in a spending bill that was passed by Congress and signed by the President. The attempted reduction, if materialized, would decrease by over 20% the number of research grants for which the Congressional appropriation is intended. I am disturbed and disappointed by such a plan and I am writing to enlist your assistance to stop the plan.

I do not pretend to understand the legality, or the lack of it, of any attempt to manipulate an approved appropriation. The fact remains that the budget was passed by Congress and signed by the President. The plan to reduce the spending level for fiscal 1985 would be in line with the President's desire to reduce Federal deficit, but is clearly contrary to Congressional intent.

I believe that are facing two issues here. The first is a basic one in regards the Administration's power to "obligate" the entire budget, but to limit actual spending during the current fiscal year to a level below the amount appropriated. If the Administration should follow through with the plan, however legal it may be, it would reinforce the notion in the mind of many that the Federal Government may not be entirely trustworthy. People who take advantage of tax loopholes are often criticized and their practice is frowned upon by the Government, which has been attempting to eliminate loopholes through reform of tax law. The plan to limit the 1985 NIH spending appears to be based on a loophole that is said to be immune to legal challenge. Many tax loopholes are also invulnerable to legal challenge. When citizens take advantage of them, their practice is disapproved. Yet it would seem legitimate for the Administration to take a similar approach in solving its problem. To me this would be an example of double standard being practiced by the Government. The Administration has made a legal commitment and the commitment must be honored. It is difficult to see how it can justify the plan on moral ground.

The other issue relates to the possible adverse impact on the entire biomedical field. As one who has served for many years in several NIH review groups, I know that most of my colleagues are doing an excellent job in their research supported by NIH grants. We are closer than ever before to many new biomedical developments based on basic research. We cannot afford to slow down and lose the momentum. I could go on to list a number of other reasons why basic research would suffer severely from the Administration's plan. However, I do not think it necessary for me to do so since I am certain that you are keenly aware of the possible consequences resulting from the proposed reduction in spending. Instead, I wish to respectively urge you to act on behalf of the biomedical community to stop the Administration from removing portions of the approved 1985 NIH budget and using it in the next fiscal year. Any assistance from you and your office to help the NIH to maintain the spending level that has been legally appropriated will be greatly appreciated by us.

Sincerely yours,

HERBERT C. CHEUNG, PH.D.,
Professor of Biochemistry and Senior Scientist, Cancer Center.

The PRESIDING OFFICER. The majority leader is recognized.

DIRECTIONS TO LEGAL COUNSEL

Mr. DOLE. Madam President, I send two resolutions to the desk on behalf of myself and the distinguished minority leader, Senator BYRD, and ask for their immediate consideration and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. The resolutions will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 97) to direct the Senate Legal Counsel to intervene in *Pitney Bowes Inc.* v. *The United States of America, et al.*

A resolution (S. Res. 98) to direct the Senate Legal Counsel to intervene in *Ameron, Inc.* v. *U.S. Army Corps of Engineers, et al.*

The PRESIDING OFFICER. Is there objection to the present consideration of the resolutions en bloc?

There being no objection, the Senate proceeded to consider the resolutions.

Mr. DOLE. Madam President, on March 5, the Senate agreed to Senate Resolution 91 to direct the Senate Legal Counsel to intervene in an action in the Central District of California to defend the constitutionality of provisions of the Competition in Contracting Act of 1984. The Department of Justice has challenged the constitutionality of certain authority delegated by the Congress to the Comptroller General in the administration of the bid protest provisions of that act. Senate Resolution 91 and a statement explaining its purpose appear in the RECORD at 131 CONGRESSIONAL RECORD S2565-66 (daily ed. March 5, 1985).

The constitutional question has now arisen in two other lawsuits in the district of New Jersey and in the District of Columbia. The following resolutions will authorize the Senate Legal Counsel to intervene in the name of the Senate to present the Senate's defense of the Competition in Contracting Act in those cases.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 97) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 97

Whereas, in the case of *Pitney Bowes Inc. v. The United States of America, et al.*, filed in the United States District Court for the District of Columbia, the constitutionality of the procurement protest system established by the Competition in Contracting Act of 1984, Pub. L. No. 98-369, 98 Stat. 1175, 1199-1203, has been placed in issue;

Whereas, the Department of Justice has notified the Senate that the Department will assert in cases under the Competition in Contracting Act that the powers granted by that Act of Congress to the Comptroller General violate the constitutionally prescribed separation of powers;

Whereas, pursuant to section 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a)(1982), the Senate may direct its Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Pitney Bowes Inc. v. The United States of America, et al.*

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 98) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 98

Whereas, in the case of *Ameron, Inc. v. U.S. Army Corps of Engineers, et al.*, filed in the United States District Court for the District of New Jersey, the constitutionality of the procurement protest system established by the Competition in Contracting Act of 1984, Pub. L. No. 98-369, 98 Stat. 1175, 1199-1203, has been placed in issue;

Whereas, the Department of Justice has notified the Senate that the Department will assert in cases under the Competition in Contracting Act that the powers granted by that Act of Congress to the Comptroller General violate the constitutionally prescribed separation of powers;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a)(1982), the Senate may direct its Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Ameron, Inc. v. U.S. Army Corps of Engineers, et al.*

ORDER TO HOLD AT THE DESK HOUSE JOINT RESOLUTION 85

Mr. DOLE. Madam President, I ask unanimous consent that once the Senate receives from the House of Representatives House Joint Resolution 85, designating the week of March 24, 1985, through March 30, 1985, as "National Skin Cancer Prevention and Detection Week," it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on March 8, March 12, and March 13, 1985, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on March 8, March 12, and March 13, 1985, are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on March 12,

1985, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 1093. An act to give effect to the Treaty Between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bill was signed on March 13, 1985, during the recess of the Senate by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 85. Joint resolution to designate the week of March 24, 1985, through March 30, 1985, as "National Skin Cancer Prevention and Detection Month";

H.J. Res. 121. Joint resolution to designate the month of April 1985, as "National Child Abuse Prevention Month"; and

H.J. Res. 160. Joint resolution designating March 22, 1985, as "National Energy Education Day."

The message also announced that pursuant to the provisions of section 276a-1 of title 22, United States Code, the Speaker appoints as additional members of the delegation to attend the Conference of the Interparliamentary Union to be held in Lome, Togo, on March 25 through March 30, 1985, the following Members on the part of the House: Mr. HAWKINS, Mrs. SCHROEDER, Mr. HUBBARD, Mr. HALL of Ohio, Mr. CROCKETT, Mr. HYDE, Mr. HAMMERSCHMIDT, Mr. FISH, Mr. ROTH, and Mr. BOEHLERT.

The message further announced that pursuant to the provisions of section 194(a), title 14, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Coast Guard Academy the following Members of the part of the House: Mr. GEJDENSON and Mrs. JOHNSON.

The message also announced that pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Air Force Academy the following Members on the part of the House: Mr. FOLEY, Mr. DICKS, Mr. KRAMER, and Mr. LEWIS of California.

The message further announced that pursuant to the provisions of title 10, United States Code, section 4355(a), the Speaker appoints as members of the Board of Visitors to the U.S. Military Academy the following Members on the part of the House: Mr. DIXON, Mr. HEFNER, Mr. FISH, and Mr. HILLIS.

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 121. Joint resolution to designate the month of April 1985, as "National Child Abuse Prevention Month"; to the Committee on the Judiciary.

H.J. Res. 160. Joint resolution designating March 22, 1985, as "National Energy Education Day"; to the Committee on the Judiciary.

MEASURE HELD AT THE DESK

The following joint resolution was held at the desk by unanimous consent pending further disposition:

H.J. Res. 85. Joint resolution to designate the week of March 24, 1985, through March 30, 1985, as "National Skin Cancer Prevention and Detection Month."

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-98. A resolution adopted by the legislature of the State of Nebraska; to the Committee on Agriculture, Nutrition, and Forestry.

"LEGISLATIVE RESOLUTION 58

"Whereas, on February 27, 1985, the United States Senate passed legislation providing significant agricultural credit relief to the farmers of the Midwest; and

"Whereas, the House of Representatives has the opportunity to forward that important legislation to the President of the United States; and

"Whereas, President Reagan has indicated that his veto of such legislation is to be anticipated.

"Now, therefore, be it resolved by the members of the eighty-ninth legislature of Nebraska, first session:

"1. That the House of Representatives is hereby urged to forward such legislation to the President.

"2. That the President is hereby urged to reconsider his threatened veto of the agricultural crisis credit legislation, thereby demonstrating his concern for the farms and people of the Midwest.

"3. That copies of this resolution be immediately telegraphed to President Reagan, the President of the Senate, and the Speaker of the House of Representatives."

POM-99. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Commerce, Science, and Transportation.

"RESOLUTION—SENATE OF PENNSYLVANIA

"Whereas, the public welfare and economic vitality of the Commonwealth, its citizens and its industry are being jeopardized by the proposed sale of the Conrail corporation to private sector entities; and

"Whereas, continued Federal, State and local investment efforts to spur increased economic growth in the Commonwealth are being jeopardized by the proposed nonpublic sale of Conrail without assurances of adequate maintenance and investment in our rail infrastructure and rail transportation systems; and

"Whereas, Conrail has demonstrated its ability to efficiently and profitably manage the rail infrastructure and rail transportation systems in this Commonwealth; and

"Whereas, It is clearly in the best interests of the Commonwealth, its citizens and its industries that Conrail's current structure be maintained in one management unit; therefore be it

"Resolved, That the Senate memorialize the Congress of the United States to reject the proposed nonpublic sale of Conrail to Norfolk Southern Corporation in order that the Commonwealth's economy may continue to prosper and flourish; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States, Ronald W. Reagan, the Secretary of Transportation, Elizabeth Dole, and the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-100. A joint resolution adopted by the legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION No. 92

"Whereas, Joint venture fisheries in which United States vessels catch fish in the 200-mile Fishery Conservation Zone and transfer them to foreign processing vessels and directed fisheries in which foreign vessels catch fish in the 200-mile Fishery Conservation Zone are interim measures intended to provide markets until domestic processors are able to provide them; and

"Whereas, Domestic processing of, and markets for, Pacific whiting are presently being developed; and

"Whereas, Foreign fish processing vessels dump fish wastes into nearshore waters off the California coast which risks souring of prime fishing grounds; and

"Whereas, Foreign fishing and fish processing vessels were excluded from waters within 12 miles of shore before 1976; and

"Whereas, Joint venture fisheries in nearshore waters off the California coast compete with California commercial fishermen, impede the development of domestic processing and markets, and needlessly worsen the United States balance-of-trade deficit; and

"Whereas, The Pacific Marine Fisheries Commission, which represents the States of California, Alaska, Idaho, Oregon, and Washington, met on November 9, 1983, in Boise, Idaho, and voted to support full phase-in of domestic fisheries by 1990 and to oppose extension of joint venture fisheries south of Point Arena; and

"Whereas, The Pacific Fishery Management Council met on November 11, 1983, in Boise, Idaho, in spite of the Pacific Marine Fishery Commission action and over the opposition of the State of California, and recommended that the Secretary of Commerce allow an extension of a Soviet-United States joint venture fishery for Pacific whiting south of Point Arena; and

"Whereas, An extension of the joint venture fishery south of Point Arena would be of no benefit to California, off of which coast it would be located; and

"Whereas, The stocks of Pacific whiting are less mature the further south they are found along the Pacific coast, and the juvenile fish provide forage for salmon and other valuable commercial and recreational species; and

"Whereas, A joint venture fishery for Pacific whiting in southern California waters

would lead to the incidental catch of Pacific mackerel, a species which is being harvested to maximum allowable biological limits by southern California fishermen; and

"Whereas, The presence of Soviet fish processing vessels off the central and southern California coast would raise serious national security concerns for the United States; and

"Whereas, The Pacific Fishery Management Council on January 12, 1984, reversed its recommendation to allow an extension of the joint venture fishery south of Point Arena, but could reverse itself again and once more recommend it; and

"Whereas, The Pacific Fishery Management Council, meeting on April 12, 1984, in San Francisco and on July 12, 1984, in San Diego, over the opposition of the State of California, recommended establishing Soviet and Polish directed fisheries for Pacific whiting north of Point Arena; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That is it the policy of the State of California to support full phase-in of domestic fisheries by 1990, to exclude foreign fish processing vessels from waters within 12 miles of the California coast, and to prevent any extension of joint venture fisheries south of Point Arena and any directed fisheries off the California coast; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the Secretary of Commerce and the Pacific Fishery Management Council to implement these policies; and be it further

"Resolved, That the Legislature memorializes the Secretary of Commerce and the Pacific Fishery Management Council to examine the feasibility of excluding foreign fish processing vessels from waters within 30 miles of the California coast to protect and encourage California fishermen and processors; and be it further

"Resolved, That the Department of Fish and Game, in cooperation with the Pacific Marine Fisheries Commission and the Joint Committee on Fisheries and Aquaculture, prepare and submit an annual report to the Legislature by January 1 of each year commencing in 1985, and continuing each year until January 1, 1990, on the progress made toward implementing these policies and these memorials; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State of the United States, to the Secretary of Commerce, to the Chairperson of the Pacific Fishery Management Council, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, to the Director of Fish and Game, to the Executive Director of the Pacific Marine Fisheries Commission, and to the Chair of the Joint Committee on Fisheries and Aquaculture of the Legislature."

POM-101. A joint resolution adopted by the legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY CONCURRENT RESOLUTION No. 161

"Whereas a substantial number of fishing vessels based in California and in the other Pacific states are now operating in the North Pacific, both west and east of the International Dateline; and

"Whereas a viable albacore fishery has been developed in that area through many years of research, which was funded by the industry through the American Fishermen's Research Foundation, working in cooperation with the National Marine Fisheries Service and the Pacific Tuna Development Foundation (now named the Pacific Fisheries Development Foundation), all of which clearly demonstrate the interest of the government and industry in developing these fisheries; and

"Whereas several other fisheries with significant potential have begun to develop as a consequence of the vessels traveling along the leeward islets chain to and from the Midway albacore fishery; and

"Whereas the national interest would be served by improving our balance of trade position, by establishing and maintaining an economic and physical presence in the area, and by creating and maintaining employment and business in Hawaii and on the Pacific Coast of the continental United States; and

"Whereas Midway Island Harbor is the only harbor of refuge in reasonable proximity to this area, the next harbor being Honolulu, and Midway Island Harbor has unused facilities available which can be utilized without inconvenience to the Navy and without any security risk; and

"Whereas Midway Island is at the upper tip of the Northwestern Hawaiian Islands and is only a few days' running time from the migratory route of the Northern Pacific albacore; and

"Whereas albacore is primarily caught by small trolling vessels manned by crews of two to three members, and the running time of 10 to 12 days from Honolulu and substantially longer from California to the fishing grounds makes albacore fishing impractical for small vessels; and

"Whereas establishment of a base on Midway Island for refueling, resupplying, and offloading may make albacore fishing economically viable; and

"Whereas the Pacific Tuna Development Foundation estimated that revenues from albacore fishing could reach $25 million a year after a five-year development program; and

"Whereas Midway Island, however, is a United States Naval Base and the Navy's permission is required if a civilian fishing base is to be constructed on the island; and

"Whereas only a small part of the inner harbor and land of Midway Island is required for a fishing base; and

"Whereas the fishing fleet will continue to operate in cooperation with the American Fishermen's Research Foundation and to provide oceanographic information, including sea temperature, bathythermograph, wind and weather, and other technical data which will be of value to the Navy and other government agencies, and provide data for more accurate weather forecasting for the Pacific Coast; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States, and the Secretary of Defense, the Secretary of the Navy, and the Secretary of Commerce to make the harbor facilities, or a part thereof, of Midway Island available for use by American fishing vessels to the extent necessary to support American fishing activities in the adjacent areas of the Pacific Ocean; and be it further

"Resolved, That the Department of Fish and Game, in cooperation with the Department of Economic and Business Development, the Economic Development Commission, the Joint Committee on Fisheries and Aquaculture, and other appropriate state agencies, contact the United States Navy, other appropriate federal agencies, the State of Hawaii, and interstate agencies, including the Pacific Marine Fisheries Commission and the West Coast Fisheries Development Foundation, to attempt to make the harbor facilities of Midway Island available, and to determine whether the State of California may play any role in making them available; and be it further

"Resolved, That the Department of Fish and Game shall report to the Legislature on or before January 1, 1985, and periodically thereafter, on progress toward making the harbor facilities available and on any further steps the State of California might take to make them available; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Defense, the Secretary of the Navy, the Secretary of Commerce, to each Senator and Representative from California in the Congress of the United States, to the Director of Fish and Game, to the Director of Economic and Business Development, to the Chair of the Economic Development Commission, to the Chair of the Joint Committee on Fisheries and Aquaculture of the Legislature, to the Executive Director of the Pacific Marine Fisheries Commission, and to the Executive Director of the West Coast Fisheries Development Foundation."

POM-102. A petition from a citizen of Campo, Colorado relating to a redress of grievances regarding the Social Security System; to the Committee on Finance.

POM-103. A petition from a citizen of Concord, New Hampshire opposing the confirmation of Andrew L. Frey for a position on the D.C. Court of Appeals; to the Committee on Governmental Affairs.

POM-104. A joint resolution adopted by the Commonwealth of Virginia; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION No. 151

"Whereas in the year 1989 the United States of America will have approached the bicentennial of the founding of our great republic; and

"Whereas in recognizing this historical occasion it is also necessary to focus attention on the activities and events occurring in the years preceding it; and

"Whereas in March of 1785 a conference at Mount Vernon was held which provided a forum for the exchange of ideas helping to prepare the way for the Annapolis Convention in 1786 that resulted in the Constitutional Convention held in Philadelphia the following year; and

"Whereas the Historic Mount Vernon Conference was held to discuss matters of mutual concern to the Legislatures of both Maryland and Virginia, each state naming commissioners to the Conference; and

"Whereas the agreement reached at the Conference had an 'impact upon the whole structure of the confederation'; and

"Whereas March 28, 1985, marks the 200th Anniversary of the Mount Vernon Conference; now, therefore, be it

"Resolved by the Senate, the House of Delegates concurring, That March 28, 1985, shall be observed in the Commonwealth as a day of historical significance recognizing the invaluable part played by the Mount

Vernon Conference and its attendants as a first step leading to the Constitutional Convention; and, be it

"Resolved further, That a copy of this resolution be sent to the Legislature of Maryland to apprise its members of this action by this General Assembly and for joint recognition or other ceremonies as they might deem appropriate; and, be it

"Resolved further, That it is encouraged that ceremonies be undertaken in the Commonwealth and by the federal government as well as other states to recognize the importance of the Mount Vernon Conference in establishing the American Republic; and, be it

"Resolved finally, That the Clerk of the Senate prepare a copy of this resolution for transmittal to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate and to each member of the Virginia Congressional Delegation."

POM-105. A joint resolution adopted by the Legislature of the State of California. To the Committee on Labor and Human Resources.

"ASSEMBLY JOINT RESOLUTION No. 139

"Whereas the erosion of the United States' position as a world leader in science, engineering and technology has become a matter of national concern; and

"Whereas if the United States is to avoid erosion of its position as a world leader in these fields, access to sophisticated computer hardware systems must be ensured; and

"Whereas it is also vitally important that the United States continue to produce scientists and engineers who have had experience with supercomputers; and

"Whereas proposals are being submitted to the National Science Foundation for the establishment of a national supercomputer center at the University of California; and

"Whereas due to this state's vital role in the development of this nation's computer technology, it would be of immense value both to this state and to the nation to establish a supercomputer center at the University of California; and

"Whereas the establishment of this supercomputer center would allow many individuals, in a university research setting, to acquire the greatly needed hands-on experience with supercomputers; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation providing adequate funding for the establishment of supercomputer centers; and be it further

"Resolved, That the Legislature memorializes the National Science Foundation to grant the necessary funding for the establishment of a supercomputer center at the University of California; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of the National Science Foundation."

POM-106. A resolution adopted by the San Bernardino County Federation of Republican Women relating to the policies of the Republican Administration; ordered to lie on the table.

FOREIGN CURRENCY REPORT

Mr. DOLE. Mr. President, I ask that the annual consolidated report of expenditure of foreign currencies and appropriated funds for foreign travel by Members and employees of the U.S. Senate be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dr. Jeffrey M. Burnam:									
Germany	Deutsche mark	2,247.19	765.00	335.57	114.17			2,582.76	879.17
United States	Dollar				1,800.00				1,800.00
Total			765.00		1,914.17				2,679.17

JESSE HELMS,
Chairman,
Committee on Agriculture, Nutrition, and Forestry, Jan. 16, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David G. Shoultz:									
Mexico	Peso	75,000	375.00					75,000	375.00
Colombia	Peso	9,538	95.38					9,538	95.38
Peru	Sol	500,775	150.00					500,775	150.00
Bolivia	Peso	300,000	150.00					300,000	150.00
Argentina	Peso	17,850	255.00					17,850	255.00
Uruguay	Peso	4,068.40	75.00					4,068.40	75.00
Brazil	Cruzeiro	286,740	150.00					286,740	150.00
Total			1,250.38						1,250.38

JESSE HELMS,
Chairman,
Committee on Agriculture, Nutrition, and Forestry, Jan. 16, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard Collins:									
Israel	Dollar		325.00						325.00
Spain	Dollar		75.00						75.00
James Bond:									
Morocco	Dollar		225.00						225.00
Cyprus	Dollar		75.00						75.00
Israel	Dollar		325.00						325.00
Spain	Dollar		75.00						75.00
Richard Collins:									
Dominican Republic	Dollar		150.00						150.00
Panama	Dollar		80.00						80.00
Colombia	Dollar		95.00						95.00
Peru	Dollar		375.00						375.00
Bolivia	Dollar		150.00						150.00
Argentina	Dollar		225.00						225.00
Warren Kane:									
England	Pound	232.99	280.40					232.99	280.40
West Germany	Deutsche mark	724.63	233.00					724.63	233.00
Airfare	Dollar				2,459.99				2,459.99
Senator Thomas Eagleton:									
England	Pound	297.41	356.00					297.41	356.00
John Shank:									
France	Franc	2,546.10	270.00					2,546.10	270.00
Germany	Deutsche mark	262.70	85.00					262.70	85.00
Austria	Schilling	5,549.60	258.00					5,549.60	258.00
Hungary	Forint	3,861.30	76.00					3,861.30	76.00
Poland	Zloty	23,625	187.50					23,625	187.50
Sweden	Krona	1,106.90	126.00					1,106.90	126.00
England	Pound	369.75	445.00					369.75	445.00
Airfare					2,383.00				2,383.00
Charles Parkinson:									
France	Franc	2,546.10	270.00					2,546.10	270.00
Germany	Deutsche mark	262.70	85.00					262.70	85.00
Austria	Schilling	5,549.60	258.00					5,549.60	258.00
Hungary	Forint	3,861.30	76.00					3,861.30	76.00
Poland	Zloty	23,625	187.50					23,625	187.50
Sweden	Krona	1,106.90	126.00					1,106.90	126.00
England	Pound	369.75	445.00					369.75	445.00
Airfare					2,383.00				2,383.00
Richard Ladd:									
Belgium	Erank	9,202	146.00					9,202	146.00
Germany	Dollar		221.00						221.00
Sweden			351.00						351.00
Norway	Krone	2,604	294.00					2,604	294.00
Senator Ernest Hollings:									
England	Pound	281.15	356.00					281.15	356.00
Senator Robert Kasten:									
Morocco	Dollar		225.00						225.00
Cyprus	Dollar		75.00						75.00
Israel	Dollar		325.00						325.00
Spain	Dollar		75.00						75.00
James Bond:									
Dominican Republic	Dollar		400.00		407.00				807.00
Sean O'Keefe:									
Japan	Yen	127,332	524.00					127,332	524.00
Korea	Won	224,130	275.00					224,130	275.00
Hong Kong	Dollar	2,782.80	357.00					2,782.80	357.00
Philippines	Peso	3,716.28	186.00					3,716.28	186.00
Richard Collins:									
Morocco	Dollar		225.00						225.00
Cyprus	Dollar		75.00						75.00
Richard Ladd:									
United States	Dollar				4,042.00				4,042.00
Francis Sullivan:									
Ireland	Pound	198.15	204.00					198.15	204.00
Oman	Riyal	55.20	160.00					55.20	160.00
Pakistan	Rupee	4,481	304.00					4,481	304.00
India	Rupee	2,107	172.00					2,107	172.00
Nepal	Rupee	3,960	225.00					3,960	225.00
Hong Kong	Dollar	2,786.40	357.00					2,786.40	357.00
Senator Jim Sasser:									
Ireland	Pound	198.15	204.00					198.15	204.00
Oman	Riyal	55.20	160.00					55.20	160.00
Pakistan	Rupee	4,481	304.00					4,481	304.00
India	Rupee	2,107	172.00					2,107	172.00
Nepal	Rupee	3,960	225.00					3,960	225.00
Hong Kong	Dollar	2,786.40	357.00					2,786.40	357.00
Senator J. Bennett Johnston:									
Ireland	Pound	198.15	204.00					198.15	204.00
Oman	Riyal	55.20	160.00					55.20	160.00
Pakistan	Rupee	4,481	304.00					4,481	304.00
India	Rupee	2,107	172.00					2,107	172.00
Nepal	Rupee	3,960	225.00					3,960	225.00
Hong Kong	Dollar	2,786.40	357.00					2,786.40	357.00
William P. Jones:									
Ireland	Pound	198.15	204.00					198.15	204.00
Oman	Rial	55.20	160.00					55.20	160.00
Pakistan	Rupee	4,481	304.00					4,481	304.00
India	Rupee	2,107	172.00					2,107	172.00
Nepal	Rupee	3,960	255.00					3,960	255.00
Hong Kong	Dollar	2,786.40	357.00					2,786.40	357.00
Total			15,717.40		11,674.99				27,392.39

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Dec. 1984.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Pete Wilson:									
Italy	Lira	96,316	55.32					96,316	55.32
Germany	Deutsche mark	5,015.20	184.00					5,015.20	184.00
England	Pound	35.45	48.00					35.45	48.00
Belgium	Franc	3,435	60.75					3,435	60.75
Dr. Mark Albrecht:									
Italy	Lira	132,316	76.00					132,316	76.00
Germany	Deutsche mark	5,015.20	184.00					5,015.20	184.00
England	Pound	35.45	48.00					35.45	48.00
Belgium	Franc	3,435	60.75					3,435	60.75
Carl M. Smith, Jr.:									
Germany	Deutsche mark		330.00						330.00
Spain	Peseta		245.00						245.00
England	Pound	793.13	1,039.00					793.13	1,039.00
James F. McGovern:									
Spain	Peseta	37,282	165.70					37,282	165.70
Senator John Tower:									
England	Pound		65.53						65.53
Total			2,562.05						2,562.05

JOHN TOWER,
Chairman, Committee on Armed Services, Jan. 2, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jeff M. Bingham:									
Panama	Balboa		320.00						320.00
Total			320.00						320.00

JAKE GARN,
Chairman,
Committee on Banking, Housing, and Urban Affairs, Jan. 24, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Alfonse D'Amato:									
United States	Dollar				2,001.00				2,001.00
Edward E. Allison:									
Switzerland	Franc	1,170	492.00						492.00
United States	Dollar				1,734.00				1,734.00
Total			492.00		3,735.00				4,227.00

JAKE GARN,
Chairman,
Committee on Banking, Housing, and Urban Affairs, Jan. 24, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Douglas Olin:									
Dominican Republic	Dollar		150.00						150.00
Panama	Dollar		80.00						80.00
Colombia	Dollar		95.00						95.00
Peru	Dollar		375.00						375.00
Bolivia	Dollar		150.00						150.00
Argentina	Dollar		225.00						225.00
Total			1,075.00						1,075.00

PETE V. DOMENICI,
Chairman, Committee on the Budget, Feb. 4, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Martin P. Kress:									
Switzerland	Franc	1,681.75	675.00			440	177.70	2,121.75	852.70
United States	Dollar				1,913.38				1,913.38
Peter B. Perkins, Jr.:									
Switzerland	Franc	1,681.75	675.00			440	177.70	2,121.75	852.70
United States	Dollar				1,535.00				1,535.00
Total			1,350.00		3,448.38		355.40		5,153.78

JACK DANFORTH,
Chairman,
Committee on Commerce, Science, and Transportation, Jan. 16, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gerald J. Kovach:									
England	Pound	217.27	288.00					217.27	288.00
Switzerland	Franc	780.15	328.00	264	280.83			1,044.15	608.83
France	Franc	4,277.7	490.00	135	15.59			4,412.7	505.59
United States	Dollar				2,301.00				2,301.00
Ward H. White:									
England	Pound	217.27	288.00	31	41.09			248.28	329.09
Switzerland	Franc	780.15	328.00	881.10	368.68			1,661.25	696.68
France	Franc	4,277.7	490.00					4,412.7	490.00
United States	Dollar				2,301.00				2,301.00
Total			2,212.00		5,308.19				7,520.19

JACK DANFORTH,
Chairman,
Committee on Commerce, Science, and Transportation, Jan. 16, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charlene Sturbitts:									
Japan	Yen	167,670	690.00					167,670	690.00
United States	Dollar				2,432.00				2,432.00
Curtis A. Moore:									
Japan	Yen	167,670	690.00					167,670	690.00
United States	Dollar				2,183.00				2,183.00
Total			1,380.00		4,615.00				5,995.00

ROBERT STAFFORD,
Chairman,
Committee on Environment and Public Works, Jan. 30, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON ETHICS, FOR TRAVEL FROM SEPT. 11 TO SEPT. 17, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William B. Canfield III:									
Greece	Drachma		450.00		950.00				1,400.00
Clendon H. Lee, Jr.:									
Greece	Drachma		450.00		950.00				1,400.00
Total			900.00		1,900.00				2,800.00

TED STEVENS,
Chairman, Select Committee on Ethics, Jan. 10, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael Stern:									
Israel	Dollar		1,300.00		2,049.00				3,349.00
Total			1,300.00		2,049.00				3,349.00

ROBERT J. DOLE,
Chairman, Committee on Finance, Feb. 11, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
M. Graeme Bannerman:									
Lebanon	Pound (7.48)	1,391.28	186.00					1,391.28	186.00
England	Pound (1.24)	76.70	96.00					76.70	96.00
United States	Dollar				1,647.00				1,647.00
Amendment to 1st quarter 1984:									
William G. Miller:									
U.S.S.R.	Dollar		500.00		372.00				872.00
Amendment to 2d quarter 1984:									
Codel Hawkins:									
Mexico	Dollar						1,697.27		1,697.27
Peru	Dollar						377.65		377.65
Bolivia	Dollar						1,006.45		1,006.45
Argentina	Dollar						1,798.92		1,798.92
Uruguay	Dollar						320.66		320.66
Brazil	Dollar						516.31		516.31
Carl W. Ford:									
Thailand	Dollar		648.00		77.40		24.77		750.17
Malaysia	Dollar		225.00						225.00
Philippines	Peso	9,453.38	675.00					9,453.38	675.00
United States	Dollar				3,272.35				3,272.35
Total			2,330.00		5,368.75		5,742.03		13,440.78

CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, Dec. 17, 1984.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM SEPT. 22 TO SEPT. 28, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ian Butterfield:									
Germany	Deutsche mark	1,394.46	440.00	120	37.94			1,514.46	477.94
United States	Dollar				1,598.00				1,598.00
Total			440.00		1,635.94				2,075.94

WILLIAM V. ROTH, JR.,
Chairman, Committee on Governmental Affairs, Dec. 18, 1984.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard Kaufman:									
United States	Dollar				2,561.00				2,561.00
Greece	Drachma	26,480	225.00					26,480	225.00
Ruth Kurtz:									
Japan	Yen	87,483	363.00					87,483	363.00
Total			588.00		2,561.00				3,149.00

ROGER W. JEPSEN,
Chairman, Joint Economic Committee, Nov. 29, 1984.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
Belgium	Franc			1,500	24.00			1,500	24.00
Total					24.00				24.00

STROM THURMOND,
Chairman, Committee on the Judiciary, Jan. 15, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael Pillsbury:									
France	Franc	3,052.80	360.00						360.00
Switzerland	Franc	379.75	164.00						164.00
Austria	Schilling	1,988.70	101.00						101.00
Hungary			76.00						76.00
United States	Dollar				1,973.00				1,973.00
Total			701.00		1,973.00				2,674.00

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Jan. 3, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Michael Pillsbury:									
Liberia			157.00						157.00
Kenya			450.00		329.00				779.00
Total			607.00		329.00				936.00

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Jan. 3, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Paula Hawkins:									
Ecuador	Dollar		324.00						324.00
Venezuela	Dollar		75.00						75.00
Costa Rica	Dollar		112.50						112.50
Panama	Dollar		41.50						41.50
John Dudinsky:									
Ecuador	Dollar		324.00						324.00
Venezuela	Dollar		216.00						216.00
Costa Rica	Dollar		331.00						331.00
Panama	Dollar		116.00						116.00
John Mica:									
Ecuador	Dollar		324.00						324.00
Venezuela	Dollar		216.00						216.00
Costa Rica	Dollar		331.00						331.00
Panama	Dollar		116.00						116.00
John Dudinsky:									
France	Dollar		249.00						249.00
Germany	Dollar		150.00						150.00
Spain	Dollar		150.00						150.00
Morocco	Dollar		225.00						225.00
United States	Dollar				2,315.10				2,315.10
Total			3,301.00		2,315.10				5,616.10

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Jan. 29, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALL BUSINESS, FOR TRAVEL FROM NOV. 7 TO NOV. 19, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert J. Dotchin:									
Hong Kong	Hong Kong dollar	2,782.80	357.00					2,782.80	357.00
People's Republic of China	Yuan	954.37	375.00					954.37	375.00
United States	Dollar				2,032.93				2,032.93
Alan L. Chvotkin:									
Hong Kong	Hong Kong dollar	2,782.80	357.00					2,782.80	357.00
People's Republic of China	Yuan	954.37	375.00					954.37	375.00
United States	Dollar				2,032.93				2,032.93
Total			1,464.00		4,065.86				5,529.86

LOWELL WEICKER, JR.,
Chairman, Committee on Small Business, Jan. 3, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), UNITED STATES DELEGATION TO ICARA II, COMMITTEE ON RULES AND ADMINISTRATION, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Thomas R. Getman:									
Switzerland	Franc	975	410.00		1,535.00			975	1,945.00
Uganda	Shilling				100.00				100.00
Total			410.00		1,635.00				2,045.00

CHARLES McC. MATHIAS, JR.,
Chairman, Committee on Rules and Administration, Oct. 10, 1984.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), CODEL GARN, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND MINORITY LEADERS FOR TRAVEL FROM NOV. 8–19, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jake Garn:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Senator Paul Laxalt:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Senator Jack Danforth:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Senator Alan Simpson:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
William F. Hildenbrand:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
M. Danny Wall:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
W. Lamar Smith, Jr.:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Kenneth A. McLean:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Vivian Dubreuil:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Alvina Wall:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Yvonne L. Hopkins:									
People's Republic of China	Yuan	1,525.51	589.00					1,525.51	589.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL GARN, FOR TRAVEL AUTHORIZED BY THE MAJORITY AND MINORITY LEADERS FOR TRAVEL FROM NOV. 8-19, 1984—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hong Kong	Hong Kong dollar	2,369.70	304.00					2,369.70	304.00
Taiwan	Taiwan dollar	7,239.00	184.00					7,239.00	184.00
Delegation expenses:									
People's Republic of China	United States dollar						3,560.32		3,560.32
Hong Kong	United States dollar						3,480.17		3,480.17
Taiwan	United States dollar						4,382.14		4,382.14
Total			11,847.00				11,422.63		23,269.63

Note.—Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

JAKE GARN,
Chairman of Delegation, November 1984.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL THURMOND, FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE FROM APR. 1 TO JUNE 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Strom Thurmond:									
France	Franc	1,823.17	214.49					1,823.17	214.49
Thad Strom:									
France	Franc	1,823.17	214.49					1,823.17	214.49
Senator Lowell Weicker:									
France	Franc	2,091	246.00					2,091	246.00
Senator John Warner:									
France	Franc	2,091	246.00					2,091	246.00
William Stewart:									
France	Franc	2,091	246.00					2,091	246.00
Ken Johnson:									
France	Franc	1,799.36	211.69					1,799.36	211.69
K.K. Cowan:									
France	Franc	4,182	492.00					4,182.00	492.00
Delegation expenses				6,591.80	781.37	8,243.77	969.94	14,835.57	1,751.31
Total			1,870.67		781.37		969.94		3,621.98

STROM THURMOND,
President pro tempore, Feb. 6, 1985.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1984

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sam Ballenger:									
Guatemala	Quetzale	260	260.00					260	260.00
United States	Dollar				582.92				582.92
Margaret Hunt:									
Nicaragua	Dollar		450.00		563.92				1,013.92
Honduras	Dollar		376.74						376.74
Joel S. Lisker:									
Nicaragua	Dollar		450.00		563.92				1,013.92
Honduras	Dollar		376.74						376.74
Total			1,913.48		1,710.76				3,624.24

STROM THURMOND,
President pro tempore, Feb. 7, 1985.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Barbara W. Schlicher, of New Jersey, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships.

John A. Bohn, Jr., of Virginia, to be First Vice President of the Export-Import Bank of the United States.

Richard H. Francis, of Virginia, to be President of the Solar Energy and Energy Conservation Bank.

(The above nominations were reported from the Committee on Banking, Housing, and Urban Affairs with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

Carol Gene Dawson, of Virginia, to be a Commissioner of the Consumer Product Safety Commission.

Richard H. Jones, of Virginia, to be Deputy Administrator of the Federal Aviation Administration.

Edward J. Philbin, of California, to be a Federal Maritime Commissioner.

Mary L. Azcuenaga, of the District of Columbia, to be a Federal Trade Commissioner.

The following officers of the U.S. Coast Guard for promotion to the grade of commodore:

Capt. Robert L. Johanson, USCG.
Capt. William F. Merlin, USCG.
Capt. Arnold B. Beran, USCG.
Capt. Peter J. Rots, USCG.
Capt. Thomas T. Matteson, USCG.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. DANFORTH. I also report favorably, for the Committee on Commerce, Science, and Transportation, three nomination lists which appeared in full in the CONGRESSIONAL RECORD of January 21 and 24 and February 19, 1985, and, to save the expense of reprinting them on the Executive Calendar, ask unanimous consent that they lie at the Secretary's desk for the information of Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR (by request):

S. 656. A bill to further amend the Peace Corps Act, and for other purposes; to the Committee on Foreign Relations.

By Mr. THURMOND (for himself, Mr. MURKOWSKI, Mr. SPECTER, and Mr. PRYOR):

S. 657 A bill to establish the Veterans' Administration as an executive department; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 658. A bill to establish a commission to study and make recommendations on the desirability and feasibility of amending the copyright laws to compensate authors for the not-for-profit lending of their works; to the Committee on the Judiciary.

By Mr. LUGAR (by request):

S. 659. A bill to authorize appropriations for fiscal years 1986 and 1987 for the Department of State, and for other purposes; to the Committee on Foreign Relations.

S. 660. A bill to amend the Foreign Assistance Act of 1961, the Arms Export Control Act and the Agricultural Trade Development and Assistance Act of 1954, to authorize development and security assistance programs for fiscal year 1986, and for other purposes; to the Committee on Foreign Relations.

By Mr. PACKWOOD:

S. 661. A bill entitled the "George Milligan Control Tower"; to the Committee on Commerce, Science, and Transportation.

By Mr. FORD:

S. 662. A bill place certain restrictions on the storage and demilitarization of chemical munitions and lethal chemical agents at Lexington-Bluegrass Army Depot, Kentucky, and for other purposes; to the Committee on Armed Services.

By Mr. METZENBAUM (for himself, Mr. HATFIELD, Mr. EXON, Mr. COHEN, Mr. PROXMIRE, and Mr. HART):

S. 663. A bill to amend the Internal Revenue Code of 1954 to modify the alternative minimum corporate tax; to the Committee on Finance.

By Mr. NICKLES (for himself and Mr. ABDNOR):

S. 664. A bill to facilitate the competitiveness of exports of United States agricultural commodities; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. WALLOP, Mr. NICKLES, Mr. ARMSTRONG, Mr. COHEN, Mr. DENTON, Mr. EAST, Mr. KASTEN, and Mr. MCCLURE):

S. 665. A bill to amend the Fair Labor Standards Act of 1938 to facilitate industrial homework, including sewing, knitting, and craftmaking, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GARN (for himself and Mr. HECHT) (by request):

S. 666. A bill to amend the National Flood Insurance Act of 1968, as amended, to extend certain authorities thereunder, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 667. A bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO (for himself and Mrs. HAWKINS):

S. 668. A bill to provide funding for the ACTION Drug Prevention Program in the Department of Health and Human Services out of proceeds received by the Customs Forfeiture Fund and the Department of Justice Assets Forfeiture Fund; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 669. A bill entitled the "Correctional Facility Development Act"; to the Committee on the Judiciary.

By Mr. EXON:

S. 671. A bill to authorize the Secretary of the Interior to modify the construction, operation, and maintenance of the O'Neill unit, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Energy and Natural Resources.

By Mr. HEFLIN:

S. 672. A bill for the relief of Kazim Ates Ontuna; to the Committee on the Judiciary.

S. 673. A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. SPECTER, Mr. LEAHY, Mr. STAFFORD, Mr. METZENBAUM, Mr. PACKWOOD, Mr. CRANSTON, Mr. CHAFEE, Mr. PROXMIRE, Mr. ANDREWS, Mr. CHILES, Mr. HATCH, Mr. RIEGLE, Mr. TRIBLE, Mr. SARBANES, Mr. GORTON, Mr. LEVIN, Mr. DURENBERGER, Mr. MATSUNAGA, Mr. BOSCHWITZ, Mr. DODD, Mr. HEINZ, Mr. ABDNOR, Mr. WILSON, Mr. DANFORTH, Mr. ZORINSKY, Mr. BRADLEY, Mr. MITCHELL, Mr. DECONCINI, and Mr. BURDICK):

S.J. Res. 79. Joint resolution to designate April, 1985, as "Fair Housing Month"; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. LAXALT, Mr. KENNEDY, Mr. LEAHY, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CRANSTON, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HELMS, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MOYNIHAN, Mr. NUNN, Mr. STAFFORD, and Mr. STEVENS):

S.J. Res. 80. Joint resolution to authorize and request the President to designate the month of May, 1985, as "National Physical Fitness and Sports Month"; to the Committee on the Judiciary.

By Mr. GOLDWATER (for himself, Mr. GARN and Mr. SASSER):

S.J. Res. 81. Joint resolution to provide for the appointment of Barnabas McHenry as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. DANFORTH (for himself, Mr. BAUCUS, Mr. BURDICK, Mr. DURENBERGER, Mr. LAXALT, Mr. NUNN, Mr. SYMMS, and Mr. KERRY):

S.J. Res. 82. Joint resolution to designate the week of March 17, 1985, through March 22, 1985, as "National Camp Fire Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GOLDWATER (for himself and Mr. DECONCINI):

S. Res. 96. A resolution relating to the centennial observance of the University of Arizona; to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 97. A resolution to direct the Senate Legal Counsel to intervene in "Pitney Bowes Inc. v. The United States of America, et al."; considered and agreed to.

S. Res. 98. A resolution to direct the Senate Legal Counsel to intervene in "Ameron, Inc. v. U.S. Army Corps of Engineers, et al."; considered and agreed to.

By Mr. HELMS:

S. Res. 99. A resolution expressing the sense of the Senate that the Export-Import Bank of the United States should not grant financial assistance to or on behalf of fertilizer industries owned or controlled by foreign governments; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (by request):

S. 656. A bill to further amend the Peace Corps Act, and for other purposes; to the Committee on Foreign Relations.

PEACE CORPS ACT AMENDMENTS

● Mr. LUGAR. Mr. Presdient, by request, I introduce for appropriate reference a bill to amend the Peace Corps Act to authorize appropriations for fiscal year 1986 and for other purposes.

This proposed legislation has been requested by the Peace Corps and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill, and the letter from the Director of the Peace Corps to the President of the Senate dated March 11, 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Peace Corps Act (hereinafter the "Act") is amended by changing the first sentence thereof to read as follows: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed $124,400,000 for the fiscal year 1986 and such sums as may be necessary for the fiscal year 1987."

SEC. 2. Section 15(a) of the Act is amended by adding, at the end thereof, the following sentence: "Technical publications produced by the Peace Corps may be sold at cost in furtherance of the purposes of this Act, and the proceeds in such sales may be credited to the currently applicable appropriation of the Peace Corps, notwithstanding section 3302(b) of title 31."

A BILL TO AMEND THE PEACE CORPS ACT AND FOR OTHER PURPOSES

SECTION-BY-SECTION ANALYSIS

Section 1 amends section 3 of the Peace Corps Act (hereinafter the "Act") to authorize the appropriation of not to exceed $124,400,000 for activities under the Act for fiscal year 1986, and such sums as may be necessary for fiscal year 1987.

Section 2 amends section 15(a) of the Act to authorize the Peace Corps to sell its publication to the public at cost, and to authorize deposit of the proceeds of such sales to the Peace Corps' then-current appropriation. The Peace Corps produces a number of technical publications which are valuable to private voluntary organizations and to host-country governments and agencies. They are often requested in quantity. Peace Corps cannot afford to make multiple copies available *gratis*, although dissemination of the information they contain is a desirable extension of the Peace Corps' mission. Efforts to have these publications produced through the Government Printing Office have proved too expensive, or unsuccessful. At present, Peace Corps lacks authority to reimburse its appropriation for the costs of publication of these materials from the proceeds of sales. Authorizing the Peace Corps to sell its publication at cost and reimburse its current appropriation for such cost, would permit a broader dissemination of Peace Corps technical publications than is now possible.

PEACE CORPS,
OFFICE OF THE DIRECTOR,
March 11, 1985.

Hon. GEORGE BUSH,
President,
U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you a draft bill which will enable Peace Corps to continue its efforts on behalf of world peace and friendship for fiscal years 1986 and 1987.

The bill will authorize the appropriation of $124,400,000 for activities under the Peace Corps Act for fiscal year 1986, and such sums as may be necessary to support activities under the Peace Corps Act in fiscal year 1987.

Peace Corps technical publications contain much information which is valuable to private voluntary organizations and host-country ministries. The bill proposes an amendment to the Peace Corps Act which would facilitate dissemination of this valuable information by authorizing the Peace Corps to sell its technical publications at cost, and to credit the proceeds of such sales to its current appropriations. The Peace Corps cannot afford to provide large numbers of its publications *gratis*, or without being able to recoup, for its own use, the proceeds of sales. Under present law, the proceeds of such sales must be remitted to the Treasury.

The Office of Management and Budget has advised that there is no objection to the submission of this legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

LORET MILLER RUPPE,
Director.●

By Mr. THURMOND (for himself, Mr. MURKOWSKI, Mr. SPECTER, and Mr. PRYOR):

S. 657. A bill to establish the Veterans' Administration as an executive department; to the Committee on Governmental Affairs.

ESTABLISHING THE VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT

Mr. THURMOND. Mr. President, today, I am introducing legislation to upgrade the Veterans' Administration to a Cabinet level department and to provide for a Secretary of Veterans' Affairs within the President's Cabinet.

In recognition of the contributions to freedom and liberty made by servicemen and women, our Government has placed a high priority on the welfare of its veterans. It is the highest obligation of U.S. citizenship to defend the Nation in time of need, and this obligation creates an equal responsibility on the part of our Nation to care for the men and women who have worn the uniform. It is most appropriate that the principal Federal agency charged with providing benefits and services to veterans, and their dependents and survivors, have Cabinet-level status. The honor and respect due our veterans require no less.

Mr. President, many factors warrant upgrading the Veterans' Administration to a Cabinet-level department and establishing the position of Secretary of Veterans' Affairs within the President's Cabinet. Significantly, the unique nature of veterans benefits must be taken into account and distinguished from the many social programs provided to others. Veterans benefits are not handouts; they have been earned through great pain and sacrifices, and oftentimes, by the loss of lives.

In addition, the size and importance of the Veterans' Administration in our system of government justifies establishing the Veterans' Administration as a Cabinet level department. The Veterans' Administration is the largest independent agency of the Federal Government. Its budget authority of $27.2 billion for fiscal year 1985 ranks among the largest of the Federal departments and agencies. Furthermore, the 220,000 employees of the Veterans' Administration outnumber the employees in any other Federal department or agency except the Department of Defense.

Mr. President, it is important to emphasize that today there are some 28 million veterans, and about 54 million dependents and survivors of veterans in the United States. The programs administered by the Veterans' Administration touch virtually every family in America in some way. The Veterans' Administration operates the largest, centrally managed health care system in the world, and administers the largest direct insurance program in the United States. In fiscal year 1984, the Veterans' Administration distributed $14 billion in compensation and pension benefits, and approximately $1.6 billion in education, training and rehabilitation assistance payments.

Moreover, the VA Home Loan Guaranty Program has provided millions of veterans with an opportunity for home ownership. Currently, over 4 million home loans in the United States are guaranteed by the Veterans' Administration. The Veterans' Administration also provides burial benefits to honor nearly 350,000 deceased veterans annually, which encompasses the operation of 108 national cemeteries.

In addition to having the awesome responsibility for administering these diverse programs, the Administrator of Veterans' Affairs must address some unique issues which further emphasize the great importance of his position. Providing effective, innovative readjustment programs for our Vietnam-era veterans most certainly remains a high priority matter. Additionally, we are faced with meeting the demands placed upon our hospital and health care system by the aging veteran population. Today, there are approximately 4.6 million veterans aged 65 or older. This number is expected to almost double to approximately 9 million by the year 2000.

Mr. President, in light of the commitment of our Nation to care for our deserving veterans, not to mention the size and importance of the Veterans' Administration in our Government, I believe it imperative that the Veterans' Administration be a Cabinet level agency. I have offered legislation to effect this change on several occasions in the past, and I do so again today.

In a time of large budget deficits and great pressures to restrain the growth of Federal spending, it is most important that the Veterans' Administration be involved closely in Government planning at the highest level. The legislation I am introducing today would ensure this involvement, and I urge my Senate colleagues to join with me working toward its early enactment.

● Mr. MURKOWSKI. Mr. President, I rise in support and as an original cosponsor of S. 657, a bill to elevate the Veterans' Administration to a Cabinet-level department. Is so doing, I join with my distinguished colleague, the Senator from South Carolina, in urging its prompt passage. As the Senator has so concisely stated, the Veterans' Administration is an agency with a vast responsibility not only to the 28 million veterans of America, but to their families as well. Given this very real secondary level of beneficiaries, the Veterans' Administration has the potential for affecting the health and well-being of more than 81 million Americans—better than a third of the population of the United States.

This responsibility carries with it a budget of $27.2 billion and a staff exceeding 220,000 full-time employees or their equivalents—making it our largest independent Government agency. It is the largest health-care delivery system of its kind in the world, with 172 major medical centers and 135 outreach clinics and their satellites. The VA's direct insurance program is the largest in the United States, and VA pensions and benefits—ranging from education assistance to rehabilitation and job training—exceeds $15 billion a year in payouts. In personnel it rivals all other agencies save the Department of Defense—from which Cabinet-level department the Veterans' Administration eventually draws its principal benefits recipients.

As the chairman of the Senate Veterans' Affairs Committee, I am familiar with the VA's broad scope of operations. It is with this knowledge—and appreciation for the tremendous burden of responsibility placed on the shoulders of any VA Administrator—that I urge my colleagues to support this bill, which would elevate the Veterans' Administration to a Cabinet-level department, thereby placing the VA Administrator at a level commensurate with his responsibilities and in the role of valuable counsel to the President as a member of his Cabinet.

Mr. President, the Veterans' Administration is now entering its 53d year of service to this Nation's veterans. Although the standards of service have not changed—it is still service second to none—the range of services offered and the logistics of administering those services have expanded almost exponentially. From humble beginnings of a few hospitals and nursing homes to today's network of world-class medical centers and affiliated medical schools, the VA has proven its worth time and time again.

In the early days, it was the VA that researched and brought to a halt the slow pain of tuberculosis. Today the VA is on the cutting edge of nuclear radiology to probe the inner workings of the brain, high-technology applications to aid the blind and the deaf, surgical procedures to improve the possibilities for those whose spinal cords have been damaged, and a wealth of other research and clinical applications clearly destined to better the quality of life for the veteran. The application of this knowledge and expertise can be used to benefit all Americans.

Veterans' Administration benefits programs are carrying out a long-term commitment our Government made to those who accepted the duty to stand in our defense. Education, employment and placement, readjustment counseling, home loans and allowances for specially adapted housing for the disabled, and other disability benefits only begin a list of programs that characterizes the commitment the VA has made to veterans. And since these and other programs help veterans reestablish themselves in communities all across our country, those communities, with their schools, businesses, and social programs also benefit.

Controlling the deficit-plagued Federal budget requires calm deliberation from those most directly affected by the distribution of our increasingly limited supply of dollars. The men and women who sit in daily counsel with the President exercise that deliberation to the best of their abilities and do so with the greater good of the Nation foremost on their minds. In view of the VA's impact on our society and in consideration of its sheer size, it is essential that the Administrator of Veterans' Affairs participate in those important discussions with the President and his Cabinet.

The Administrator of Veterans' Affairs—because he does oversee an agency that must maximize every available dollar—is well versed in budgets and the concept of a greater good. I believe the VA Administrator, by the very nature of his job, would be an asset in the Cabinet as its members work together to bring the budget under some semblance of control. Clearly, Mr. President, an agency that has been so much a part of this Nation, and has done so much for our defenders, has more than proven itself worthy of taking a seat in the Cabinet room in the White House.

Mr. President, once again I thank the Senator from South Carolina for his dedicated and inspired cooperation. I share his belief that this is a good and long-overdue undertaking, and I urge my colleagues to join with me in support of this legislation.

By Mr. MATHIAS:

S. 658. A bill to establish a commission to study and make recommendations on the desirability and feasibility of amending the copyright laws, to compensate authors for the not-for-profit lending of their works; to the Committee on the Judiciary.

PUBLIC LENDING RIGHT STUDY COMMISSION

● Mr. MATHIAS. Mr. President, our Constitution empowers the Congress "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their writings and discoveries." In the past, that aim has been advanced each time we enacted new patent and copyright legislation. Now, to implement that principle more fully, some suggest that we institute a system that compensates authors not only each time one of their books is sold, but also whenever it is borrowed from a public library. Such a regime, they argue, would help authors survive, would promote the production of high quality works, and would encourage their diffusion among the public. This concept is not new: At least 10 nations, among them Great Britain and West Germany, have already adopted such a provision commonly known as the public lending right.

Aware of the important consequences the introduction of this system could have, I introduced a bill last year to establish a commission to study whether or not it would be desirable in the United States. Although no legislative action was taken on this bill, it prompted a great deal of discussion and press interest. Several symposiums on the subject were also held. This question clearly deserves serious study. Consequently, today I reintroduce a bill to create a commission to give the Congress the expert guidance it needs to evaluate the public lending right in the American context. It would consist of 11 members appointed by the President representing authors, publishers, librarians, and readers. After 2 years, the Commission would submit a report to the President and to the Congress. This report would include recommendations and proposals regarding the appropriate procedures to carry out such financial compensation, if the idea seemed workable. The new bill incorporates several minor changes mainly regarding procedures, such as the date of creation of the Commission, the date of the first meeting, and the rules applying to the staff.

I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby created a National Commission on the Lending of Authors' Works (hereinafter in this Act referred to as the "Commission").

SEC. 2. The purpose of the Commission is to consider whether specific compensation to authors for the lending of their works would promote authorship in the United States without adversely affecting the reading public; and, if so, to make recommendations concerning an appropriate system of payment to authors from funds to be appropriated by the Congress or from a national trust fund established for that purpose.

SEC. 3. In carrying out its purposes the Commission—

(1) shall evaluate, report upon and assess the relevance to the United States of systems in operation or under consideration in foreign countries for compensating authors for the not-for-profit lending of their works;

(2) shall study and compile data on the various types of lending of books and similar publications; and

(3) if it recommends the establishment of a compensation system for the public lending of books or similar publications, shall also—

(A) consider the advantages or disadvantages of establishing such compensation by legislative and administrative action.

(B) consider, evaluate, and identify appropriate criteria for determining the amount of compensation, including the following:

(i) the number of copies sold to lending institutions,

(ii) the number of copies stocked by lending institutions, and

(iii) the number of circulations;

(C) identify procedures for determining and paying any such compensation without imposing upon the public libraries of the Nation burdensome administrative requirements which could have the effect of diverting significant resources of those institutions from service to the public;

(D) assess whether the eligibility of the author to receive compensation should be subject to specific limitations such as: (i) the copyright status of the work; (ii) the nationality or domicile of the author; (iii) the alienability or descendability of the right to compensation; or (iv) a specified term of years; and

(E) recommend whether a compensation system should be administered by an existing Government agency or by a new agency created for that purpose.

SEC. 4. (a) The Commission shall consist of eleven voting members. One such member shall be the Librarian of Congress and ten members shall be appointed by the President, as follows—

(1) two members selected from authors;

(2) two members selected from publishers;

(3) three members selected from librarians; and

(4) three members selected from the public generally.

(b) The members shall be appointed within 90 days after the date of enactment of this Act.

(c) The President shall call the first meeting of the Commission to be held within 90 days after appointment of all members. The Commission, at its first meeting, shall select its chairman and vice chairman from among the members of the Commission. Members may fill a vacancy in either office. The vice chairman shall act as chairman when the chairman is absent for any reason.

(d) Six members of the Commission shall constitute a quorum, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence, in accordance with section 10.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment.

SEC. 5. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties.

(b) All members of the Commission shall be reimbursed for travel as authorized by section 5703 of title 5 of the United States Code, subsistence, and other necessary expenses in connection with the performance of their duties.

SEC. 6. (a) To assist in its studies, subject to such rules and regulations as may be adopted by the Commission, the Commission may appoint a staff which shall be an administrative section of the Library of Congress. The staff shall be headed by an Executive Director, who shall be appointed by and responsible to the Commission for the administration of the duties entrusted to the staff. Such appointments may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, or any other provision of law, relating to the number, classification, and General Schedule rates.

(b) The Commission may procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 per day.

SEC. 7. (a) Within one year after its first meeting, the Commission shall submit to the President and to the Congress a preliminary report on its activities.

(b) Within two years after its first meeting, the Commission shall submit to the President and to the Congress a final report which shall include its recommendations and its proposals, if any, for legislation and administrative action that may be necessary to carry out those recommendations.

(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it deems appropriate, including consultant's reports, transcripts of testimony, seminar reports, and other Commission findings.

SEC. 8. (a) The Commission, or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this Act, hold hearings, administer oaths, and request the attendance and testimony of witnesses and the production of documentary material.

(b) With the consent to the Commission, any one of its members may convene a meeting, seminar, or conference in furtherance of the purposes of the Commission.

SEC. 9. On the sixtieth day after the date of the submission of its final report, the Commission shall terminate and all offices and employment under it shall terminate.

SEC. 10. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. LUGAR (by request):

S. 659. A bill to authorize appropriations for fiscal years 1986 and 1987 for the Department of State, and for other purposes; to the Committee on Foreign Relations.

DEPARTMENT OF STATE AUTHORIZATION ACT FOR FISCAL YEARS 1986 AND 1987

● Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for the Department of State for fiscal years 1986 and 1987.

This proposed legislation has been requested by the State Department and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Acting Assistant Secretary of State for Legislative and Intergovernmental Affairs to the President of the Senate dated March 6, 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 659

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

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This Title may be cited as the "Department of State Authorization Act for fiscal years 1986 and 1987."

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. In addition to amounts otherwise authorized for such purposes, the following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law:

(1) For "Administration of Foreign Affairs", $1,844,202,000 for the fiscal year 1986 and $1,902,478,000 for the fiscal year 1987.

(2) For "International Organizations and Conferences". $502,574,000 for the fiscal year 1986 and $527,119,000 for the fiscal year 1987.

(3) For "International Commissions", $26,278,000 for the fiscal year 1986 and $25,824,000 for the fiscal year 1987.

(4) "For Other Activities", $356,465,000 for the fiscal year 1986 and $358,582,000 for the fiscal year 1987.

STATE DEPARTMENT BASIC AUTHORITIES ACT

SEC. 103. Title I of the State Department Basic Authorities Act of 1956 (Public Law 84-885), as amended, is further amended as follows:

(1) Section 2 is amended to read, in the introductory clause, "The Secretary of State is authorized to—".

(2) Section 2(c) is amended by adding, in lieu of the semicolon at the end thereof, the following:

", provided that persons providing services under such contracts shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management".

(3) Section 34, as added by Public Law 98-164, is amended by substituting the terms, "$500,000 or 20 per centum" in lieu of the terms "$250,000 or 10 per centum" in subsection (7) therein.

(4) Section 36 of title I is redesignated section 37, and the following new section 36 is added:

"SEC. 36. Funds appropriated to the Department of State shall be available for expenses of international arbitrations and other proceedings for the peaceful resolution of international disputes under treaties or other international agreements, and for arbitrations arising under contracts authorized by law for the performance of services or acquisition of property, real or personal, abroad.".

FOREIGN MISSIONS ACT AMENDMENTS

"SEC. 104. Title II of the State Department Basic Authorities Act of 1956 is amended by redesignating section 204A (added by Public Law 98-164) as Section 214, and by further amending section 214, as redesignated, as follows:

(1) by striking the language in subsection (b)(3) of section 214 as redesignated, and substituting in lieu thereof the following—

"has not satisfied a final court judgement against such member or individual adjudicated on the merits or is not legally liable: *Provided*, That this subsection shall not apply unless the Director receives notice in writing at the time of filing or initiating any administrative or judicial proceeding resulting in or forming the basis for such judgment, as well as copies of pleadings or other documents filed in connection therewith, and"

(2) by striking in the ultimate paragraph of subsection (b) of section 214, as redesignated, all that follows the terms, "or, if there is no court-rendered judgement", and substituting in lieu thereof the following—

"in accordance with subsection (b)(3), an estimated amount of actual damages incurred by the injured party directly resulting from the fault of such member or individual. The payment of any such surcharge or fee shall be available only for compensation of the injured party or the estate thereof".

PROTECTION OF FOREIGN MISSIONS

"SEC. 105. (a) Section 605 (Extraordinary Protective Services) of the Department of State Authorization Act, fiscal years 1984 and 1985, is redesignated as section 215 of title II of the State Department Basic Authorities Act of 1956, as amended.

(b) Subsection (a) of section 215 of title II, as redesignated is amended by substituting, in lieu of all that precedes the clause, "to the extent deemed necessary by the Secretary", the following, "The Secretary is authorized to provide extraordinary protective services for foreign missions directly or by contract or through state or municipal authorities."

SPECIAL AGENTS

"SEC. 106. Public Law 84-104, as amended (22 U.S.C. 2666) is further amended to read as follows:

"(a) Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and Foreign Service are authorized—

"(1) to conduct investigations concerning illegal passport or visa issuance or use, except that the authority provided in this subsection shall be exercised subject to agreement with the Attorney General and that nothing herein shall effect the investigative authority of any other Federal law enforcement agency;

"(2) to obtain, execute, and serve search warrants and arrest warrants and to serve subpoenas and summonses issued under the authority of the United States, for the purpose of conducting investigations authorized by paragraph (1);

"(3) in both the United States and abroad, to protect and to perform those protective functions, as authorized by law, directly related to maintaining the security and safety of

"(i) heads of foreign states,

"(ii) official representatives of foreign governments and other distinguished visitors to the United States,

"(iii) the Secretary of State,

"(iv) the Deputy Secretary of State,

"(v) official representatives of the United States Government.

'(vi) members of the immediate families of any such persons, and

"(vii) foreign missions (as defined by title II of the State Department Basic Authorities Act of 1956, as amended) within the United States.

except that nothing in this subsection or section 215 of title II of the State Department Basic Authorities Act of 1956, as amended, shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 202 of title 3 of the United States Code or section 3056 of title 18 of the United States Code at a level commensurate with protective requirements as determined by the United States Secret Service.

"(4) if designated by the Secretary of State and qualified for the use of firearms, to carry firearms for the purpose of performing the duties authorized by this section;

"(5) to make arrests without warrant—

"(A) for any offense against the United States committed in their presence, or

"(B) if they have reasonable grounds to believe that the person to be arrested has committed a violation of sections 111, 112(a) or 970(a) of title 18 of the United States Code and such person is in or fleeing from the immediate area of such violation.

"(b) The Secretary of State shall consult with the Attorney General before prescribing regulations with respect to the carrying and use of firearms by special agencies of the Department of State and Foreign Service."

SEC. 107. Public Law 88-493 (22 U.S.C. 2667) is repealed.

DETAIL TO OTHER AGENCIES

SEC. 108. Section 11 of the Department of State Appropriations Authorization Act of 1973, as amended (22 U.S.C. 2685), is repealed.

STRENGTHENING THE ORGANIZATION OF DEPARTMENT OF STATE

SEC. 109. (a) The first section of the Act entitled "An act to strengthen and improve the organization and administration of the Department of State, and for other purposes," approved May 26, 1949 (22 U.S.C. 2652), is amended by striking "thirteen" and substituting in lieu thereof the term "sixteen".

(b) Section 5315 of title 5, United States Code, is amended by—

(1) Striking out the terms "Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, Department of State.", "Director, Bureau of Intelligence and Research Department of State.", and "Assistant Secretary of State for International Narcotics Matters, Department of State.";

(2) Substituting "(16)" in lieu of "(13)" immediately after the terms, "Assistant Secretaries of State"; and

(3) Adding the following new positions thereto:

"Director General of the Foreign Service, Department of State."; and

"Inspector General of the Department of State and the Foreign Service".

(c) Section 9 of Public Law 93-126, as amended by Section 9 of Public Law 93-313 (22 U.S.C. 2655a) and Section 115(a) of Public Law 95-426 (22 U.S.C. 2652a) are repealed.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

SEC. 110. Public Law 94-37 (89 Stat. 216) is amended by designating all that follows the term, "That" as subsection (a), and by further amending subsection (a) as redesignated by substituting the terms, ", including territorial or governmental transition activities in connection therewith," in lieu of the terms "in the Middle East" therein.

MIGRATION AND REFUGEE ASSISTANCE AMENDMENTS

SEC. 111. The Migration and Refugee Assistance Act of 1962, as amended, is further amended as follows:

(a) Section 2 of the Act (22 U.S.C. 2601) is amended by inserting at the end thereof the following new subsection:

"(f) The President may furnish assistance and make contributions under this Act, notwithstanding any provision of law which restricts assistance to foreign countries."

(b) Section 5(a) of the Act (22 U.S.C. 2605) is amended by striking the word "and" at the end of paragraph (5) therein, by renumbering paragraph (6) as paragraph (7), and by inserting the following new paragraph immediately after paragraph (5):

"(6) contracting for personal services abroad: *Provided*, That persons providing services under such contracts shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;".

INTERNATIONAL CENTER

SEC. 112. The International Center Act (Public Law 90-553), as amended by Public Law 97-186, is further amended—

(a) In section 2 by inserting the terms "the Secretary or" before the terms "any foreign government therein, and by substituting "described in" in lieu of the terms "conveyed pursuant to"; and

(b) In section 4, by inserting after the words "related improvements" in subsection (f) therein, the following, ", including construction of facilities for security and maintenance,".

FOREIGN SERVICE INSTITUTE FACILITIES

SEC. 113. In order to promote comprehensive training to meet the foreign relations and national security objectives of the United States, and to provide special facili-

ties designed for that purpose to assure cost efficient training—

(a) Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024) is amended by adding in lieu of the period at the end of subsection (5) therein, the following, "; the Secretary is authorized for this purpose to acquire a consolidated training facility in reasonable proximity to the Department of State by construction, lease-construction or long term lease, in consultation with the Administrator of General Services, and is authorized for this purpose to accept a transfer of excess Federal sites or facilities in accordance with the normal established process prescribed by section 202(a) of the Federal Property and Administrative Services Act of 1949, as amended."

(b) Of funds authorized to be appropriated under section 102(1) of title I of this Act for fiscal year 1987, not to exceed $11,000,000 may be expended for feasibility studies, site acquisition, and design, architectural and engineering planning, in order to carry out the purposes of section 704(5) of the Foreign Service Act of 1980, as amended.

(c) Of the amounts authorized to be appropriated for fiscal year 1988, such sums as shall be necessary are made available for acquisition, including site preparation, construction, lease-construction, or renovation of a consolidated training facility, in order to carry out the purposes of section 704(5) of the Foreign Service Act of 1980, as amended.

AUTHORIZATION FOR PARTICIPATION IN PREPARATION FOR AUSTRALIAN BICENTENNIAL

SEC. 114. (a) The Congress finds that the American-Australian Bicentennial Foundation, a private nonprofit corporaton established in 1983 for the purpose of coordinating all American official and private participation in the 1988 Australian Bicentennial celebration, deserves and needs financial support to effectively carry out that purpose.

(b) In order to carry out the purposes of this Section, the Secretary of State is authorized to make an annual grant to the foundation in support of its programs and operations to prepare for American participation in the Australian Bicentennial celebration; provided, however, that nothing contained herein shall amend or modify authority delegated to the Director of the United States Information Agency under section 102(a)(3) of the Mutual Education and Cultural Exchange Act of 1961, as amended.

(c) Funds authorized to be appropriated to the Department of State for the "Administration of Foreign Affairs" account for fiscal years 1986, 1987 and 1988 shall be available for grants under subsection (b).

U.S. DEPARTMENT OF STATE,
Washington, DC, March 6, 1985.

Hon. GEORGE BUSH,
President of the Senate,
U.S. Senate.

DEAR MR. PRESIDENT: In accordance with Section 15 of the Act of August 1, 1956, as amended (22 U.S.C. 2680), there is transmitted herewith proposed legislation to authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during the fiscal years 1986 and 1987 and for other purposes contained in this bill.

The primary purpose of the bill is to provide authorization of appropriations for (1) "Administration of Foreign Affairs" which supports the operation of the United States diplomatic and consular posts abroad and the Department of State in the United States; (2) "International Organizations, Conferences and other activities," which includes contributions to meet obligations pursuant to treaties, conventions or specific acts of Congress and other activities. (3) "International Commissions," which enables the United States to fulfill treaty and other internatinal obligations; and (4) "Other Activities" which funds the United States annual contribution to the International Committee of the Red Cross and various refugee assistance programs, the U.S. Bilateral Science/Technology Agreement, The Asia Foundation and the Soviet-East European Research/Training Fund. A section-by-section analysis further explaining the proposed legislation is also enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

J. EDWARD FOX,
Acting Assistant Secretary,
Legislative and Intergovernmental Affairs.

SECTION-BY-SECTION ANALYSIS

SECTION 101—SHORT TITLE

This title may be cited as the "Department of State Authorization Act, Fiscal Years 1986 and 1987".

SECTION 102—AUTHORIZATION OF APPROPRIATIONS

This Section provides an authorization of appropriations for the Department of State in accordance with the provisions of Section 15(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), as amended. This Act primarily authorizes funds to be appropriated under this legislation for the fiscal years 1986 and 1987 by category.

Category (1)—Authorizes appropriations under the heading "Administration of Foreign Affairs" for fiscal years 1986 and 1987. This category provides the necessary funds for the salaries, expenses and allowances of the officers and employees of the Department, both for the United States and abroad. It includes funds for executive direction and policy formulation, conduct of diplomatic relations with foreign governments and international organizations, domestic public information activities, central program services, and administrative and staff activities. This category also provides for representational expenses in accordance with Section 905 of the Foreign Service Act of 1980. Further, it authorizes funds for such activities as the acquisition, operation and maintenance of office space and living quarters for staff of United States agencies abroad; funds for relief and repatriation loans to United States citizens abroad and for other emergencies of the Department; and authorizes appropriations for buying power maintenance and protection of foreign missions and officials, and payments to the Foreign Service Retirement and Disability Fund, the American Institute in Taiwan, and the Asia Foundation.

Category (2).—Authorizes appropriations for fiscal years 1986 and 1987 under the heading "International Organizations and Conferences". This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations and other international organizations of which the United States is a member. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, and for contribution to the international peacekeeping activities in accordance with multilateral agreements.

Category (3).—Authorizes appropriations for fiscal years 1986 and 1987 under the heading "International commissions". This category provides funds necessary to enable the United States to meet its obligations as a participant in international commissions such as the American Sections of international commissions dealing with American boundaries and related matters with Canada and Mexico, and international fisheries commissions.

Category (4).—Authorizes appropriations for fiscal years 1986 and 1987 under the heading "Other Activiies". This category enables the Secretary of State to provide assistance and make contributions for migrants and refugees, including contributions to international organizations such as the United Nations High Commissioner for Refugees, and the International Committee for the Red Cross, and through private voluntary agencies and through governments, and bilateral assistance, as authorized by law. This category also provides funds for United States bilateral science and technology agreements, and Soviet-East European research.

In addition to the amounts requested to be authorized in this bill, the Department plans to utilize the following permanent authorizations enacted by Congress. For:

Payment to the Foreign Service Retirement Funds $118,174,000 in 1986 and $119,934,000 in 1987.

Contributions for International Peacekeeping Activities $51,000,000 in 1986 and $55,400,000 in 1987.

As a result, the total authorization amounts, including these permanent authorizations, are $2,898,693,000 for fiscal year 1986 and $2,989,337,000 for fiscal year 1987.

SECTION 103—STATE DEPARTMENT BASIC AUTHORITIES ACT

SECTION 103(1)—TECHNICAL AMENDMENT TO BASIC AUTHORITIES

This subsection contains a technical amendment, conforming section 2 of Title I of the Basic Authorities Act to section 3, each of which authorize the Secretary to perform a variety of unrelated functions, principally at posts abroad. Section 2, however, unlike section 3, both of which are funded from the "Salaries and Expenses" appropriation under Section 102 of this Act, carries the additional requirement of specific reference in an appropriation Act in order for authorization under Section 2 to be sufficient to obligate funds. Since there is no need to segregate the particular authorities under section 2 from those in Section 3, this amendment will assure continued authorization and facilitate the appropriations process thereunder.

SECTION 103(2)—OVERSEAS CONTRACTING AUTHORITY

Public Law 98-533 amended section 2(c) of Title I of the State Department Basic Authorities Act of 1956 to extend the Department's authority for overseas personal services contracting to enable the Department to hire Americans overseas as well as local nationals; the amendment provided that in-

dividuals hired by contract under that section would not be considered employees of the United States Government. The present amendment would further modify section 2(c) to provide that Americans who perform such personal services contracts abroad shall not be deemed employees of the United States Government for the purposes of any law administered by the Office of Personnel Management.

SECTION 103(3)—REPROGRAMMING REQUIREMENTS

Section 32 of the Basic Authorities Act, added by Public Law 98-164, provides current reprogramming requirements applicable to the Foreign Relations and Foreign Affairs authorizing committees of the Congress; this amendment would increase the reprogramming notification threshold from $250,000 or ten percent, whichever is less, to $500,000, or twenty percent, whichever is less. This increase is consistent with the increased magnitude of the funds authorized for appropriation for the Department and with inflationary increases in operational expenditures. It will facilitate the Department's ability to effectively respond to rapidly changing diplomatic and consular priorities which are of a lower cost magnitude in terms of overall expenditures, and which represent a lesser degree of change for which additional congressional oversight is appropriate.

SECTION 103(4)—ARBITRATION EXPENDITURES

At present, the Department's authority to use appropriated funds for the expenses of arbitration and other dispute resolution proceedings abroad under international agreements and contracts has been included in each annual appropriation act, in compliance with decisions of the Comptroller General that authority for such expenditures be specifically granted by Congress. This amendment makes such authority a permanent provision of law.

SECTION 104—INSURANCE AND LIABILITY FOR DIPLOMATIC VEHICLES

This section amends the Foreign Missions Act of 1982, (22 U.S.C. 4301 et. seq.), clarifying the obligations of persons in the United States who have diplomatic or consular immunity and who drive or own vehicles and the rights of any third parties alleging injury thereby.

This section redesignates Section 214 of the Foreign Mission Act (added by Public Law 98-164) as Section 214. Section 204A, as redesignated and amended, retains the obligation of the Director of the Office of Foreign Missions to impose surcharges on foreign missions in certain accident or injury cases. This Section assures that this authority will be applied to enforce only those judicial decisions which are rendered on the merits, and in which the Director has received notice, in order to assert the interests of the United States, if any, in such matters.

In other cases where a decision is not able to be rendered because of immunities that may be involved, Section 214 as redesignated also authorizes the Director to impose a surcharge on a foreign mission and clarifies the standards to be applied by the Director in imposing such surcharges.

SECTION 105—PROTECTION OF FOREIGN MISSIONS

Subsections (a) and (b) of Section 105 redesignate Section 605 of Public Law 98-164 (relating to Protection of Foreign Missions) as—Section 215 of the Foreign Missions Act of 1982, 22 U.S.C. 4301 et seq., setting forth permanent authority for the Secretary of State to assist in the provision of extraordinary protective services for foreign missions in the United States.

The initial program authorization for this purpose was set forth in the State Department Authorization Act for Fiscal Years 1984 and 1985 and is now added by this Section to the Department's Basic Authorities Act. The foreign missions protection program is a significant part of the increased anti-terrorism efforts of the United States, which has a direct effect on requests for security for our missions abroad.

SECTIONS 106 AND 107—SPECIAL AGENTS

Section 106 revises and expands the existing authority of State Department security officers, originally enacted in 1955 (Public Law 94-141, 22 U.S.C. 2666 and 2667) which is no longer adequate for performance of these functions by the Department of State. As revised, the new authority will provide a more comprehensive basis for protective and law enforcement functions which these officers, now called special agents, are called upon to perform.

The Department of State is charged with important passport and visa fraud law enforcement responsibilities. Nevertheless, under current law the Department's special agents do not have specific statutory authorization for investigations which they are presently required to perform and which are necessary to carry out those functions, and are only authorized to carry firearms and make arrests without a warrant when they are protecting the Secretary of State and his or her family and certain foreign and domestic officials.

The absence of specific authority in the law enforcement area has proven to be a serious handicap to the Department. Special agents to the Office of Security are routinely required to investigate violations of a number of Federal laws, but they do not have arrest authority. When they develop a case to the point that an arrest or execution of federal warrant is appropriate, they must call in another Federal agency to make the arrest or execute the warrant. Because of the heavy burdens on other law enforcement agencies, the delay incurred may result in loss of evidence or inability to effect an arrest before departure of persons suspected of criminal violations.

Moreover, passport violations are frequently committed in conjunction with other felonious conduct. In the course of their investigation, security officers and special agents may be called upon to enter high crime areas, unarmed, and seek interviews with individuals accused of murder, drug trafficking and other serious crimes. At present, they have no authority to reasonably protect themselves as would any other law enforcement officer in similar circumstances.

Consequently, new subsection 106(a)(1) authorizes special agents to conduct investigations concerning illegal passport use or visa fraud. In order to avoid duplication of authority and responsibility, exercise of these investigative authorities is subject to agreement with the Attorney General, and the authority of other law enforcement agencies in those areas is preserved.

New subsection (a)(2) authorizes special agents to obtain, execute, and serve search and arrest warrants and to serve subpoenas and summons issued under the authority of the United States in connection with the investigations provided for in subsection (a)(1).

New subsection (a)(3) preserves existing protective authorities of special agents for dignitaries and family members presently enumerated in 22 U.S.C. 2666 and, at the same time, expands these authorities to protection of foreign missions under the Foreign Missions Act (Title II) of the State Department Basic Authorities Act of 1956 as amended, 22 U.S.C. 4301, et seq. Special agents of the Department of State under this provision would perform the full range of protective services, including obtaining of information necessary to assess and to respond to the degree of danger that a threat or potential threat may represent, against persons and missions enumerated in this subsection or otherwise authorized by law (e.g. by inter-agency agreement under the Economy Act, 31 U.S.C. 1535). It is not intended by this subsection or subsection (a)(5) to confer authority on the Department of State's special agents to conduct investigations of violations or conspiracies to violate 18 U.S.C. Sections 111, 112, or 970 or that this limited protective function infringe on the existing authority of any other Federal law enforcement agency in this area.

However, language is included in this paragraph to make clear that nothing in this subsection or in section 215 of the Foreign Missions Act (as redesignated and amended in Section 105 of this bill) limits or impacts in any way on the protective authorities of the Secret Service, particularly as to heads of foreign states or as to foreign diplomatic missions in the metropolitan area of the District of Columbia.

Existing authority to make arrests (22 U.S.C. 2667), also originally enacted in 1955, is expanded to cover any offense against the United States committed in the presence of special agents, as well as to cover arrest for felony offenses under 18 U.S.C. 111, 112(a), or 970(a), with respect to interference with foreign missions and foreign government personnel, when the offender can be arrested at or in the immediate vicinity of such a felony violation.

Existing authority for special agents to carry firearms for protective functions is expanded in subsection (b) to include additional authorities, such as passport and visa fraud and foreign missions protective functions, under this section. The Secretary of State is required to consult with the Attorney General on rules and standards for use of firearms.

Section 107 repeals the present arrest authority in 22 U.S.C. 2667 because it becomes obsolete in light of subsection (a)(5) of the new Section 106.

SECTION 108—DETAIL TO OTHER AGENCIES

This section provides the Department with the authority to detail its personnel to other agencies for periods in excess of one year. Section 11 of the 1973 State Department Authorization Act (Public Law 93-126) substantially limited the ability of the Department of State to detail Foreign Service and other personnel to other executive agencies on a non-reimbursable basis. Prior amendments in 1978 (Public Law 95-426) provided initial relief by exempting details under one year. The remaining limitations are inconsistent with the intent of sections 503, 504 and 703 of the more recently enacted Foreign Service Act of 1980 (22 U.S.C. 3983, 3984(b) and 4023), which direct the Secretary to enhance career development and to make assignments in the United States of members of the Foreign Service, because it significantly limits the Secretary's ability to find suitable broadening assignments in domestic agencies.

SECTION 109—STRENGTHENING THE ORGANIZATION OF DEPARTMENT OF STATE

This section creates two new Assistant Secretary of State positions, consolidates in one place in Executive Salary Schedule Level IV and in 22 U.S.C. 2652 all State Department Assistant Secretaries positions and places at Level IV other Department positions to which appointments are made by the President with the advice and consent of the Senate, the Director General of the Foreign Service and the Inspector General of the Department of State and the Foreign Service.

At present, there are 14 Assistant Secretaries of State. Of these, 12 are provided for by 22 U.S.C. 2652, (Reorganization Plan No. 2 of 1977 abolished one of the 13 mentioned in this law and substituted an associate director in what is now USIA) enacted in 1949, without designation of areas of responsibility, although by operation of Public Law 95-105 one of these is to be designated Assistant Secretary for Consular Affairs and one designated Assistant Secretary for Human Rights and Humanitarian Affairs. In addition, Public Law 93-126 established the position of Assistant Secretary of Oceans and International Environmental and Scientific Affairs, and Public Law 95-426 established the position of Assistant Secretary for International Narcotics Matters. Without changing any of the specific positions or reponsibilities, the 1949 Act is further amended to increase by four the number of Assistant Secretaries therein provided. The Bureaus of Political Military Affairs and Intelligence and Research would be headed by Assistant Secretaries, appointed by the President with the advice and consent of the Senate, rather than headed by Directors as at present.

Assistant Secretaries of State and the Director of the Bureau of Intelligence and Research now are all at Executive Salary Schedule Level IV under 5 U.S.C. 5315. The first two amendments in subsection (b) of this section consolidate all the existing Assistant Secretary positions and the two new ones at one place in the Schedule and delete the Director of Intelligence and Research from the schedule since that position would no longer exist.

Two positions in the Department of State which became Presidential appointments with the advice and consent of the Senate under the Foreign Service Act of 1980 would also be placed in Executive Salary Schedule IV—the Director General of the Foreign Service and the Inspector General of the Department of State and the Foreign Service.

Finally, subsection (c) repeals the provisions of Public Law 93-126 (22 U.S.C. 2655a) and Public Law 95-426 (22 U.S.C. 2652a) because, without changing their duties and responsibilities, the Assistant Secretaries for Ocean and International Environmental and Scientific Affairs and for International Narcotics Matters will not be additional to the number in 22 U.S.C. 2652.

SECTION 110—CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Public Law 94-37 (89 Stat. 216) currently authorizes expenditures for United States participation in certain United Nations peacekeeping activities in the Middle East, which are funded through regularly assessed member state contributions. This amendment would provide general authorization for the United States to pay its share of the regularly assessed contributions for such peacekeeping and related government transition activities.

SECTION 111—MIGRATION AND REFUGEE ASSISTANCE AMENDMENTS

Subsection (a) of Section 111 would assure the authority of the President to furnish under the Migration and Refugee Assistance Act (MRAA), as amended, 22 U.S.C. 2601 et seq., humanitarian relief for refugees who are located in countries for which direct economic and military assistance may be prohibited by other statutes.

The existence of restrictions on general bilateral foreign assistance programs to a particular country, such as those sanctions imposed by Section 620(e) of the Foreign Assistance Act of 1961, as amended and Section 518 of Public Law 98-473, as amended, has created uncertainty concerning the President's ability to fund bilateral humanitarian programs under the MRAA through earmarked appeals from international organizations or programs of private voluntary organizations for that country. This result is incompatible with the humanitarian nature of migration and refugee assistance under the MRAA.

Subsection (a) therefore would exempt refugee assistance from these more general prohibitions on economic and military assistance. In doing so, the amendment conforms the MRAA authorities to those available for disaster assistance under Section 491 of the Foreign Assistance Act of 1961, as amended, and for food relief under Title II of the Agricultural Trade Development and Assistance Act of 1954, as amended.

Subsection (b) of Section 111 would authorize the use of funds appropriated to carry out the MRAA for contracting for personal services outside the United States. The proposed amendment also provides that recipients of such contracts shall not be considered employees for the purpose of laws administered by the Office of Personnel Management.

The authority under Subsection (b) would allow the Bureau for Refugee Programs to expand or reduce its staffing abroad without delay as needed in response to refugee program requirements such as those now occurring in sub-Saharan Africa and which previously occurred during the Indochinese exodus of 1979 and the Somalia refugee crisis in 1980. In doing so, subsection (b) provides identical authority for the Refugee Bureau of the State Department to that available to the Agency for International Development pursuant to Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, and comparable authority to that contained in Section 2(c) of Title I of the State Department Basic Authorities Act, as amended.

SECTION 112—INTERNATIONAL CENTER PROJECT

The International Center Project, a major diplomatic center currently under development by the Department of State in Washington, D.C., is expected upon completion to contain more than twenty chanceries of foreign governments, as well as the headquarters facilities for the International Telecommunications Satellite Organization.

In order to provide for special security, as well as maintenance of the federal site, this Section authorizes the Secretary in coordination with the Administrator of General Services to construct a facility within the Center which will provide for on-site security and support and maintenance services.

SECTION 113—FOREIGN SERVICE INSTITUTE

The Foreign Service Institute of the Department of State provides critical regional and country training, language training and training for political, economic, administrative and consular functions for officials of the United States assigned to overseas duty or employed by the foreign affairs and national security agencies of our government. The Institute is currently located in leased facilities neither designed for or adequate for this type of activity, which have, in addition, become increasingly costly.

In order to upgrade and maintain the professional and language capabilities critically necessary to meet the challenges and growing complexity facing United States foreign relations personnel, a consolidated training facility in reasonable proximity to the State Department is necessary, designed to government specifications, and able to be operated on a long-term cost efficient basis.

Subsection (a) amends Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024), by clarifying the existing authority of the Secretary under Section 704(5) to acquire facilities for the Foreign Service Institute, to include the purchase or construction of such a facility within the term "acquisition". This amendment also specifies the statutory authority of the Secretary to accept a transfer from other federal agencies of excess Federal sites or facilities for purposes of this subsection.

Subsection (b) authorizes funds to be expended, not to exceed $11 million dollars, from the "Salaries and Expenses" appropriations for fiscal year 1987 for planning, completion of environmental assessments, site acquisition and architectural and engineering work.

Subsection (c) makes available amounts authorized to be appropriated for fiscal year 1988 for acquisition, by construction or otherwise, of Institute facilities. Completion of functions authorized under Subsection (b) will permit accurate cost estimates and building requirements to be submitted to the Congress prior to appropriation of funds for construction or development.

SECTION 114—AMERICAN-AUSTRALIAN BICENTENNIAL FOUNDATION

American participation in the planned Australian Bicentennial celebration is an important reflection of the special and close relationship between the United States and Australia, based on shared history, a common cultural heritage, similar political institutions, shared respect for individual liberties, a thriving relationship in commerce between the two nations and a broad range of links between the people of Australia and the people of the United States.

This section authorizes the Department of State to finance a portion of the operating expenses of the American-Australian Bicentennial Foundation, a private non-profit organization organized in 1983 with the support and encouragement of the Department and of USIA, and designated by the Department to coordinate American participation in the Australian Bicentennial celebration.

This authority does not affect United States agency programs in Australia, such as those carried out by USIA.●

By Mr. LUGAR (by request):

S. 660. A bill to amend the Foreign Assistance Act of 1961, the Arms Export Control Act and the Agricultural Trade Development and Assistance Act of 1954, to authorize development and security assistance programs for fiscal year 1986, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT

● Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to authorize security and development assistance programs for fiscal years 1986 and 1987, and for other purposes.

This proposed legislation has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis and the letter from the Secretary of State to the President of the Senate dated March 7, 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 660

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

SHORT TITLE

SECTION 1. This Act may be cited as the "International Security and Development Cooperation Act of 1985".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

FOREIGN MILITARY SALES CREDIT AUTHORIZATION AND AGGREGATE CEILINGS

SEC. 101. (a) The first sentence of section 31(a) of the Arms Export Control Act is amended to read as follows:

"There are hereby authorized to be appropriated to the President to carry out section 23 of this Act $5,655,000,000 for the fiscal year 1986.".

(b) Section 31(b)(1) is amended to read as follows:

"(b)(1) The total amount of credits extended under section 23 of this Act shall not exceed $5,655,000,000 for the fiscal year 1986.".

(c) Section 31(b)(3) of such Act is amended to read as follows:

"(3) of the aggregate total of credits extended under section 23 of this Act, not less than $1,800,000,000 for the fiscal year 1986 shall be available only for Israel, and Israel shall be released from its contractual liability to repay the United States Government with respect to such credits.".

(d) Section 31(b)(5) of such Act is amended to read as follows:

"(5) The principal amount of credits provided under section 23 at interest rates equivalent to the current average interest rate for United States Government obligations of comparable maturity, or under section 24(a) if provided by the Federal Financing Bank, with respect to Greece, Korea, the Philippines, Portugal, Thailand and Turkey, shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal.".

(e) Section 31(b)(6) of such Act is amended to read as follows:

"(6) Of the total amount of credits extended under section 23 of this Act, not less than $1,300,000,000 for the fiscal year 1986 shall be available only for Egypt, and Egypt shall be released from its contractual liability to repay the United States Government with respect to such credits.".

(f) Sections 31(b)(7) and 31(c) of such Act are repealed.

ADMINISTRATIVE SURCHARGE

SEC. 102. Subparagraph (A) of Section 21(e)(1) of the Arms Export Control Act is amended by inserting "(excluding a pro rata share of fixed base operation costs)" immediately after "full estimated costs".

CATALOG DATA AND SERVICES

SEC. 103. Section 21(h) of the Arms Export Control Act is amended—

(1) by inserting "(1)" immediately after "(h)";

(2) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)" respectively; and

(3) by adding at the end thereof the following:

"(2) In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization or to any member government thereof, if such Organization or member government provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.".

CONTRACT ADMINISTRATION SERVICES

SEC. 104. Section 21(h) of the Arms Export Control Act is amended by inserting "contract administration services," immediately after "inspection," in the first sentence.

SALES CREDITS

SEC. 105. Section 23 of the Arms Export Control Act is amended to read as follows:

"SEC. 23. SALES CREDITS.—The President is authorized to finance procurement of defense articles, defense services and design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine. The President shall charge interest at a rate determined by the Secretary of the Treasury taking into consideration the current market yields on outstanding marketable obligations of the United States of comparable maturities. Notwithstanding the preceding sentence, the President may charge a lesser rate of interest if he determines that the national interest requires a lesser rate. Loan agreements under this section shall require repayment in United States dollars within a period not to exceed twelve years after the loan agreement is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for such country or international organization.".

GUARANTEE RESERVE

SEC. 106. The second sentence of section 24(c) of the Arms Export Control Act is amended to read as follows:

"There are hereby authorized to be approriated and are appropriated from time to time such funds as may be necessary to pay claims under such guarantees to the extent funds in the single reserve are inadequate therefor.".

REPORTING REQUIREMENT

SEC. 107. (a) Section 25(a) of the Arms Export Control Act is amended in the text preceding paragraph (1) by inserting "or, in the case of paragraph (4), no later than April 1 of each year" immediately after "each year".

(b) Section 25 of this Act is amended by striking out subsection (a)(4) and inserting in lieu thereof the following:

"(4) an estimate of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries in the developing world during the preceding calendar year;".

COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

SEC. 108. (a) The Secretary of Defense may carry out the European air defense agreements. In carrying out those agreements, the Secretary—

(1) may provide without monetary charge to the Federal Republic of Germany articles and services as specified in the agreements; and

(2) may accept from the Federal Republic of Germany (in return for the articles and services provided under paragraph (1)) articles and services as specified in the agreements.

(b) In connection with the administration of the European air defense agreements, the Secretary of Defense may—

(1) waive any surcharge for administrative services otherwise chargeable under section 21(e)(1)(A) of the Arms Export Control Act;

(2) waive any charge not otherwise waived for services associated with contract administration for the sale under the Arms Export Control Act of Patriot air defense missile fire units to the Federal Republic of Germany contemplated in the agreements;

(3) use, to the extent contemplated in the agreements, the NATO Maintenance and Supply Agency (A) for the supply of logistical support in Europe for the Patriot missile system, and (B) for the acquisition of such logistical support, to the extent that the Secretary determines that the procedures of that agency governing such supply and acquisition are appropriate;

(4) share, to the extent contemplated in the agreements, the costs of set-up charges of facilities for use by that agency to perform depot-level support of Patriot missile fire units in Europe; and

(5) deliver to the Federal Republic of Germany one Patriot missile fire unit configured for training, to be purchased by the Federal Republic of Germany under the Arms Export Control Act as contemplated in the agreements, without regard to the requirement in section 22 of that Act for payment in advance of delivery for any purchase under that Act.

(c) Notwithstanding the rate required to be charged under section 21 of the Arms Export Control Act for services furnished by the United States, in the case of 14 Patriot missile fire units which the Federal Republic of Germany purchases from the United States under the Arms Export Control Act as contemplated in the European air defense agreements, the rate charged by the Secretary of Defense for packing, crating, handling, and transportation services associated with that purchase may not exceed the established Department of Defense rate for such services.

(d) For the purposes of this section, the term "European air defense agreements" means (1) the agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany on Cooperative Measures for Enhancing Air Defense for Central Europe," signed on December 6, 1983, and (2) the

agreement entitled "Agreement between the Secretary of Defense of the United States of America and the Minister of Defense of the Federal Republic of Germany in implementation of the 6 December 1983 Agreement on Cooperative Measures for Enhancing Air Defense for Central Europe," signed on July 12, 1984.

(e) The authority of the Secretary of Defense to enter into contracts under the European air defense agreements is available only to the extent that appropriated funds, other than those made available under section 31 of the Arms Export Control Act, are available for that purpose.

QUARTERLY REPORTS

SEC. 109. Section 36(a) of the Arms Export Control Act is amended by striking out the parenthetical clause in the text preceding paragraph (1) and inserting in lieu thereof "(except that the material transmitted pursuant to paragraphs (1) and (2) of this subsection may be contained in a classified addendum to such report)".

INCREASE IN CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS OF THE ARMS EXPORT CONTROL ACT

SEC. 110. (a) Section 38(c) of the Arms Export Control Act is amended by striking out "not more than $100,000 or imprisoned not more than two years, or both" and inserting in lieu thereof "for each violation not more than $1,000,000 or imprisoned not more than ten years, or both".

(b) Section 38(e) of such Act is amended by adding at the end thereof the following: "Notwithstanding Section 11(c) of the Export Administration Act of 1979, as amended, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.".

(c) This section shall take effect upon the date of enactment of this Act or October 1, 1985, whichever is later. The amendments made by this section apply with respect to violations occurring after the effective date of this section.

OFFICIAL RECEPTION AND REPRESENTATION EXPENSES

SEC. 111. Section 43 of the Arms Export Control Act is amended—

(1) in subsection (b) by inserting "and official reception and representation expenses" immediately after "administrative expenses"; and

(2) by adding at the end thereof the following new subsection:

"(c) Not more than $72,500 of the funds derived from charges for administrative services pursuant to section 21(e)(1)(A) of this Act may be used each fiscal year for official reception and representation expenses.".

SAFETY RELATED EQUIPMENT

SEC. 112. Section 44 of the Arms Export Control Act is amended by inserting "(a)" immediately in front of the first sentence and by adding at the end thereof the following:

"(b) No provision of any law shall be construed to prohibit the sale or licensing for export of items which are essential to the safe operation of any defense article.".

SPECIAL DEFENSE ACQUISITION FUND

SEC. 113. Section 51(a) of the Arms Export Control Act is amended by adding the following paragraphs to the end thereof:

"(3) In order to maintain the readiness of the Armed Forces of the United States while facilitating the transfer of less advanced weapons systems in the inventory of the Department of Defense to foreign countries and international organizations in accordance with the provisions of this Act, the Foreign Assistance Act of 1961, or as otherwise authorized by law, instead of the transfer of more advanced weapons systems from procurement, the Fund may be used to acquire defense articles and defense services in anticipation of their transfer, on a reimbursable basis, to the Department of Defense to replace items transferred from the inventory of that Department to foreign countries and international organizations if such items are no longer in production for use by the Armed Forces of the United States.

"(4) The Fund may be used to keep on continuous order such defense articles and defense services as are assigned by the Department of Defense for integrated management by a single agency thereof for the common use of all Military Departments in anticipation of the transfer of similar defense articles and defense services to foreign countries and international organizations authorized by this Act, the Foreign Assistance Act of 1961, or other law.".

MILITARY ASSISTANCE

SEC. 114. Section 504(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter $949,350,000 for the fiscal year 1986.".

MILITARY ASSISTANCE COSTS

SEC. 115. Section 503(a) of the Foreign Assistance Act of 1961 is amended by adding the following sentence at the end of paragraph (3) thereof: "Sales which are wholly paid from funds so transferred shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States.".

WAIVER OF NET PROCEEDS OF SALE OF MAP ITEMS

SEC. 116. Section 505(f) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following: "In the case of defense articles delivered more than five years prior to the President's determination, the President may waive the requirement that such net proceeds be paid to the United States Government if he determines that to do so is in the national interest of the United States.".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 117. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(2) The value of such additions to stockpiles in foreign countries shall not exceed $360,000,000, for the fiscal year 1986.".

SECURITY ASSISTANCE ORGANIZATIONS

SEC. 118. Section 515(c)(1) of the Foreign Assistance Act of 1961 is amended by striking out "For the fiscal year 1982 and the fiscal year 1983" and inserting in lieu thereof "Pakistan, Tunisia, Sudan, El Salvador, Honduras, Venezuela".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

SEC. 119. Section 542 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 542. AUTHORIZATION.—There are authorized to be appropriated to the President to carry out the purposes of this chapter $65,650,000 for the fiscal year 1986.".

EXCHANGE TRAINING

SEC. 120. Chapter 5 of part II of the Foreign Assistance Act of 1961 is amended by adding the following section:

"SEC. 544. EXCHANGE TRAINING.—In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than Service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.".

TRAINING IN MARITIME SKILLS

SEC. 121. (a) Chapter 5 of part II of the Foreign Assistance Act of 1961 is amended by adding the following section:

"SEC. 545. TRAINING IN MARITIME SKILLS.—The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills."; and

(b) Section 660(b) of such Act of 1961 is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(3) by adding the following new clause after clause (2):

"(3) with respect to assistance, including training, in maritime law enforcement.".

AUTHORIZATION FOR PEACEKEEPING OPERATIONS

SEC. 122. Section 552(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a) There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to amounts otherwise available for such purposes, $37,000,000 for the fiscal year 1986.".

PEACEKEEPING OPERATIONS EMERGENCIES

SEC. 123. (a) Section 552 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting in subsection (c) the number "(1)" immediately after "the President may";

(2) by inserting in subsection (c) immediately before the period at the end of the subsection "; and (2) in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $25,000,000 in any fiscal year"; and

(3) by inserting at the end thereof the following subsection:

"(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under subsection (c)(2) of this section.".

(b) Section 652 of such Act is amended by inserting ", 552(c)(2)," immediately after "under section 506(a)".

TITLE II—ECONOMIC SUPPORT FUND

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 531(b)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter $2,824,000,000 for the fiscal year 1986.".

(b) Section 535 of such Act is amended—

(1) by striking out "1982" and inserting in lieu thereof "1986"; and

(2) by striking out "and up to $75,000,000 for the fiscal year 1983".

(c) Chapter 4 of part II of such Act is amended—

(1) by striking out existing sections 532, 533, 534, 536, 537, 538, 539, and 540; and

(2) by redesignating existing section 535 as section 532.

TITLE III—DEVELOPMENT ASSISTANCE

DEVELOPMENT ASSISTANCE POLICY

SEC. 301. Section 102(b) of the Foreign Assistance Act of 1961 is amended by adding the following new paragraphs:

"(13) United States encouragement of policy reforms is necessary if developing countries are to achieve economic growth with equity.

"(14) Development assistance should, as a fundamental objective, promote private sector activity in open and competitive markets in developing countries, recognizing such activity to be a productive and efficient means of achieving equitable and long term economic growth.

"(15) United States cooperation in development should recognize as essential the need of developing countries to have access to appropriate technology in order to improve food and water, health and housing, education and employment, agriculture and industry.

"(16) United States assistance should focus on establishing and upgrading the institutional capacities of developing countries in order to promote long term development. An important component of institution building involves training to expand the human resource potential of people in developing countries.".

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 302. The first sentence of section 103(a)(2) of the Foreign Assistance Act of 1961 is amended to read as follows:

"There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $792,352,000 for the fiscal year 1986, of which the President may use such amounts as he deems appropriate to carry out the provisions of section 316 of the International Security and Development Cooperation Act of 1980.".

POPULATION AND HEALTH

SEC. 303. (a) Section 104(g) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(1) $250,017,000 for the fiscal year 1986 to carry out subsection (b) of this section; and

(2) $146,427,000 for the fiscal year 1986 to carry out subsection (c) of this section, of which not less than $25,000,000 shall be available to carry out subsection (c)(2).

Funds appropriated under this subsection are authorized to remain available until expended.".

(b) Section 104(c)(2) of such Act is amended by—

(1) striking out "(A)" at the beginning of paragraph (2);

(2) adding the following at the end of paragraph (2): "Appropriations pursuant to this paragraph may be referred to as the 'Child Survival Fund'."; and

(3) striking out subparagraphs (B) and (C).

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 304. (a) The second sentence of section 105(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $183,533,000 for the fiscal year 1986, which are authorized to remain available until expended.".

(b) The third sentence of such section is repealed.

ENERGY, PRIVATE VOLUNTARY ORGANIZATIONS, AND SELECTED DEVELOPMENT ACTIVITIES

SEC. 305. Section 106(e)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(e)(1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $223,071,000 for the fiscal year 1986.".

PRIVATE SECTOR REVOLVING FUND

SEC. 306. The first sentence of section 108(b) of the Foreign Assistance Act of 1961 is amended by striking out "1984" and inserting in lieu thereof "1986".

SAHEL DEVELOPMENT PROGRAM

SEC. 307. The third sentence of section 121(c) of the Foreign Assistance Act of 1961 is amended to read as follows:

"In addition to the amounts authorized in the preceding sentences and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $80,500,000 for the fiscal year 1986.".

PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES IN OVERSEAS DEVELOPMENT

SEC. 308. Section 123(e) of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence by inserting "on which it is determined" immediately after "prior to the date"; and

(2) in the third sentence by striking out "such date" wherever it occurs and inserting in lieu thereof "the date on which a decision is made to continue such support".

DEVELOPMENT AND ILLICIT NARCOTICS PRODUCTION

SEC. 309. Section 126(b) of the Foreign Assistance Act is amended—

(1) by inserting "and under chapter 4 of part II" immediately after "this chapter"; and

(2) by adding at the end thereof the following: "The agency primarily responsible for administering this part may utilize resources for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.".

HOUSING GUARANTY PROGRAM

SEC. 310. (a) Section 222(a) of the Foreign Assistance Act of 1961 is amended—

(1) in the second sentence, by striking out "$1,958,000,000" and inserting in lieu thereof "$2,003,000,000"; and

(2) in the third sentence, by striking out "1986" and inserting in lieu thereof "1987".

(b) Section 223(j) of such Act is amended in the penultimate sentence by striking out ", and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000".

TRADE CREDIT INSURANCE PROGRAM

SEC. 311. Section 224(e) of the Foreign Assistance Act of 1961 is amended by striking out "$300,000,000 in the fiscal year 1985" and inserting in lieu thereof "$500,000,000 in the fiscal years 1985 and 1986".

DISADVANTAGED CHILDREN IN ASIA

SEC. 312. Section 241(b) of the Foreign Assistance Act of 1961 is amended by striking out "$2,000,000" and inserting in lieu thereof "$3,000,000".

TITLE IV—CENTRAL AMERICA DEMOCRACY, PEACE, AND DEVELOPMENT INITIATIVE

SEC. 401. Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 5 the following new chapter:

"CHAPTER 6—CENTRAL AMERICA DEMOCRACY, PEACE, AND DEVELOPMENT INITIATIVE

"SEC. 461. STATEMENT OF POLICY.—(a) The Congress finds that the building of democracy, the restoration of peace, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States. The Congress further finds that the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America.

"(b) The achievement of democracy, human rights, peace, and equitable economic growth depends primarily on the cooperation and the human and economic resources of the people and governments of Central America. The Congress recognizes that the United States can make a significant contribution to such peaceful and democratic development through a consistent and coherent policy which includes a long-term commitment of assistance. This policy should be designed to support actively democracy and political reform, including opening the political process to all members of society; human rights, including free elections, freedom of the press, freedom of association, and the elimination of the violent abuse of human rights; leadership development, including training and educational programs to improve public administration and the administration of justice; land reform; the establishment of the rule of law and an effective judicial system; the termination of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes and the prosecution to the extent possible of past offenders. The policy should also promote equitable economic growth and development including controlling the flight of capital and the effective use of foreign assistance and adhering to approved programs for economic stabilization and fiscal responsibility. Finally, the policy should foster dialogue and negotiations to achieve peace based upon the objectives of democratization, reduction of armament, an end to subversion, and the withdrawal of foreign military forces and advisers; and to provide a security shield against violence and intimidation. It is the purpose of this chapter to establish the statutory framework and to authorize the appropriations and financing necessary to carry out the policy described in this section.

"(c) The Congress finds therefore that the people of the United States are willing to sustain and expand a program of economic and military assistance in Central America if the recipient countries can demonstrate progress toward and a commitment to these goals.

"SEC. 462. CONDITIONS ON FURNISHING ASSISTANCE.—(a) The President shall ensure that assistance authorized by this Act and the Arms Export Control Act to Central American countries is furnished in a manner which fosters demonstrated progress toward and commitment to the objectives set forth in section 461. Where necessary to achieve this purpose, the President shall impose conditions on the furnishing of such assistance. In carrying out this section, the President shall consult with Congress in regard to progress towards the objectives set forth in section 461, and any conditions imposed on the furnishing of assistance in furtherance of those objectives.

"(b) The reporting requirements with respect to El Salvador contained in the last proviso in the paragraph under the heading "Military Assistance" in Public Law 98-332 and section 533 in the Foreign Assistance and Related Programs Appropriations Act, 1985, shall not apply after the enactment of this section.

"SEC. 463. PEACE PROCESS IN CENTRAL AMERICA.—The Congress—

"(1) strongly supports the initiatives taken by the Contadora group and the resulting Document of Objectives which has been agreed to by Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua and which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region; and

"(2) finds that the United States should provide such assistance and support as may be appropriate in helping to reach comprehensive and verifiable final agreements, based on the Document of Objectives, which will ensure peaceful and enduring solutions to the Central American conflicts.

"SEC. 464. ECONOMIC ASSISTANCE COORDINATION.—(a) The Congress finds that participation by Central American countries in an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development would foster cooperation between the United States and Central American countries.

"(b) It is the sense of the Congress that—

"(1) the President should enter into negotiations with the countries of Central America to establish a multilateral organization to help provide a continuous and coherent approach to the development of the Central American region; and

"(2) the establishment of such an organization should be based upon the following principles:

"(A) that participation in the organization be open to the United States, other donors, and those Central American countries that commit themselves to, among other things, progress on human rights, building democracy, and encouraging equitable economic growth through policy reforms;

"(B) that the organization be structured to include representatives from both the public and private sectors, including representatives from the labor, agriculture, and business communities;

"(C) that the organization meet periodically to carry out the functions described in subparagraphs (D) and (E) of this paragraph and should be supported by a limited professional secretariat;

"(D) that the organization make recommendations affecting Central American countries on such matters as—

"(i) political, economic, and social development objectives, including the strengthening of democratic pluralism and the safeguarding of human rights;

"(ii) mobilization of resources and external assistance needs; and

"(iii) reform of economic policies and structures;

"(E) that the organization have the capacity for monitoring country performance on recommendations issued in accordance with subparagraph (D) of this paragraph and for evaluating progress towards meeting such country objectives;

"(F) that to the maximum extent practicable, the United States follow the recommendations of the organization in disbursing bilateral economic assistance for any Central American country. No more than 75 percent of such United States assistance in any fiscal year should be disbursed until the recommendations of the organization for that fiscal year have been made final and communicated to the donor countries. The limitation on disbursements contained in the previous sentence should apply only to recommendations made final and communicated to donor countries prior to the fourth quarter of such fiscal year. The United States representative to the organization should urge other donor countries to similarly implement the recommendations of the organization; and

"(G) that the administrator of the agency primarily responsible for administering part I of this Act, or his designee, represent the United States Government in the organization and should carry out his functions in that capacity under the continuous supervision and general direction of the Secretary of State.

"(c) Subject to subsection (d)(2), the President is authorized to participate in the organization established pursuant to this section.

"(d)(1) The administrator of the agency primarily responsible for administering part I of this Act, under the supervision and direction of the Secretary of State, shall prepare a detailed proposal to carry out this section and shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed concerning the development of this proposal.

"(2) The President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a copy of the text of any agreement which he proposes to sign providing for the establishment of and United States participation in the organization described in this section no less than 60 days prior to his signature. During that 60-day period there shall be full and formal consultations with and review by those committees in accordance with procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"SEC. 465. AUTHORIZATIONS FOR FISCAL YEARS 1987 through 1989.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President, for the purpose of furnishing nonmilitary assistance for Central American countries, $1,200,000,000 for each of the fiscal years 1987 through 1989, to remain available until expended. The President is authorized to transfer funds authorized by this section for obligation in accordance with the authorities of part I of this Act (including chapter 4 of part II of such Act), the Peace Corps Act, the Migration and Refugee Assistance Act of 1962, the United States Information and Education Exchange Act of 1984, the Mutual Educational and Cultural Exchange Act of 1961, the National Endowment for Democracy Act, and the State Department Basic Authorities Act of 1956, as amended.

"SEC. 466. DEFINITIONS.—For the purposes of this a chapter, the term "Central American countries" shall be deemed to include Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit such countries.".

ADMINISTRATION OF JUSTICE

SEC. 402. Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section:

"SEC. 533. ADMINISTRATION OF JUSTICE.—(a) The President may furnish assistance to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in Latin America and the Caribbean. Assistance under this section may include support for specialized professional training, scholarships, and exchanges for continuing legal education; programs to enhance judicial, prosecutorial, investigative and enforcement capabilities, and to provide protection for participants in judicial cases; strengthening professional organizations to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; increasing the availability of legal materials and publications; seminars, conferences, training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and human rights; and revision and modernization of legal codes and procedures.

"(b) The assistance specified in this section may be provided notwithstanding section 660 of this Act. The President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate not less then fifteen days in advance of obligating funds pursuant to this section for programs or activities under this section which would otherwise be subject to section 660 of this Act.".

LAND REFORM

SEC. 403. Section 620(g) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following sentence: "This prohibition shall not apply to monetary assistance made available for use by a government or political subdivision or agency of such government to compensate nationals of that country in accordance with a land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.".

TITLE V—MISCELLANEOUS PROVISIONS

AMERICAN SCHOOLS AND HOSPITALS ABROAD

SEC. 501. Section 214(c) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(c) To carry out the purposes of this section, there are authorized to be appropriated to the President $10,000,000 for the fiscal year 1986, which are authorized to remain available until expended.".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 502. Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, $196,211,000 for the fiscal year 1986.".

INTERNATIONAL NARCOTICS CONTROL

SEC. 503. Section 482(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $57,529,000 for the fiscal year 1986.".

NARCOTICS REPORTING REQUIREMENT

SEC. 504. Section 481(b) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(b) Not later than forty-five days after the end of each calendar quarter, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foriegn Relations of the Senate, a report on the programming and obligation, on a calendar basis, of funds under this chapter prior to the end of that quarter. The last such report for each fiscal year shall include the aggregate obligations and expenditures made, and the types and quantity of equipment provided, on a calendar quarter basis, prior to end of that fiscal year—

"(A) to carry out the purposes of this chapter with respect to each country and each international organization receiving assistance under this chapter, including the cost of the United States personnel engaged in carrying out such purposes in each such country and with each such international organizations;

"(B) to carry out each program conducted under this chapter in each country and by each international organization, including the cost of United States personnel engaged in carrying out each such program; and

"(C) for administrative support services within the United States to carry out the purposes of this chapter, including the cost of United States personnel engaged in carrying out such purposes in the United States.

"(2) Not later than August 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include, but not be limited to, the status of each agreement concluded prior to such date with other countries to carry out the purposes of this chapter.".

INTERNATIONAL DISASTER ASSISTANCE

SEC. 505. The first sentence of section 492(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"There are authorized to be appropriated to the President to carry out section 491 $25,000,000 for the fiscal year 1986.".

ANTI-TERRORISM ASSISTANCE PROGRAM

SEC. 506. (a) Section 575 of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 575. AUTHORIZATION.—There are authorized to be appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1986. Amounts appropriated under this section are authorized to remain available until expended.".

(b) Section 573(d)(4) of such Act is repealed and existing paragraph "(5)" is renumbered as paragraph "(4)"; and

(c) Section 577 of such Act is repealed.

COMPLETION OF PLANS AND COST ESTIMATES

SEC. 507. (a) Section 611(a) of the Foreign Assistance Act of 1961 is amended—

(i) by striking out "$100,000" and inserting in lieu thereof "$500,000"; and

(2) by striking out "section 1311 of the Supplemental Appropriation Act, 1955 as amended (31 U.S.C. 200)" and inserting in lieu thereof "section 1501 of title 31, United States Code".

(b) Section 611(b) of such Act is amended by striking out the phrase "the procedures set forth in the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973, with respect to such computations" and inserting in lieu thereof "the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, *et seq.*) or Acts amendatory or supplementary thereto".

PROHIBITIONS AGAINST ASSISTANCE

SEC. 508. Section 620(f) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" immediately after "(f)";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the President may remove a country, for such period as the President determines, from the application of this subsection, and other provisions which reference this subsection, if the President determines and reports to the Congress that such action is important to the national interest of the United States.".

STREAMLINING OF REPROGRAMMING REQUIREMENTS

SEC. 509. (a) Section 634A of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" immediately before "None";

(2) by inserting "or the Arms Export Control Act" immediately after "disaster relief and rehabilitation)" and immediately after "this Act" the second place it appears;

(3) by inserting ": *Provided*, That such notification shall not be required for funds appropriated to carry out the purposes of chapter 1 of part I if the obligation for an activity, program or project will be in excess of the amount justified for such activity, program or project for a fiscal year by not more than 10 per cent" immediately after "such obligation"; and

(4) by adding at the end of the section the following new subsection:

"(b) The notification requirement of this section does not apply to the reprogramming of less than $25,000 for use under chapter 8 of part I or for use under chapter 5 of part II, for a country for which a program under that chapter for that fiscal year was justified to the Congress.".

(b) Section 653 of the Foreign Assistance Act is amended—

(1) by inserting in subsection (a) "or the Arms Export Control Act" immediately after "sections 451 or 637)";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(c) Section 36(a)(5) of the Arms Export Control Act is amended—

(1) in paragraph (5) by striking out "cash" and by striking out ", credits to be extended under section 23, and guaranty agreements to be made under section 24"; and

(2) in paragraph (6) by striking out "cash" and striking out "and credits expected to be extended".

TRAINING ASSISTANCE

SEC. 510. Section 638 of the Foreign Assistance Act of 1961, is amended—

(1) by inserting "or any other" immediately after "of this"; and

(2) by inserting "; or for training activities funded under this Act and which are consistent with sections 116, 502B and 660 of this Act" immediately after "Export-Import Bank Act of 1945, as amended".

TRADE AND DEVELOPMENT PROGRAM

SEC. 511. The first sentence of section 661(b) of the Foreign Assistance Act of 1961 is amended to read as follows:

"There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $20,000,000 for the fiscal year 1986.".

OPERATING EXPENSES

SEC. 512. Section 667(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) $387,000,000 for the fiscal year 1986 for necessary operating expenses of the agency primarily responsible for administering part I of this Act; and".

ILLEGAL EMIGRATION FROM HAITI

SEC. 513. Notwithstanding the limitations of section 660 of the Foreign Assistance Act of 1961, funds made available under such Act may be used for programs with Haiti, which shall be consistent with prevailing United States refugee policies, to assist in halting significant illegal emigration from Haiti to the United States.

PARTICIPANT TRAINEE GRANTS

SEC. 514. Section 1441(c) of the Internal Revenue Code of 1954 is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) SCHOLARSHIPS, PER DIEM, ETC. OF CERTAIN ALIENS.—No deduction or withholding under subsection (a) shall be required in the case of amounts of scholarships or fellowship grants, or per diem for subsistence paid by the United States Government (directly or by contract) to any non-resident alien individual who is engaged in any program of training in the United States under the Foreign Assistance Act of 1961, as amended.".

ASSISTANCE FOR AFGHANISTAN

SEC. 515. The President may make available funds authorized to be appropriated to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal years 1985 and 1986 for the provision of food, medicine or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. This section shall take effect on the date of enactment of this Act.

REPEAL OF PROVISIONS; TECHNICAL AMENDMENTS

SEC. 516. (a) The Foreign Assistance Act of 1961 is amended as follows:

(1) Section 106(b)(1) is amended by striking out "(A)" and by striking out subparagraph (B).

(2) Section 110 is amended by striking out "(a)" and by striking out subsection (b).

(3) Section 306 is amended by striking out "(a)" and by striking out subsection (b).

(4) Chapter 10 of part I is repealed.

(b) Section 636(a)(14) of the Foreign Assistance Act of 1961 is amended by striking out "the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)".

(c) Section 47(6) of the Arms Export Control Act is amended by striking out "combat" and inserting in lieu thereof "military".

TITLE VI—FOOD FOR PEACE PROGRAM

RESOURCES FOR SECTION 206 DEVELOPMENT PROGRAMS

SEC. 601. Section 201(b)(3) of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or shall be available to carry out programs subject to the requirements of section 206" immediately after "World Food Program".

USE OF LOCAL CURRENCIES FOR EDUCATION PROGRAMS UNDER TITLE III

SEC. 602. Section 301(b) of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "education," immediately after "health services," in the second sentence thereof.

TITLE VII—AUTHORIZATION FOR THE FISCAL YEAR 1987 AND EFFECTIVE DATE

AUTHORIZATION FOR THE FISCAL YEAR 1987

SEC. 701. There are authorized to be appropriated for the fiscal year 1987 such sums as may be necessary to carry out programs and activities for which appropriations for the fiscal year 1986 are authorized by this Act.

EFFECTIVE DATE

SEC. 702. Except where otherwise stated in this Act, this Act shall take effect on October 1, 1985.

THE SECRETARY OF STATE,
Washington, March 7, 1985.

Hon. GEORGE BUSH,
President, U.S. Senate.

DEAR MR. PRESIDENT: I herewith transmit, on behalf of the President, a bill to amend the Foreign Assistance Act of 1961, the Arms Export Control Act, and the Agricultural Trade Development and Assistance Act of 1954 to authorize security and development assistance programs for the fiscal years 1986 and 1987, and for other purposes.

This bill authorizes $11.9 billion in appropriations world-wide for international security and development assistance programs. The foreign assistance programs authorized by this bill are essential instruments of U.S. foreign and defense policy. Development and security assistance programs are complementary in assisting our friends and allies to meet economic, security and social challenges. Development assistance helps developing countries achieve equitable economic growth and deal with problems of hunger, disease and poverty. By meeting basic human needs, promoting the development of essential economic and political institutions, and productive, self-sustaining private sectors, it contributes to improving the quality of life in those countries. Security assistance helps allies and friendly nations to defend themselves against external threats, lessens the economic, social and political weaknesses which lead to instability, and contributes to regional and international security.

The proposed International Security and Development Cooperation Act of 1985 includes proposed amendments to the Foreign Assistance Act of 1961 (FAA), the Arms Export Control Act (AECA), the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), and the Internal Revenue Code of 1954 (IRC). Title I through VI authorize appropriations for international security and development assistance and related programs for fiscal year 1986 and make certain changes in the authorities governing these programs.

Title I consists of authorizations for military sales and related programs. Amendments to the AECA and the FAA are being proposed in order to assist in the more effective implementation of U.S. security assistance. Proposed amendments to the authorities applicable to the Foreign Military Sales (FMS) credit program would adjust these authorities to reflect more clearly and accurately the FY 1985 Continuing Resolution decision which placed the entire FMS financing program on-budget, thereby changing the nature of the financing program. Several of the provisions in Title I are intended to allow the United States to respond more quickly and appropriately to threats to our interests.

With respect to the authorizations requested in this bill for security assistance programs for Greece and Turkey, I hereby certify, in accordance with section 620C(d) of the FAA, that the furnishing of such assistance to Greece and Turkey will be consistent with the principles set forth in section 620C(b) of the FAA. The explanation of the reasons for this certification in each case is contained in the congressional presentation materials for the fiscal year 1986 security assistance programs.

Title II provides authorization for the Economic Support Fund. The Administration is requesting an authorization of $2.8 billion for FY 1986 for this program. This request does not include an amount for Israel for which a request will be transmitted at a later date.

Title III authorizes appropriations of $1.7 billion for FY 1986 for Development Assistance programs. This title includes an amendment to the FAA reflecting the Administration's emphasis on policy dialogue, technology transfer, institution building and the private sector as means by which developing countries might achieve self-sustained equitable economic growth.

Title IV adds a new chapter to the FAA that embodies the policy framework and recommendations of the National Bipartisan Commission on Central America and authorizes appropriations for Central America non-military programs through FY 1989. Commission recommendations regarding economic assistance coordination for Central America and programs for the administration of justice in Latin America and the Caribbean are addressed in this title.

Covered in Title V are miscellaneous amendments to the FAA including authorization for the international narcotics and anti-terrorism assistance programs, and for operating expenses for the Agency for International Development.

Title VI contains amendments to the Agricultural Trade Development and Assistance Act of 1954 regarding implementation of the Food for Peace program.

Title VII contains the authorizations for fiscal year 1987, in accordance with the requirement of the Congressional Budget Act of 1974, and the effective date for the various provisions of this bill.

The foreign assistance programs authorized by this bill have been carefully designed to meet the vital national interests of the United States with the reduced resources available in a time of necessary budget constraints. The proposed authorizations are the minimum necessary to promote and maintain the United States' interests in key regions of the world by helping our allies and friends to develop economically, to establish and maintain internal stability, and to deter and defend against regional external threats. These programs are an efficient and cost-effective means to promote United States objectives, and to complement a U.S. global defense posture intended to help preserve peace and stability. I urge prompt enactment of the bill.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

GEORGE P. SHULTZ.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1985

I. INTRODUCTION

The proposed International Security and Development Cooperation Act of 1985 ("the Bill") amends the Foreign Assistance Act of 1961 ("FAA") and the Arms Export Control Act ("AECA") in order to authorize appropriations to carry out international security and development assistance programs for the fiscal year 1986, to make certain changes in the substantive authorities governing those programs and to implement recommendations of the National Bipartisan Commission on Central America. The Bill also amends certain provisions of the Agricultural Trade Development and Assistance Act of 1954 and the Internal Revenue Code and contains authorizations for the fiscal year 1987 in accordance with the requirements of the Congressional Budget Act of 1974.

The Bill is composed of seven titles. Title I consists of authorizations for military sales and related programs. Title II provides authorization for the economic support fund. Title III contains authorizations for the FAA development assistance provisions. Title IV provides for new policy initiatives in Central America based upon the recommendations of the National Bipartisan Commission on Central America. Title V contains miscellaneous amendments to the FAA, AECA, and the Internal Revenue Code, including authorizations for the international narcotics program and operating expenses for the Agency for International Development. Title VI contains amendments to the Agricultural Trade Development and Assistance Act of 1954. Title VII provides for authorizations for fiscal year 1987 in accordance with the requirements of the Congressional Budget Act of 1974 and for the effective dates for the various provisions of the Bill.

II. PROVISIONS OF THE BILL

Section 1. Short Title

This section provides that the Bill may be cited as the "International Security and Development Cooperation Act of 1985".

Title I—Military sales and related programs

Section 101. Foreign Military Sales Credit Authorization and Aggregate Ceilings

This section amends section 31(a) of the AECA to authorize $5,655,000,000 in appropriations for fiscal year 1986 to carry out the Foreign Military Sales (FMS) direct credit program. Section 31(b)(1) of the AECA is amended to establish at $5,655,000,000 for fiscal year 1986 the limit on the aggregate amount of FMS credits

which may be extended under section 23 of the AECA. Section 31(b)(3) of the AECA is amended to provide that during fiscal year 1986 no less than $1,800,000,000 in FMS credits shall be available for Israel for which Israel will be released from its contractual liability to repay. Section 31(b)(5) permits Greece, Korea, the Philippines, Portugal, Thailand and Turkey to repay, in not more than twenty years, following a grace period of ten years on repayment of principal, either loans under section 23, when these loans are provided at the current average interest rate for U.S. government obligations of comparable maturity, or loans guaranteed under section 24(a) of the AECA. Section 36(b)(6) is amended to provide that Egypt will be released from its contractual liability to repay loans extended under section 23 in an amount up to $1,300,000,000 for the fiscal year 1986. Sections 31(b)(7) and 31(c) of the AECA are repealed.

Section 102. Administrative Surcharge

Paragraph 1(A) of section 21(e) of the AECA is amended to further explain the "costs" which must be recovered by the United States Government in carrying out the FMS program. This amendment would exclude a pro rata share of fixed base operation costs from the full estimated costs. Enactment of this amendment is not expected to result in a reduction of the current administrative surcharge percentage.

Section 103. Catalog Data and Services

The AECA permits in-kind reciprocal exchange of some services with NATO countries, but still requires that the U.S. charge for catalog data. In future years, as efforts intensify to increase NATO standardization, there will be increasing requests for cataloguing and codification services, which DOD performs pursuant to chapter 145 of title 10 of the United States Code. This amendment would avoid a series of sales cases for relatively minor transactions with those NATO countries that provide similar services free of charge to the United States.

Section 104. Contract Administration Charges

Currently, section 21(h) of the AECA authorizes the President to provide without charge "quality assurance, inspection, and contract audit defense services" if another NATO member government provides such services, in accordance with an agreement, without charge to the United States. Because contract administration is an integral part of overall contract management, its exclusion from our agreements has been of concern to other NATO members. Section 104 amends section 21(h) to permit the waiver of contract administration charges on a reciprocal basis.

Section 105. Sales Credits

In view of the widespread concern in the Administration and the Congress about the mounting debt problems of countries which receive United States security assistance, it is in the national interest to provide concessional financing to certain needy countries for defense procurement rather than continue to provide loans at the higher rate of interest for United States government borrowing. This section continues the authority of the President to make loans at concessional rates if he determines that it is in the national interest to do so. The provision also establishes a formula to be applied to determine the rate of interest for nonconcessional loans by the Secretary of the Treasury. This formula is the standard formula used by the Secretary of Treasury in other loan programs and results in a rate of interest equivalent to the actual cost of money to the U.S. The section continues to provide for a twelve year maximum repayment period of FMS direct credits which begins when the loan agreement is signed on behalf of the United States.

Section 106. Guarantee Reserve

The Guarantee Reserve Fund was created by Congress in 1980 to guarantee Foreign Military Sales (FMS) loans extended by the Federal Financing Bank (FFB) and commercial lending institutions. The act that created the Fund, the International Security and Development Cooperation Act of 1980 (P.L. 96-533), among other things allowed for the replenishment of the Fund through annual authorizations and appropriations, and by authorizing the use of funds received from borrowing countries to be credited to the account. The Fund operates as a revolving fund administered by the Department of Defense.

This section amends section 24(c) of the Arms Export Control Act to establish a Guarantee Reserve to pay claims based upon defaults and reschedulings of outstanding loans guaranteed pursuant to the provisions of that Act and thus eliminates the need for yearly authorization and appropriation. A permanent indefinite appropriation was chosen because it would establish a long-term mechanism for maintaining the fiscal integrity of the fund. The new reserve would permit the current guarantee reserve balance to be depleted and, thereafter, appropriations would automatically be made available from the General Fund of the Treasury to cover all payments to lenders necessitated by defaults and reschedulings. Amounts subsequently received from borrowing countries will be credited against the new account as is now the case with the Guarantee Reserve Fund. The annual reporting requirement would remain.

Section 107. Reporting Requirement

Section 25(a) is amended to modify its reporting requirement relating to worldwide arms sales by eliminating the inclusion of an estimate of the international volume of arms traffic to and from nations which buy arms from the United States and whose sales and proposed sales are already reported in sections 25(a) (1) and (2). It retains the requirement to report an estimate of the sale and delivery of weapons and weapons-related equipment by all major arms suppliers. The provision also changes the date for transmittal of the new report under 25(a)(4) from February 1 until April 1 of each year.

SECTION 108. COOPERATIVE AGREEMENTS ON AIR DEFENSE IN CENTRAL EUROPE

The Department of Defense Authorization Act, 1985, provided the legislative authority in the fiscal year 1985 to the Secretary of Defense to fully implement the December 6, 1983, United States cooperative air defense agreement with the Federal Republic of Germany. The authorization was for a single year with the understanding that the authority to continue these agreements be included in the annual foreign assistance request. Section 108 authorizes the continuation of the legislative authority necessary to implement the agreements.

Section 109. Quarterly Reports

Section 36(a) of the AECA requires the President to transmit to the Congress quarterly information relating to letters of offer for $1 million. This section permits information contained in these reports to be transmitted in classified form to protect the legitimate security interests of the purchasers.

Section 110. Increase in Criminal Penalties for Certain Violations of AECA

Changes made in the Export Administration Act in 1981 resulted in potentially greater penalties for persons violating commercial export laws and regulations than for those violating section 38 of the AECA. Section 110 increases the maximum criminal penalty for certain violations of the AECA or implementing regulations from $100,000 or two years imprisonment or both, to $1 million or 10 years imprisonment or both. The ceiling for civil penalties for violations is raised from $100,000 to $500,000. This amendment applies to violations which occur after the effective date of this section.

Section 111. Official Reception and Representation Expenses

Section 43(b) of the AECA is amended to provide that the United States is to recover "official reception and representation expenses" as well as administrative expenses for services calculated under section 21(e)(1)(A) of the AECA. The amendment permits the use of not more than $72,500 of administrative funds derived from charges pursuant to section 21(e)(1)(A) to augment military assistance (MAP) funds available for security assistance representational activities.

Section 112. Safety Related Equipment

Certain country-specific restrictions in U.S. legislation—most notably those relating to Chile—have created in a few instances life threatening situations. Because of these restrictions, countries have not been able to obtain certain items necessary for the safe operation of previously supplied U.S. origin defense articles. These items are manufactured only in the United States. For example, the F-5 and A-37 aircraft supplied to Chile prior to 1974 cannot be supplied with replacement ejection seat cartridges. Without such replacements, their operation is exceedingly dangerous. This section would permit the sale and licensing of such equipment which is essential to the safe operation of previously-supplied equipment and thus would eliminate unnecessary life threatening situations.

Section 113. Special Defense Acquisition Fund

The Special Defense Acquisition Fund (SDAF) was established in fiscal year 1982 to permit advanced procurement of defense items to be transferred to security assistance recipients. Previously, security assistance requirements often derogated U.S. Armed Forces readiness through stock withdrawals and procurement diversions while, in other instances, unduly delayed deliveries aganist those requirements derogated national security benefits.

This section makes certain modifications to the existing capabilities of the SDAF authorized under chapter 5 of the AECA. First, in order to maintain the readiness of the Armed Forces of the United States while facilitating the transfer of less advanced systems in the inventory of the Department of Defense to foreign countries and international organizations, the fund would be used to acquire defense articles and services in anticipation of their transfer to the Department of Defense to replace items transferred from DOD inventory to foreign countries and international organizations. Second, section 51(a) is amended to permit the fund to be used to keep on continuous order such defense articles and serv-

ices as are assigned by the Department of Defense for integrated management by the Defense Logistics Agency in anticipation of the transfer of similar defense articles and services to foreign countries and international organizations.

Section 114. Military Assistance

This section amends section 504(a)(1) of the FAA to authorize $949,350,000 for fiscal year 1986 in appropriations to carry out the military assistance program.

Section 115. Miltary Assistance Costs

Section 115 amends section 503(a) of the FAA to exclude from the pricing of sales cases using MAP funds the costs of salaries (including the retirement costs) of members of the Armed Forces of the United States. This technical amendment will conform the pricing of such FMS cases funded by MAP grants to the rule under section 632(d) of the FAA excluding military salaries from the calculation of costs of military assistance.

Section 116. Waiver of Net Proceeds of Sale of MAP Items

This section amends section 505(f) of the FAA to allow the President to waive the requirement that a country pay to the U.S. the net proceeds from the recipient's sale of defense articles delivered to the country on a grant basis under the military assistance program more than five years prior to the President's determination. The last of this equipment was programmed and funded in fiscal year 1981 under section 503(a)(1) of the Foreign Assistance Act of 1961. Countries which possess aging, obsolete MAP defense articles currently have an incentive to retain this equipment, rather than to sell it and use the proceeds for newer equipment, even though retaining it requires increasing maintenance costs. This provision would allow the President to remove this disincentive to a country's modernizing its defense inventory when it is in the U.S. national interest to do so. All legal and policy controls applicable to third party transfers would continue to apply to any sales of this equipment.

Section 117. Stockpiling of Defense Articles for Foreign Countries

This section amends section 514(b)(2) of the FAA to establish a ceiling of $360,000,000 on the aggregate value of additions made in fiscal year 1986 to overseas stockpiles of defense articles (other than in NATO countries) which are designated as war reserve stocks for allied or other foreign forces. The United States retains title to any stocks so designated. Transfer of title to these stocks to a foreign country may take place only under the authority of the FAA or of the AECA, and within the limitations and funds available under those Acts.

Section 118. Security Assistance Organizations

Section 515 of the FAA provides specific annual authorization to station permanently more than six military personnel in certain countries to manage security assistance programs. This section would add six new countries to the twelve countries which are currently authorized in the statute to have more than six uniformed personnel assigned to them for managing security assistance programs.

Section 119. International Military Education and Training

Section 542 of the FAA is amended to authorize $65,650,000 for fiscal year 1986 in appropriations for the International Military Education and Training (IMET) program.

Section 120. Exchange Training

This provision provides for the establishment of a new section in the FAA concerning exchange (barter) training. The provision authorizes the President to provide to foreign military personnel professional military education training only at U.S. war colleges and U.S. command and staff colleges in the United States. The training of each foreign student under this authority is conditioned on the requirement that, commencing in the same U.S. fiscal year, a U.S. military student be trained in a foreign college which the U.S. military department involved determines to be comparable to its military colleges. Such exchanges would be negotiated with foreign countries and international organizations after enactment.

Section 121. Training in Maritime Skills

This section authorizes the President to provide assistance under the IMET program for education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills. This section also makes conforming changes in section 660 of the FAA to allow assistance in maritime law enforcement.

Section 122. Authorization for Peacekeeping Operations

Section 552(a) of the FAA is amended to authorize $37,000,000 for fiscal year 1986 in appropriations to carry out peacekeeping operations and other programs. These programs include the United States budgetary contribution to the Multinational Force and Observers (MFO) for the Sinai.

Section 123. Peacekeeping Operations Emergencies

Section 552(c) of the FAA is amended to provide that the President may draw down commodities and services of an aggregate value not to exceed $25,000,000 for each fiscal year from any United States Government agency for peacekeeping purposes, if he determines that an unforeseen emergency requires immediate assistance under the peacekeeping provisions of the FAA. A new subsection (d) authorizes appropriations to reimburse the applicable account for commodities and services provided pursuant to this section. Section 652 of the FAA is amended to require that the President notify the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing should he intend to exercise this authority, stating the justification for, and the extent of, the exercise of such authority.

Title II—Economic Support Fund

Section 201. Authorization of Appropriations

Section 531(b) of the FAA is amended to authorize an appropriation for the Economic Support Fund of $2,824,000,000 for fiscal year 1986. The emergency assistance authority of section 535 is continued for fiscal year 1986. This section also amends the Economic Support Fund chapter by deleting a number of outdated fiscal year specific provisions related to particular countries or areas.

Title III—Development assistance

Section 301. Development assistance policy

Section 301 amends section 102(b) of the FAA, which sets forth the policy under which bilateral development assistance is to be provided. New paragraphs (13) through (16) describe emphases, consistent with the mandate to address basic human needs, with which A.I.D. is especially concerned.

Paragraph (13) recognizes the importance of policy reforms in developing countries. Long term equitable development depends heavily on the nature of the policies followed by developing countries. A.I.D. is concerned with both the effectiveness and equity of such policies. A.I.D. recognizes that significant policy reforms can be achieved only through a process of dialogue with developing countries.

Paragraph (14) recognizes the need to promote private sector activity in developing countries. Governmental policies which assure businesses open and competitive markets are cost effective ways to maximize production and achieve long term economic growth.

Paragraph (15) recognizes the need of developing countries to have access to appropriate technology. Sustained development requires an indigenous capacity to adopt, create and apply a continuing stream of appropriate technologies to the problems of health, population growth, hunger, illiteracy, unemployment and labor productivity.

Paragraph (16) encourages the creation and improvement of the institutional capacities of developing countries. Faulty institutional frameworks can impede development. Therefore, A.I.D. assists in the establishment and upgrading of schools, cooperatives, markets, voluntary organizations, agricultural extension services, agricultural research centers, management training institutes and health care delivery systems.

Section 302. Agriculture, Rural Development, and Nutrition

Section 302 amends section 103(a)(2) of the FAA, which authorizes funds for agriculture, rural development, and nutrition. Section 103(a)(2) is amended to authorize $792,352,000 for these programs for the fiscal year 1986. Section 103(a)(2) is further amended to authorize the use of funds made available to carry out the purposes of section 103 to assist private and voluntary organizations to facilitate public discussion of world hunger problems.

Section 303. Population and Health

Section 303 amends section 104(g) of the FAA, which authorizes funds for population and health. Section 104(g) is amended to authorize $250,017,000 for the population program for the fiscal year 1986 and to authorize $146,427,000 for the health program for the fiscal year 1986, of which not less than $25,000,000 is to be used to carry out the purposes of the Child Survival Fund.

Section 304. Education and Human Resources Development

Section 304 amends section 105(a) of the FAA, which authorizes funds for education and human resources development. Section 105(a) is amended to authorize $183,533,000 for these programs for the fiscal year 1986.

Section 305. Energy, Private Voluntary Organizations, and Selected Development Activities

Section 305 amends section 106(e)(1) of the FAA, which authorizes funds for energy, private voluntary organizations, and selected development activities. Section 106(e)(1) is amended to authorize $223,071,000 for these programs for fiscal year 1986.

Section 306. Private Sector Revolving Fund

Section 306 amends section 108(b) of the FAA, which authorizes funds for deposit in the private sector revolving fund. Section 108(b) is amended to authorize $20,000,000 for deposit in this fund for the fiscal year 1986.

Section 307. Sahel Development Program

This section amends section 121(c) of the FAA, which authorizes the Sahel Development Program. Section 121(c) is amended to authorize $80,500,000 for that program for the fiscal year 1986.

Section 308. Private and Voluntary Organizations and Cooperatives in Overseas Development

Section 308 amends section 123(e) of the FAA, which exempts from prohibitions on assistance to countries assistance in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date the prohibition becomes applicable. Section 123(e) is amended to more easily define the date on which a prohibition becomes applicable for purposes of that section. Section 123(e) is further amended by requiring that the report to be prepared by the President and transmitted to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate setting forth the reasons for continuation of support shall be submitted within thirty days after the date that a decision has been made for the continuation of such support rather than thirty days after the date the prohibition becomes applicable. This latter change affords the President a more reasonable period of time to take into consideration whether continuation of support for programs of private and voluntary organizations and cooperatives is in the national interest of the United States, as required under section 123(e).

Section 309. Development and Illicit Narcotics Production

Section 309 amends section 126 of the FAA, which addresses the problem of illicit narcotics cultivation overseas. Section 126 is amended to expressly state that Economic Support Funds are available for programs which would help reduce illicit narcotics cultivation by stimulating broader development activities. Section 126 is further amended to emphasize that funds may be used for programs to educate decisionmakers and the general public in narcotics source and transit countries on the effects of production and trafficking of illicit narcotics in those countries.

Section 310. Housing Guaranty Program

Section 310(a) amends section 222(a) of the FAA, to increase the total amount of housing guaranties authorized to be outstanding from $1,958,000,000 to $2,003,000,000. Section 311(a) further amends section 222(a) of the FAA to extend the authority for the housing guaranty program from September 30, 1986 to September 30, 1987. Because the loans for which guaranties are to be issued sometimes close after the end of the fiscal year, therefore delaying the issuance of the guaranties, the housing guaranty program needs authority that extends beyond the fiscal year in which the guaranty was authorized. This amendment provides the authority to issue guaranties after the close of fiscal year 1986 and conforms with past legislative practices in extending the program.

Section 311(b) amends section 223(j) of the FAA, which sets country averages for the housing guaranty program. This amendment eliminates the ceiling for country averages, thereby allowing A.I.D. to make guarantee commitments, in the aggregate amount of $45,000,000, for two housing programs in fiscal year 1986.

Section 311. Trade Credit Insurance Program

Section 311 amends section 224 of the FAA, which establishes a Trade Credit Insurance Program for the Central America region. Section 224 is amended to authorize guaranties in amounts not to exceed in the aggregate $500,000,000 in fiscal years 1985 and 1986.

Section 312. Disadvantaged Children in Asia

Section 312 amends section 241(b) of the FAA, which authorizes the use of funds to help meet the needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Section 241 is amended to increase the maximum amount of funds available for such purposes to $3,000,000.

Title IV—Central America democracy, peace and development initiative

The proposed Central America Democracy, Peace and Development Initiative establishes a long-term framework to build democracy, restore peace, and improve living conditions in Central America and authorizes assistance for the fiscal years 1987 through 1989. The Bill contains amendments to the FAA in order to carry out a number of the recommendations of the National Bipartisan Commission on Central America.

Section 401. Central America Democracy, Peace and Development Initiative

This section amends part I of the FAA by adding a new chapter 6 entitled "Central America Democracy, Peace, and Development Initiative". The new chapter contains six sections which include a statement of policy, the conditions imposed on the furnishing of assistance, the authorization for the establishment of an organization to promote cooperation in economic development among the countries of Central America and the United States, and a multiyear authorization of nonmilitary assistance funds.

Section 461 of the proposed chapter contains the findings of Congress that the building of democracy, the restoration of peace, and the improvement of living conditions in Central America are important to the interests of the United States and the community of American states. The section further states the findings of Congress concerning the importance of effectively dealing with interrelated social, humanitarian, economic, political, diplomatic and security issues to assure a democratic and economically and politically secure Central America. In this section, Congress further recognizes that, although the achievement of democracy, human rights, peace, and equitable economic growth depends primarily on the people and governments of Central America, the United States can make a significant contribution through a policy which includes a long-term commitment of both economic and military assistance. In this section, Congress further defines the goals which the policy of the United States should seek to achieve and indicates that the purpose of the chapter is to establish the statutory framework and authorize the funding necessary to carry out this policy.

Section 462 provides that the President ensure that the assistance authorized by this chapter is furnished in a manner which fosters demonstrated progress and commitment to the objectives set forth in section 461. In doing so, the President under this section would consult with Congress in regard to progress toward those objectives, and any conditions imposed on the furnishing of assistance.

Section 463 is a statement of support for the initiatives taken by the Contadora group and the resulting Document of Objectives agreed to by the countries involved, and affirms that the United States should provide assistance and support as may be appropriate in helping to reach agreements which will ensure peaceful and enduring solutions to the Central American conflicts.

In furtherance of the recommendations of the National Bipartisan Commission on Central America, section 464 states the findings of Congress that participation by Central American countries in an effective forum for dialogue on and the continuous review and advancement of Central America's political, economic and social development would foster cooperation between the United States and Central American countries in furthering the purposes of the FAA. This section further states the sense of Congress that the President should enter into negotiations with representatives of Cental American countries to establish an organization for economic cooperation based upon principles stated in the section. In addition, this section authorizes the President to participate in such an organization, with the Administrator of the Agency for International Development as the U.S representative.

It is not the intention that this organization be established as a bureaucratic entity in competition with bilateral and multilateral donor organizations. The organization should be composed of public and private sector representatives from participating countries and should draw on the experience of the International Labor Organization with representatives from both the business and labor communities. The number of professional staff of the organization should be kept to a minimum.

Section 465 contains a multiyear authorization for the furnishing of nonmilitary assistance for Central American countries for each of the fiscal years 1987 through 1989.

Section 466 provides that for purposes of this chapter, the term "Central American countries" includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit those countries.

Section 402. Administration of Justice

In accordance with the recommendations of the National Bipartisan Commission on Central America that the United States help strengthen judicial systems and that Congress consider authorizing the training and support of law enforcement agencies under carefully defined conditions, this section authorizes the use of funds made available for economic assistance programs for projects designed to strengthen the administration of justice in Latin American countries and the countries of the Caribbean. These projects would include activities for judges, prosecutors, and criminal investigation and law enforcement (including corrections) agencies.

Section 403. Land Reform Programs

This section amends section 620(g) of the FAA to authorize the President to make available to governments assistance to compensate their nationals in accordance with a

land reform program, if the President determines that monetary assistance for such land reform program will further the national interests of the United States.

Title V—Miscellaneous provisions

Section 501. American Schools and Hospitals Abroad

Section 501 amends section 211(c) of the FAA, which authorizes funds for American Schools and Hospitals Abroad. Section 214(c) is amended to authorize $10,000,000 for the fiscal year 1986.

Section 502. International Organizations and Programs

Section 502 amends section 302(a)(1) of the FAA, which authorizes funds for International Organizations and Programs. Section 302(a)(1) is amended to authorize $196,211,000 for these programs for the fiscal year 1986. Section 302(a)(1) is further amended to delete prior year earmarks of funds.

Section 503. International Narcotics Control

Section 503 amends section 482(a) of the FAA, which authorizes funds for International Narcotics Control. Section 482(a) is amended to authorize $57,529,000 for that program for the fiscal year 1986.

Section 504. Narcotics Reporting Requirement

This section amends section 481(b) of the FAA to delete the two semiannual reports on international narcotics control currently required under the law, and instead to require this expenditure and program information to be incorporated into the final quarterly report required under existing law. In addition, a new midyear report is to be submitted on August 1.

This amendment is intended to reduce the reporting requirements on the executive branch in the area of narcotics control, while insuring that the Congress continues to receive timely and comprehensive information on this subject.

Section 505. International Disaster Assistance

Section 505 amends section 492(a) of the FAA, which authorizes funds for International Disaster Assistance. Section 492(a) is amended to authorize $25,000,000 for that program for the fiscal year 1986.

Section 506. Antiterrorism Assistance Program

Section 506(a) amends section 575 of the FAA to authorize $5,000,000 for the fiscal year 1986 for the anti-terrorism assistance program. Section 506(b) repeals section 573(d)(4) to permit the transfer of defense articles and defense services on the United States Munitions List. This will allow the provision of such equipment and services under this program when appropriate and necessary to deal with actual or potential terrorist incidents. We anticipate that the defense articles and defense services to be provided under this program would be limited to items normally included in law enforcement anti-terrorist unit inventories. Moreover, since the FY 1986 budget request is only $5,000,000 and is not really sufficient to finance defense articles and defense services, we expect the FY 1986 program to consist primarily of training only. We intend of course to apply similar criteria to the selection of countries to receive defense articles and defense services in future years under this section as we do for our selection of countries under the current program. Section 506(c) repeals section 577 of the FAA (the sunset provision) in order to provide a permanent authorization for the program.

Section 507. Completion of Plans and Cost Estimates

Section 507(a) amends section 611(a) of the FAA, which requires that adequate plans and cost estimates be completed prior to the obligation of funds in excess of $100,000. That provision is amended to apply to a minimum amount of $500,000 rather than $100,000, to take account of the inflation that has occurred since the provision was enacted in 1958.

Section 507(b) amends section 611(b) of the FAA, which requires that cost/benefit analyses be conducted for water projects in accordance with the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973. Section 611(b) is amended by eliminating the reference to the above standards and instead providing that such analyses shall be conducted in accordance with the principles, standards and procedures established pursuant to the Water Resources Planning Act. The 1973 Principles and Standards have been replaced by standards established pursuant to the Water Resources Planning Act. The proposed amendment to section 611(b) will conform the FAA to this change.

Section 508. Prohibitions Against Assistance

Section 508 amends section 620(f) of the FAA permitting the President to remove a country from the application of the subsection if he determines and reports to Congress that such action is in the national interest.

Section 509. Streamlining of Reprogramming Requirements

Section 509(a) amends section 634A of the FAA to make funds appropriated to carry out the provisions of the Arms Export Control Act subject to the reprogramming requirements of section 634A and the reporting requirements of section 653(a) of the FAA. This section also deletes certain reporting requirements for FMS financing which would be redundant in light of this amendment to sections 634A and 653(a). In addition, this section deletes the requirement that a section 653(b) report be filed. Section 653(b) currently requires the President to report to Congress when certain categories of foreign assistance exceed by 10 percent or more the amount set forth for those categories in the report required by section 653(a). The information required by this report can be obtained from the Congressional notifications made pursuant to section 634A.

This section also eliminates the requirement under section 634A to notify Congress in advance of obligating development assistance funds where the obligation exceeds the prior amount justified for an activity for a fiscal year by 10 percent or less. This change will permit needed flexibility to reallocate development assistance funds at the end for the fiscal year while not allowing significant changes without prior Congressional notification.

These changes streamline and make standard various overlapping report and reprogramming requirements, but do not materially change the type of information provided to the Congress without prior congressional notification.

Section 510. Training Assistance

The provision of training to enhance the professional skills of citizens of foreign countries provides a valuable channel of communication and influence with important decision-makers in aid-recipient countries. When the United States offers training to foreign personnel it demonstrates a concrete and active interest on the part of the U.S. in the development of that country. The exposure to our society, the quality of instruction, and acknowledged U.S. leadership in certain fields, including human rights, play a big part in the formation of pro-American ideas and an orientation towards U.S. values.

This section would permit training from development, ESF, MAP, and IMET accounts, notwithstanding certain general or country-specific prohibitions on the provision of assistance that would otherwise be applicable. The training programs are relatively modest in size and the allocation of funds for such programs will remain subject to all Congressional oversight requirements. Also, the human rights provisions of the FAA (sections 116 and 502B) and the prohibition against police training (section 660) will continue to apply.

Section 511. Trade and Development Program

Section 511 amends section 661(b) of the FAA, which authorizes funds for the Trade and Development Program. Section 661(b) is amended to authorize $20,000,000 for this program for the fiscal year 1986.

Section 512. Operating Expenses

Section 512 amends section 667(a) of the FAA, which authorizes funds for operating expenses of the Agency for International Development. Section 667(a) of the FAA is amended to authorize $387,000,000 for operating expenses for the fiscal year 1986.

Section 513. Illegal Emigration From Haiti

Section 513 continues in effect the authorization to use funds under the FAA for programs to assist Haiti in halting significant illegal emigration from Haiti to the United States.

Section 514. Participant Trainee Grants

Section 514 amends section 1441(c)(6) of the Internal Revenue Code of 1954 to exempt from withholding amounts received as scholarships or fellowship grants or per diem of non-resident aliens engaged in training programs in the United States under the FAA. Current provisions of the I.R.C. exclude income to A.I.D. participant trainees from U.S. tax liability up to specified dollar limitations. In the past these exclusions have been high enough to completely exempt the participants from U.S. tax liability, and no taxes have had to be withheld by A.I.D. or contractors and PVOs implementing the participant trainee programs. As a result of inflation, however, income under A.I.D. scholarhip programs now exceeds the exclusion. Withholding income taxes for each participant trainee would result in high administrative costs to the implementing contractors and PVOs that would ultimately be passed on to A.I.D. It would also reduce the amount of funds actually available for the training programs themselves. This provision is intended to correct these problems.

Section 515. Assistance to Afghanistan

This section authorizes the President to use Development and Economic Support Fund assistance for the provision of food, medicine and humanitarian assistance. Such assistance may include medical and agricultural equipment, and training in the United States or third countries.

Section 516. Repeal of Provisions; Technical Amendments

Section 516 repeals provisions of the FAA which are obsolete. It also repeals section 110(b), which prohibits disbursement of

grant assistance for a project over a period exceeding thirty-six months. At the time this prohibition was enacted, it provided a useful control for the Congress over large capital assistance projects. A.I.D. no longer participates in that type of project, and the Congress now has a better review mechanism through the Congressional notification process. Section 110(b), therefore, is no longer necessary.

This section also makes a technical amendment to section 636(a)(14) of the FAA by deleting reference to the "Foreign Service Act of 1946" and substituting the "Foreign Service Act of 1980".

The section also amends the definition of "major defense equipment" in section 47(6) of the AECA to conform to the recent changes made in the International Traffic in Arms regulations which substituted the term "significant military equipment" for the previously employed term "significant combat equipment."

Title VI—Food for Peace Program

Section 601. Resources for Section 206 Development Program

Section 601 amends section 201(b)(3) of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) to include section 206 development programs as priority programs under Title II of that Act. Currently, only nonprofit voluntary agencies and the World Food Program are eligible for distribution of earmarked Title II commodity tonnage. This amendment gives higher budget priority to section 206 programs.

Section 602. Use of Local Currencies for Education Programs Under Title III

Section 603 amends section 301(b) of P.L. 480 by expanding the permissible uses of Title III local currencies to include education activities consistent with the development purposes of Title III. The amendment adds education to agricultural and rural development, health, and nutrition programs.

Title VII—Authorizations for fiscal year 1987 and effective date

Section 701. Authorization for the Fiscal Year 1987

This section, in accordance with the requirements of section 607 of the Congressional Budget Act of 1974, authorizes appropriations for fiscal year 1987 for all programs and activities for which appropriations for the fiscal year 1986 are authorized by this Act.

Section 702. Effective Date

This section provides that, except where otherwise stated in the Act, the effective date for this Act would be on October 1, 1985.●

By Mr. PACKWOOD:

S. 661. A bill entitled the "George Milligan Control Tower"; to the Committee on Commerce, Science, and Transportation.

GEORGE MILLIGAN CONTROL TOWER

● Mr. PACKWOOD. Mr. President, on February 9, 1985, with the death of George Milligan, Oregon suffered a great loss. Those of us that knew George, and many of us did, were constantly amazed at his willingness to give of himself—even to the point of risking his own life over and over to save others. In fact, George Milligan died doing what he has done for 36 years: transporting a patient by air.

Perhaps his greatest legacy, which by its nature captures the spirit of George Milligan, is Mercy Flights, a nonprofit air ambulance and emergency air service. Mercy Flights grew out of the concern and dedication of George Milligan.

George came to the city of Medford in southern Oregon in 1949 as a Civil Aeronautics Administration towerman. Many places in southern Oregon and northern California are remote, wild places inaccessible by car, or hours away by car from any population center offering medical services.

George could not ignore the cries for help he heard coming over the shortwave radio at the CAA tower which could only be responded to by air rescue operation. George pursued his idea of a volunteer air service driver by new demands for the service resulting from the great polio epidemic. George talked to everyone who would listen, and his enthusiasm and concern were contagious, and his love and energy were limitless.

With $2,400, a war-surplus Cessna was purchased and Mercy Flights began service. When flooded rivers cut off communities from food and medical supplies, Mercy Flights was there flying through the storm to bring relief to the flood victims. Accident victims picked up at the site of a crash were flown to hospitals, and those needing specialized medical attention were moved by the air ambulances to locations where they could receive the needed attention.

It is impossible to know how many lives Mercy Flights and George Milligan saved. But his service to the Northwest has been invaluable. To those that had need for Mercy Flights, George was a saint. He will be greatly missed by his family, friends, community, and those that he met through his role in general aviation. I know I will miss him terribly.

To honor the memory of George Milligan—and to present a constant reminder that we must carry on the work that he began—I am today introducing a bill that will rename the air traffic control tower at the Medford/Jackson County Airport the George Milligan Control Tower. This act will be a small reminder of George's concern over the need for safety in general aviation and the importance of air services for rural areas.●

By Mr. FORD:

S. 662. A bill to place certain restrictions on the storage and demilitarization of chemical munitions and lethal chemical agents at Lexington-Bluegrass Army Depot, KY, and for other purposes; to the Committee on Armed Services.

RESTRICTIONS ON CHEMICAL MUNITIONS AND LETHAL CHEMICAL AGENTS AT LEXINGTON-BLUEGRASS ARMY DEPOT

Mr. FORD. Mr. President, the U.S. Army has proposed building a demilitarization facility at Lexington-Bluegrass Army Depot [LBAD] in Richmond, KY, to dispose of chemical weapons stored at the depot—most urgently, the deteriorating M-55 rocket. This facility is to be built in conjunction with five others across the United States and on Johnston Island in the Pacific, all colocated with chemical weapons storage sites.

I do not speak for any other jurisdiction today but that in my one State. It would be an understatement to say that strong objections to the Army proposal have been raised in the Richmond area. The citizens are understandably alarmed. Theirs is a highly populated part of Kentucky, and, should an accident occur during the incineration process, thousands of people would be immediately and adversely affected by it. These feelings are compounded by a deep mistrust of the Army that existed throughout Madison County prior to the demilitarization announcement.

Naturally, one of the first public responses to the Army was "get them out of here; burn the munitions somewhere else." When the proposal was first made, I suggested that the Army study the transportation option, and I am pleased that it is being done at this very moment. The Army has drawn samples of M-55 components from Richmond—agent, fuze, burster, and propellant, and is analyzing them in order to make an assessment of the condition of our current stockpile and its potential mobility.

While we await the release of the draft Environmental Impact Statement, however, a persistent question remains among my constituents that has not been satisfactorily answered and that will not, I believe, be found in the EIS:

Is the Army going to build a multimillion dollar facility to dispose of only the munitions currently stored at LBAD? Surely the plant will be used to dispose of other toxic weapons and materials.

Of particular concern to me is the bulk nerve agent that is stored at Edgewood Arsenal in Aberdeen, MD, at Newport Army Ammunition Plant in Newport, IN, and at Pueblo Army Depot in Pueblo, CO. Since no plans are in the offing to dispose of this material onsite, I feel that LBAD may be the logical candidate to receive the bulk agent of the first two facilities for demilitarization.

It is this fear that I address today. The legislation I am introducing would place restrictions on the storage and demilitarization of additional chemical munitions and lethal chemical agents at LBAD by prohibiting such activities except under the very limited instances of a national emergency or for purposes of research. In other words, under my language, no new lethal materials, whether military or civilian,

may be brought into Madison County for storage or disposal at Richmond—but anything that is stored there right now may be brought out. My legislation leaves open the option of transporting the Richmond stockpile to another disposal site.

This is in direct contrast to H.R. 1430, recently introduced by Representative BERYL ANTHONY, which would foreclose the transportation option by simply mandating that existing chemical munitions be burned at their present site. I cannot support this legislation, Mr. President. It is absolutely contrary to the best interests of my constituents.

The choices available to the residents of Madison County are three: leave the chemical weapons in storage as they exist today, dispose of them onsite, or transport them to another facility. Each one has obvious drawbacks. Each is currently being evaluated by the Army and I anxiously await the results of the study. But I want to make certain that, whatever the ultimate solution is, LBAD does not become a dumping ground for chemical weapons and other materials. Under my legislation, if the final decision is to demilitarize onsite, Madison County will not be burdened by any more toxic substance than it already has.

By Mr. METZENBAUM (for himself, Mr. HATFIELD, Mr. EXON, Mr. COHEN, Mr. PROXMIRE, and Mr. HART):

S. 663. A bill to amend the Internal Revenue Code of 1954 to modify the alternative minimum corporate tax; to the Committee on Finance.

ALTERNATIVE MINIMUM TAX MODIFICATIONS

● Mr. METZENBAUM. Mr. President, I am today introducing along with Senators HATFIELD, EXON, COHEN, PROXMIRE, and HART legislation to require profitable corporations that pay no Federal taxes to contribute at least something toward the common burden.

It is shocking, but true, Mr. President, that between 1981 and 1983, 65 major U.S. corporations earned $49.5 billion in profits—and paid not 1 penny in Federal income taxes. In fact, over that same period these corporations received a combined total of $3.2 billion in Federal tax refunds.

These are not refunds like the average taxpayer receives after paying taxes. These are checks the Treasury mails to corporations that pay no taxes at all.

One company earned $6.5 billion in profits over this 3-year period, paid no taxes, and received a refund check of $283 million. And according to Budget Director David Stockman, this same company received in the same period over $1 billion worth of Export-Import Bank loans.

Earlier this year, Defense Secretary Weinberger told the Budget Committee that every dollar spent on defense returns 50 cents to the Treasury in Federal income taxes.

The Secretary is misinformed.

The fact is that between 1981 and 1983, the largest five defense contractors earned $10.5 billion in profits, received tax refund checks for more than $620 million, and paid no—repeat no—Federal income taxes.

The largest defense contractor—General Dynamics—hasn't paid a cent in Federal income taxes since 1972.

The Treasury Department estimates that a minimum corporate tax would affect 90,000 corporations. And in Treasury's words, it "would require that profitable corporations currently paying little or no tax would pay at least some tax on their profits."

I am not the only one who believes that this measure has merit. This measure originated with President Reagan, who in 1982, urged Congress to enact it.

But don't we already have on the books a corporate minimum tax?

Yes. But in support of President Reagan's 1982 proposal, Treasury explained that "few corporations are affected by the existing minimum tax. In 1981, income tax was owed by 43 percent of corporations. Minimum taxes were paid by 0.3 percent, or 5,500 corporations. Minimum tax collections in 1981 were estimated at $500 million."

The Treasury Department went on to explain that:

Many corporations currently pay little or no Federal corporation income tax, despite reporting large profits to their shareholders. The existing "add-on" minimum tax applies to corporations that have reduced their tax liability through the use of designated tax deductions, but is not focused upon corporations that pay little or no regular income tax.

The proposed corporate minimum tax would tax "corporate profits," as measured by regular taxable income plus certain special deductions, and would apply only to those corporations that pay very low regular rates of tax.

I believe that President Reagan was right to propose his minimum corporate tax. And what was right in 1982 is even more so today.

The facts speak for themselves. The corporate share of Federal revenue fell from 23 percent in 1960, to 14.3 percent in 1971, to 6.2 percent in 1983. And the President's budget projects corporate revenues to remain at about 10 percent of total revenues through the end of the decade.

I do not blame business for using tax loopholes. Blame belongs to Congress and the administration for giving away too much.

How will this proposed minimum tax affect corporations?

According to the Reagan administration, it will raise corporate taxes paid by petroleum companies, banks, and utilities. The mining and real estate industries will pay about what they pay today. And manufacturing companies will pay less than under current law.

Mr. President, I ask unanimous consent that a chart prepared by the administration showing the distributional effect of the President's minimum tax proposal be inserted at this point in the RECORD.

There being no objection, the chart was orderd to be printed in the RECORD, as follows:

DISTRIBUTION OF NEW CORPORATE MINIMUM TAX BY INDUSTRIAL SECTOR

[In percent]

	Percent of current corporate tax liability	Percent of proposed corporate tax liability
Petroleum	5.1	6.5
Oil and gas extraction	1.6	1.8
Petroleum refining	3.5	4.7
Mining	.4	.4
Manufacturing	49.2	47.8
Banking	1.9	2.9
Utilities	2.0	2.3
Real estate	1.5	1.5
All others	39.9	38.7
Total	100.0	100.0

Source: Department of Treasury.

On this measure, I believe that the choices are clear.

If you believe corporations should pay taxes on their profits, then you should support this bill.

If you believe that certain companies should be excused from contributing to the cost of Government, then you should oppose it.

If you believe that the President was right to propose legislation to ensure that profitable corporations pay their fair share, you will support the bill. But if you believe that companies should not have to pay any taxes whatever, then you will oppose it.

This bill offers an opportunity to show two things to the people of this country—first, that we are willing to do something serious about the deficits, and second, that we are committed to acting in a spirit of fairness, asking all Americans to bear a fair share.

I urge my colleagues to support the President. This is his proposal, and it is part of what he called "A blueprint for growth and prosperity."

Mr. President, I ask unanimous consent that a list of companies that have paid no taxes since 1981 and a copy of the bill be printed at this point in the RECORD.

There being no objection, the Material was ordered to be printed in the RECORD, as follows:

S. 663

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

SECTION 1. ALTERNATIVE MINIMUM TAX ON CORPORATIONS.

(a) IN GENERAL.—Section 56 (relating to additional corporate minimum tax) is amended to read as follows:

"SEC. 56. ALTERNATIVE MINIMUM TAX ON CORPORATOINS.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed on each corporation in an amount equal to 15 percent of its corporate minitax taxable income.

"(2) TAX IMPOSED ONLY IF GREATER THAN REG-UTAX LIABILITY.—A tax shall be imposed by this section on the corporate minitax taxable income of a corporation for any taxable year only if the amount of such tax is greater than the amount of the adjusted regutax for such year.

"(3) TAX TO BE IN LIEU OF REGUTAX.—For purposes of this title, a tax imposed by this section shall be in lieu of the regutax.

"(b) CORPORATE MINITAX TAXABLE INCOME.—For purposes of this title, the term 'corporate minitax taxable income' means the gross income for the taxable year—

"(1) reduced by the sum of—

"(A) $50,000, plus

"(B) the deductions allowed for the taxable year (other than the deduction allowable under section 172), plus

"(C) the minitax net operating loss deduction provided by subsection (d), and

"(2) increased by an amount equal to the corporate minitax preference items.

"(c) CORPORATE MINITAX PREFERENCE ITEMS.—For purposes of this section, the corporate minitax preferences items are:

"(1) CERTAIN SECTION 57 PREFERENCE ITEMS.—The sum of the amounts determined under the following provisions of section 57(a):

"(A) Paragraph (8) (relating to excess depletion).

"(B) Paragraph (2) (relating to accelerated depreciation on real property).

"(C) Paragraph (4) (relating to amortization of certified pollution control facilities).

"(D) Paragraph (11) (relating to intangible drilling cost), but computed on a straight-line basis over a period of 120 months.

"(E) Paragraph (12) (relating to accelerated cost recovery deduction).

"(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the deductions for development and mining exploration expenditures described in sections 616 and 617 allowable under this chapter for the taxable year, over

"(B) the amount which would have been allowed if such expenditures had been capitalized and amortized ratably over a 120-month period beginning with the month in which the first such expenditures were made.

"(3) CERTAIN AMOUNTS RELATING TO TAX-EXEMPT OBLIGATIONS.—

"(A) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS.—The amount of interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is exempt from taxes for the taxable year, to the extent that a deduction is allowable with respect to such interest for such taxable year by reason of the second sentence of section 265(2).

"(B) ALLOCATION RULE.—For purposes of subparagraph (A), the amount of interest allocable to any obligation shall be determined under rules similar to the rules of section 291(e)(1)(B)(ii).

"(4) DEFERRED DISC OR FSC INCOME.—The taxpayer's pro rata share of any DISC's or FSC's increase in accumulated DISC or FSC income for the taxable year.

"(5) CERTAIN SHIPPING INCOME.—With respect to any construction reserve fund or capital construction fund established by the taxpayer under sections 511 and 607 of the Merchant Marine Act (46 U.S.C. 1161, 1177), the net increase for such taxable year in the income and capital gain accounts under such funds.

"(6) AMORTIZATION OF MOTOR CARRIER OPERATING AUTHORITIES.—The amount allowed as a deduction for the taxable year under section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authorities).

"(7) EXCESS ORIGINAL ISSUE DISCOUNT INTEREST.—With respect to original issue discount bonds or other evidence of indebtedness issued by the taxpayer, the amount by which the deductions for interest taken in the taxable year for each bond exceeds an amount equal to—

"(A) the yield that would have been paid on the bond or other evidence of indebtedness if the amount of original issue discount under the obligation were paid as interest over the period of the obligation, employing compound interest computations (with compounding at annual intervals), multiplied by

"(B) the adjusted basis of the bond or other evidence of indebtedness as of the close of the prior bond-year (or in the case of the first bond-year, on the date of issue).

"(8) DEDUCTIONS FOR CERTAIN COSTS INCURRED WITH RESPECT TO LONG-TERM CONTRACTS.—With respect to certain indirect costs in connection with long-term contracts entered into by a taxpayer, the amount by which the deduction allowed in the taxable year for such indirect costs exceeds the deduction that would have been allowable for the taxable year if such costs had been capitalized and deducted under the progress payment method of accounting for long-term contracts.

"(d) MINITAX NET OPERATING LOSS DEDUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'minitax net operating loss deduction' means the net operating loss deduction under section 172(a) for the taxable year for purposes of the regutax, except that in determining the amount of such deduction—

"(A) section 172(b)(2) shall be applied by substituting 'corporate minitax taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1985 LOSS YEARS.—In the case of a loss year beginning after December 31, 1985, the net operating loss for such year under section 172(c) shall be reduced by the amount of corporate minitax preference items arising in such year.

"(B) PRE-1986 YEARS.—In the case of loss years beginning before January 1, 1986, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1985, for purposes of paragraph (1) shall be equal to the excess of—

"(i) the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1985, reduced by

"(ii) the amount of corporate minitax preference items arising in such loss year to the extent such amount exceeds $10,000.

"(e) ELECTION TO MAKE ADJUSTMENTS FOR REGUTAX PURPOSES.—

"(1) IN GENERAL.—The taxpayer may elect for any taxable year to have any adjustment required by subsection (b)(2) with respect to any corporate minitax preference item arising in such year apply also to such item for regutax purposes. The treatment of any item with respect to which an election has been made under the preceding sentence shall (for all later years and for purposes of both the regutax and the minitax) be consistent with its treatment for the year in which it arises.

"(2) TIME FOR MAKING ELECTION.—Any election under paragraph (1) with respect to any item shall be made not later than the due date (with extensions) for filing the return under this chapter for the taxable year in which such item arose.

"(3) REVOCATION ONLY WITH CONSENT.—Any election under paragraph (1) may be made only in the manner provided by regulations, and may be revoked only with the consent of the Secretary.

"(f) SPECIAL RULES RELATING TO CREDITS.—FOR PURPOSES OF THIS SECTION—

"(1) CREDITS NOT ALLOWABLE.—Except as provided by paragraph (2), no credit shall be allowable against the tax imposed by subsection (a).

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) Determination of foreign tax credit.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 27(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) SECTION 904(A) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's corporate minitax taxable income from sources without the United States (but not in excess of the taxpayer's entire corporate minitax taxable income), bears to

"(ii) his entire corporate minitax taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF CORPORATE MINITAX TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagrah (C), the term 'corporate minitax taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2)

of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (c), and

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) CARRYOVER AND CARRYBACKS OF CREDITS.—For purposes of computing the amount of any carryover or carryback of any credit allowable under part IV, the taxpayer shall be treated as having been allowed a credit against the regutax for any taxable year for which a tax is imposed by subsection (a) equal to the amount of such credit which would have been allowed against the regutax for such taxable year if such regutax had been equal to the excess of—

"(A) the regutax, over

"(B) the tax imposed by subsection (a).

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) REGUTAX.—The term 'regutax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 531 and 541).

"(2) ADJUSTED REGUTAX.—The term 'adjusted regutax' means, for any taxable year—

"(A) the regutax, reduced by

"(B) the sum of the credits allowable under part IV (other than sections 31, 32, and 34).

"(3) TAXABLE YEAR IN WHICH ITEM ARISES.—In the case of any amount which is taken into account for regutax purposes in more than 1 taxable year, such amount shall be treated as an item arising in the first such taxable year.

"(4) APPLICATION WITH SECTION 291.—Under regulations prescribed by the Secretary rules similar to rules of section 57(b) shall apply to items described in paragraphs (2) and (3) of subsection (c).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

MAJOR AMERICAN COMPANIES PAYING A TOTAL OF ZERO OR LESS IN TOTAL FEDERAL INCOME TAXES, 1981–83

[Sorted by size of tax subsidy, dollar amounts in millions]

	1981–83		
	Profit	Tax	Rate
General Electric	$6,527.0	—$283.0	—4.3
Boeing Co	1,530.0	—267.0	—17.5
Dow Chemical Co	776.0	—223.0	—28.7
Tenneco	2,687.0	—189.0	—7.0
Santa Fe Southern Pacific Corp	1,579.0	—141.7	—9.0
Weyerhaeuser Co	640.7	—138.6	—21.6
DuPont	2,591.0	—132.0	—5.1
St. Regis Corp	123.9	—121.3	—97.9
Georgia—Pacific Corp	400.0	—99.0	—24.8
Columbia Gas System	886.7	—94.6	—10.7
Martin Marietta Corp	490.2	—94.3	—19.2
Transamerica Corp	584.9	—86.4	—14.8
General Dynamics	930.8	—70.6	—7.6
Union Carbide	613.0	—70.0	—11.4
Continental Group	462.0	—69.0	—14.9
Dun & Bradstreet Corp	595.7	—64.0	—10.7
RCA	514.2	—60.9	—11.8
Texaco	1,699.0	—58.0	—3.4
IC Industries	322.9	—56.0	—17.3
U.S. Home	54.3	—53.6	—98.7
International Minerals & Chemical	260.5	—50.6	—19.4
Jim Walter Corp	211.3	—48.2	—22.8

MAJOR AMERICAN COMPANIES PAYING A TOTAL OF ZERO OR LESS IN TOTAL FEDERAL INCOME TAXES, 1981–83—Continued

[Sorted by size of tax subsidy, dollar amounts in millions]

	1981–83		
	Profit	Tax	Rate
Celanese Corp	296.0	—45.0	—15.2
Northrup Corp	177.4	—42.5	—24.0
Greyhound Corp	290.8	—42.1	—14.5
Amerada Hess	336.7	—41.7	—12.4
Mitchell Energy & Development Corp	402.8	—41.1	—10.2
International Paper Co	1,028.4	—39.4	—3.8
Ohio Edison Co	1,027.7	—37.6	—3.7
Burlington Northern	1,724.3	—37.6	—2.2
Mellon National Corp	402.2	—35.3	—8.8
Ashland Oil	346.9	—33.4	—9.6
Philadelphia Electric Co	1,270.9	—33.4	—2.6
Piedmont Aviation	78.9	—29.6	—37.5
Panhandle Eastern Corp	938.0	—28.8	—3.1
Arizona Public Service Co	862.0	—28.7	—3.3
Ogden Corp	192.5	—27.4	—14.2
Pacific Power & Light Co	598.1	—22.2	—3.7
Northern Indiana PSC	549.1	—22.0	—4.0
Tesoro Petroleum	100.9	—16.5	—16.4
CSX Corp	1,755.3	—15.2	—.9
Air Products and Chemicals	294.0	—13.6	—4.6
Superior Oil	1,083.8	—13.2	—1.2
Singer Co	104.6	—12.5	—12.0
Grace (W.R.) & Co	684.1	—12.5	—1.8
Florida Power & Light Co	1,337.7	—12.2	—.9
Centex Corp	194.2	—11.7	—6.0
Pennsylvania Power & Light Co	920.8	—10.4	—1.1
Champion International Corp	167.0	—7.8	—4.7
Southwest Airlines Co	145.2	—7.2	—5.0
Allied Corp	404.0	—7.0	—1.7
American Cyanamid Co	298.7	—6.2	—2.1
Rio Grande Industries	132.5	—4.7	—3.5
St. Paul Cos	440.5	—4.0	—.9
Tyson Foods	36.4	—3.6	—9.9
Commonwealth Edison Co	2,425.6	—3.5	—.1
Comerica	75.2	—3.2	—4.3
Xerox	1,051.2	—2.7	—.3
Citizens & Southern Georgia Corp	173.8	—2.0	—1.2
American Financial Corp	426.9	—1.9	—.4
American Standard	78.5	—1.6	—2.0
Combined International Corp	297.6	.6	.2
First Executive Corp	312.2	0	0
Grumman Corp	474.5	0	0
Lockheed Corp	1,085.0	0	0
Total (65 companies)	49,503.0	—3,232.4	—6.5
Total, 25 biggest benefits	25,244.3	—2,600.4	—10.3
Total, 10 biggest benefits	17,741.3	—1,689.2	—9.5

Source: Citizens for Tax Justice, Corporate Income Taxes in the Reagan Years."●

By Mr. NICKLES (for himself and Mr. ABDNOR):

S. 664. A bill to facilitate the competitiveness of exports of United States agricultural commodities; to the Committee on Commerce, Science, and Transportation.

COMPETITIVENESS OF U.S. AGRICULTURAL EXPORTS

● Mr. NICKLES. Mr. President, in times of economic struggle, the American farmer, especially those who depend on exports, has been dealt a severe blow by a force outside of their control. On February 21, a U.S. District Court ruling in effect increased shipping costs of U.S. grain exports by 15 to 30 percent. Such an artificial price hike of up to $1 per bushel will result in a loss of export markets.

Mr. President, in Oklahoma we export 80 percent of our wheat. We depend on exports and now some judge in Washington, D.C. is going to choke off our markets. The court ruled in favor of maritime interests stating that blended credit programs operated through USDA's Commodity Credit Corporation were subject to cargo preference requirements. Cargo preference requires that U.S. vessels carry the farmers grain to foreign ports. This is clearly a protectionist ruling aimed at benefiting the maritime industry at the expense of American farmers. As a result of this ruling, USDA has suspended $536 million worth of grain sales to Egypt, Iraq, Morocco, and Tunisia until we can get things back in shape.

We can't wait long. These countries will go elsewhere with their money, just like the Soviets did following the grain embargo. That is why I am introducing legislation which would do away with cargo preference requirements on commercial exports of agricultural commodities. Government has got to get off the backs of farmers. We must end unnecessary and crippling regulations handed down by the Federal Government. This ruling is a hardship being saddled on American farmers at a time when we are having difficulty exporting. Farmers' exports are already suffering at the hand of the overvalued dollar.

The cost benefits provided by the blended credit programs are effectively nullified by cargo preference requirements due to the added shipping costs. The court said the higher shipping costs do not justify ignoring cargo preference laws. I say that with the cargo preference laws there won't be higher shipping costs because there won't be any grain shipped under the credit programs. My State's wheat commission told me that Bangladesh, who was eligible for Food-for-Peace shipments moved on higher-cost U.S. vessels, found it was cheaper to buy the wheat under the credit program and arrange their own transportation. To further illustrate the detrimental effects of this ruling, if it had applied over the past 2 years, shipping costs would have been increased by around $250 million.

Mr. President, I hope we have all been made aware of the seriousness of agriculture's problems. I encourage my colleagues to join with me in getting the Federal Government off the backs of the farmers.●

By Mr. HATCH (for himself, Mr. WALLOP, MR. NICKLES, Mr. ARMSTRONG, Mr. COHEN, Mr. DENTON, Mr. EAST, Mr. KASTEN, and Mr. MCCLURE):

S. 665. A bill to amend the Fair Labor Standards Act of 1938 to facilitate industrial homework, including sewing, knitting, and craftmaking, and for other purposes; to the Committee on Labor and Human Resources.

FREEDOM OF THE WORKPLACE ACT

● Mr. HATCH. Mr. President, cable television has recently been running a promotional spot touting cable TV as "not just more choice, but your choice." There is a major bank credit card called Choice, and Baskin-Robbins Ice Cream stores offer a choice of

31 flavors. Clearly, as Americans we have an inalienable right to choose. Our freedom is in fact based on the power and necessity of choice, giving us the whole range of personal liberty we enjoy in our free society. The commonplace options we daily exercise in choosing which car to drive or which suit to buy ought to extend to where we choose to work, a contract freely exercised. This is why the bill I introduce today is really a reaffirmation of Americans' fundamental right to choice of workplaces.

The freedom to work at home in seven industries was suspended in 1942, ostensibly to protect workers' rights. The Labor Department regulations were a response to the sweatshop conditions of the earlier part of this century—conditions no one wants to recreate in homes, factories, or elsewhere.

Yet, Mr. President, the prohibition of home labor as the sole means of enforcing wage and hour laws is like using agent orange to clear a little patch of poison ivy. I imagine our cities and towns would find it much easier to enforce traffic and parking laws if we simply prohibited driving and car ownership. Those of us who depend on our automobiles for mobility would find that prohibition overly restrictive and downright inconvenient. Likewise, those citizens who might benefit from working at home in these seven industries are prohibited from exercising this choice.

With this ban on homework we are denying choices to countless Americans, and particularly to working parents. Labor Department statistics reveal that in March 1984, 46.8 percent of married women with children age 1 or under were in the labor force. Furthermore, the U.S. Commission on Civil Rights found that an estimated 32,000 preschoolers and 2 million children between the ages of 7 and 13 are left without adult supervision during the day. The necessity of two incomes means that in many families neither parent is able to stay at home. The lack of supervision augmented by the lack of parental contact, especially in these important early years, can be tragic. This is a situation which could be corrected for many families by lifting the prevailing ban on industrial homework. Home labor is an employment option that would make it economically possible for more parents to spend more time with their children.

Just as this change in the Fair Labor Standards Act has tremendous potential for being a wonderful boon for the health and welfare of many American families, it can provide access to the job market for people in rural areas. It is often difficult for people in the rural parts of our country to acquire outside employment because of their remote location or because an employer's schedule may not coincide with that on the farm. Homework would provide needed flexibility as well as save people the cost of transportation to a workplace.

Critics of the Freedom of Workplace Act have suggested that the present ban on these seven areas of industrial homework is necessary to protect workers' rights under the Fair Labor Standards Act. I agree that the Fair Labor Standards Act should be enforced. But, Mr. President, this is 1985. Times have changed and the ability to regulate home labor without prohibiting it has improved to the extent that this objection is no longer valid. First of all, in 1985 employers, employees, Labor Department officials, and public interest groups are familiar with the Fair Labor Standards Act. This familiarity contributes to the enforceability of this act. Sometimes, Mr. President, I think we insult the intelligence of our citizens by assuming they do not understand their own interests or rights under law. A better role for Government would be to ensure that accurate information about the Fair Labor Standards Act is available so individuals can made their own choices. Second, the chances that violations will go unnoticed are slight not only because workers have familiarity with their rights, but also because businesses will compete for reliable, experienced workers. Employees and employers alike will be alert to any violations. Third, the Department of Labor will, of course, retain the authority to impose reporting, certification or any other regulatory requirement to enforce the Fair Labor Standards Act for home workers. Fourth, there is no prohibition on unionization. Given these factors, the unlikelihood of unchecked violations or of a return to the sweatshops of an earlier time simply does not justify the Government's tacit acceptance of not only the problems created for some by having inflexible work, but also the restriction of freedom.

Mr. President, I am very pleased that the Department of Labor has moved to restore the option of home employment to thousands of home knitters in Vermont and elsewhere. This is a major step forward in reestablishing a fundamental right of American workers. The International Ladies' Garment Workers' Union has elected not to challenge the latest revision of the regulations concerning the knitted outerwear industry, and I commend them for that decision. It is time we gave these workers a chance. And, if we can do it for home workers in one industry, we should do it for the workers in the other six still prohibited industries. That the Federal Government in 1985 is still wedded to this archaic prohibition to enforce fair labor standards is directly at odds with our national character which covets freedom of choice.

I am honored that Senators WALLOP, NICKLES, ARMSTRONG, COHEN, DENTON, EAST, KASTEN, and MCCLURE have joined me in sponsoring this legislation and I invite all Senators to cosponsor the Freedom of Workplace Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11(d) of the Fair Labor Standards Act of 1938 is amended—

(1) by striking out the word "The" and inserting in lieu thereof "(1) Subject to the provisions of paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Nothing in paragraph (1) of this subsection shall be construed to prohibit an individual from engaging in industrial homework (including sewing, knitting, jewelry or craft-making) or performing any service in or about the individual's place of residence as an employee of any employer covered by the provisions of this Act if the employer pays the minimum wage rate prescribed by this Act and complies with the maximum hours provision of this Act.".●

By Mr. GARN (for himself and Mr. HECHT) (by request):

S. 666. A bill to amend the National Flood Insurance Act of 1968, as amended, to extend certain authorities thereunder, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 667. A bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY

● Mr. GARN. Mr. President, Senator HECHT and I are submitting by request the authorization bills received from the Department of Housing and Urban Affairs [HUD] and the Federal Emergency Management Agency [FEMA].

I also request unanimous consent to print in the RECORD the HUD bill and summary, and the FEMA bill with the accompanying statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Flood Insurance Act of 1968, as amended, is further amended:

(a) by striking out "September 30, 1985" in section 1319 (42 U.S.C. 4026) and inserting in lieu thereof "September 30, 1991";

(b) by striking out "September 30, 1985" in section 1336(a) (42 U.S.C. 4056(a)) and inserting "September 30, 1919" in lieu thereof;

(c) by deleting the words "September 30, 1985" in section 1360(a)(2) (42 U.S.C. 4101(a)(2)) and inserting in lieu thereof "by September 30, 1991".

(d) by amending section 1310(a) by adding a new item (6) as follows: "for the purposes specified in Chapter III."

FEDERAL EMERGENCY MANAGEMENT AGENCY,
Washington, DC, March 8, 1985.

Honorable GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation which would extend and amend the National Flood Insurance Program under the National Flood Insurance Act of 1968, as amended.

Section (a) of the bill amends section 1319 of the National Flood Insurance Act of 1968 to extend, until September 30, 1991, the period during which new contracts for flood insurance may be entered into. Authority under current law to issue policies expires on September 30, 1985.

Section (b) of the bill amends section 1336 of the National Flood Insurance Act of 1968 to extend until September 30, 1991, the period during which federally subsidized flood insurance may be provided in communities for which actuarial rates and flood hazard elevation studies have not yet been completed. Authority under current law will expire on September 30, 1985. We recommend that the extension date be through September 30, 1991, for both the emergency and regular phases of the program. This date would be consistent with the Federal Emergency Management Agency's (FEMA) plan for "Risk Studies Completion and Full Program Status" which was submitted to Congress in September 1984. The completion date for the studies in that plan was indicated to be 1990 but it should be extended to 1991 as a result of the Administration's decision to continue funding for flood studies at the current level rather than an enhanced level.

There are some 1.9 million flood insurance policies in effect throughout all 50 States, territories and possessions. Without an extension of time of the authority to write and renew NFIP policies, all existing policies would expire and no new policies could be written, providing the public with no opportunity to obtain insurance coverage against floods as such coverage is not available in the private sector.

In addition, since 1983, FEMA/Federal Insurance Administration has been successfuly administering a significant new "Write Your Own Program" (WYO), under which over 200 of the Nation's private property insurance companies have agreed to market and write the NFIP Standard Flood Insurance Policy (SFIP) on their own letterheads, as insurers, and to service the policyholders under an arrangement whereby the Federal Government permits the companies to retain a specified amount of the insurance premium for the payment of expenses and provides such additional funds as may be needed for the payment of claims.

Through the utilization of marketing efforts of the private companies, the NFIP will be able to expand the base of policyholders protected against flood losses and spread the risk over a larger number of property owners. In this way the program goal of actuarial soundness and a minimizing or elimination of costs to the taxpayer will be more readily attainable.

The proposed extension of the program authority through Fiscal Year 1991 will help encourage even greater participation by private companies and property insurance agents and brokers in the WYO Program by providing the necessary assurance that the NFIP, whose underlying purposes have enjoyed such consistent and strong support by the Congress, will not be subjected to the uncertainties and interruptions inherent in a more frequent authorization schedule.

Section (c) of the bill extends the date of completion of all of the flood risk studies to September 30, 1991. As indicated, above, support for this extension is provided in FEMA's "Risk Studies Completion and Full Program Status Plan" which was developed after a comprehensive assessment of the floodplain development potential of each of the remaining communities in the Emergency Program and an examination of appropriate methodologies for completing those risk studies identified as being needed.

The extension of the Emergency Program through September 30, 1991, would provide for the completion of risk studies initiated during this period and the conversion of those communities to the Regular Program after flood risk data has been developed to support actuarial flood insurance rating and local floodplain management programs designed to reduce future flood losses. The Plan provides in-depth analysis and discussion of the reasons why additional studies are necessary and cost-effective, the resources required to complete them, and the reasons why the Emergency Program should be extended while they are being completed.

Subsection (d) is intended to clarify existing authority to charge administrative expenditures to the Fund. Currently, under section 1310(a) the Fund may be used to pay "administrative expenses of carrying out the National Flood Insurance Program as the Administrator may deem necessary." Expenses associated with floodplain management such as charges for flood studies, costs of purchase of property under section 1362, flood hazard protection, and the salaries and expenses of personnel performing such work can be and should be considered administrative expenses. Until now these expenses have been charged not as administrative expenses but to direct appropriations. In the interest of clarity and to remove any doubt as to the validity of changing present practices, section 1310(a) is modified to specifically provide that these expenditures can be charged to the Fund. In addition, there would need to be specific appropriation act approval for these costs. These expenditures are required to provide the machinery for setting flood insurance rates and reducing insurance claims. The use of direct appropriations for these cost is not appropriate for a program which benefits a distinct group of taxpayers. Other taxpayers should not subsidize the recipients of a benefit. Accordingly, the Administration intends to slowly increase premiums for these costs in line with efforts to make the Fund self-suficient by 1988.

The Office of Management and Budget advises that there is no objection to the submission of this proposal for the consideration of the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

GEORGE JETT,
General Counsel.

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Amendments of 1985".

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TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT

AUTHORIZATIONS—TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1984

SEC. 101. (a) The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 not to exceed $3,468,000,000 for fiscal year 1984, not to exceed $3,472,000,000 for fiscal year 1985, not to exceed $3,124,800,000 for fiscal year 1986, and such sums as may be necessary for fiscal year 1987.".

(b) The first sentence of section 107(a) of such Act is amended to read as follows: "Of the total amount approved in appropriations Acts under section 103 for each of the fiscal years 1984, 1985, 1986, and 1987, not more than $66,200,000 for fiscal year 1984, not more than $60,500,000 for each of fiscal years 1985 and 1986, and such sums as may be necessary for fiscal year 1987 may be set aside in a special discretionary fund for grants under subsection (b).".

DEFINITIONS

Sec. 102. (a) Section 102(a)(13) of the Housing and Community Development Act of 1974, as redesignated by section 107(d)(1)(D) of this Act, is amended to read as follows:

"(13) The term 'Indian tribe' means any Indian tribe, band, nation, or Alaskan Native Village recognized by the Secretary of the Interior as eligible for services because of its status as such an entity: *Provided*, That part or all of the land of such an entity is held in restricted or trust status by the United States.".

(b) The last sentence of section 102(a)(16)(A) of such Act, as redesignated by section 107(d)(1)(D) of this Act, is amended by inserting before the period at the end thereof the following: ", except that in the case of amounts distributed under section 106(d) to units of general local government located in nonmetropolitan areas, the area involved shall be the entire nonmetropolitan area of the State".

STATEMENT OF ACTIVITIES AND REVIEW

SEC. 103. (a) Section 104(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence.

(b) Section 104(b)(4) of such Act is amended by striking out "it" and inserting in lieu thereof the following: "in the case of grants to cities and counties under section 106(b), the grantee".

(c)(1) Section 104(c) of such Act is hereby repealed.

(2) The first sentence of section 104(a)(1) of such Act is amended by striking out "and, where appropriate, subsection (c)".

(3) The penultimate sentence of section 104(a)(2) of such Act is amended by striking out "and, where appropriate, subsection (c)".

(4) Section 104(b)(5) of such Act is amended to read as follows:

"(5) in the case of grants to cities and counties under section 106(b), the grantee will cooperate in the provision of housing opportunities suited to the needs of persons of low and moderate income residing in the community or who are expected to reside in the community as a result of current or planned employment;".

(5) Section 104(d)(1) of such Act is amended by striking out "and, where applicable, its housing assistance plan".

(6) The first sentence of section 106(c)(1) of such Act is amended by striking out "section 104(a), (b), or (c)" and inserting in lieu thereof "section 104(a) or (b)".

(7) The second sentence of section 8(c)(1) of the United States Housing Act of 1937 is amended by striking out "or that such higher rent is necessary" and all that follows through "1974".

(8) Section 18(b)(1) of such Act is amended to read as follows:

"(1) the application from the public housing agency contains evidence that (A) it has been developed in consultation with tenants and tenant councils, if any, that will be affected by the demolition or disposition, and (B) in the case of an application involving at least (i) 20 units or (ii) ten per centum of the public housing agency's total number of public housing units, whichever is less, it has been reviewed by, and contains any comments of, the chief executive officer, or designee, of the appropriate unit of general local government; and".

(d) Section 106(d)(5) of the Housing and Community Development Act of 1974 is amended by—

(1) inserting "and" at the end of clause (B);

(2) striking out "; and" at the end of clause (C) and inserting in lieu thereof a period; and

(3) striking out clause (D).

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 104. (a)(1) The first sentence of section 106(a) of the Housing and Community Development Act of 1974 is amended by striking out "70" and inserting in lieu thereof "60".

(2) The first sentence of section 106(d)(1) of such Act is amended by striking out "30" and inserting in lieu thereof "40".

(b) The second sentence of section 106(c)(1) of such Act is amended by—

(1) inserting "which are eligible to receive reallocated funds" before" for that fiscal year, except that—";

(2) striking out in clause (B) "an action" and inserting in lieu thereof "actions";

(3) striking out in clause (B) "a city or county" and inserting in lieu thereof "any city or county"; and

(4) striking out in clause (B) "such action" the last time it appears and inserting in lieu thereof "such actions". (c)(1) Section 104(a)(1) of such Act is amended by—

(A) striking out in the first sentence ", under section 106(d) by any State, or under section 106(d)(2)(B) by any unit of general local government" and inserting in lieu therof the following: "or under section 106(d) by any State"; and

(B) striking out in the second sentence "and in the case of units of general local government receiving grants pursuant to section 106(d)(2)(B)".

(2) Section 104 of such Act is amended by—

(A) striking out the fifth and sixth sentences of subsection (d)(1); and

(B) inserting in subsection (d)(1) after "section 106(d)(2)(B)" the following: "(as such provision existed immediately before the effective date of the Housing and Community Development Amendments of 1985)".

(3) Sections 106(d)(2)(A) and (B) of such Act are amended to read as follows:

"(2)(A) Amounts allocated under paragraph (1) shall be distributed by the State to units of general local government which are located in nonentitlement areas of the State to carry out activities in accordance with the provisions of this title. For the purposes of this subsection, distributions shall not include loans to units of general local government. The State shall distribute amounts allocated to it consistent with the statement submitted under section 104(a) and shall be responsible for the administration of funds so distributed.

"(B) Any amounts appropriated for fiscal year 1985 or prior fiscal years which were available for distribution under this subsection by the Secretary immediately before the effective date of the Housing and Community Development Amendments of 1985 shall be distributed by the Secretary in accordance with the provisions of this subsection as they existed immediately before such effective date, except that amounts which are not obligated by January 1, 1986 (i) shall be added to amounts allocated to the State under paragraph (1) for fiscal year 1986 or (ii) if the State does not elect to receive a grant for fiscal year 1986, shall be deposited in miscellaneous receipts of the Treasury of the United States.".

(4) Section 106(d)(3)(A) is amended by striking out the first sentence.

(5) Section 106(d)(3) of such Act is amended by—

(A) striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(B) inserting in subparagraph (C), as redesignated by paragraph (6)(A) of this subsection, "(i)" before "shall be added" and inserting immediately before the period at the end thereof the following: "or (ii) if the State does not receive a grant for such year, shall be deposited in miscellaneous receipts of the Treasury of the United States".

(6) Section 106(d)(5) of such Act is amended by striking out "or the Secretary".

(d) Section 106(d)(2) of such Act is amended by—

(1) striking out in subparagraph (C) "the Governor must certify that the State" and inserting in lieu thereof "the State must certify that it"; and

(2) striking out in subparagraph (D) "the Governor of each State" and inserting in lieu thereof "the State".

ENTITLEMENT TRANSITION

SEC. 105. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out the second sentence in paragraph (6);

(2) amending paragraph (7) to read as follows:

"(7) The term 'nonentitlement area' means an area which is not a metropolitan city, part of an urban county, or a city or a county which is eligible to receive a grant under section 106(b)(7)(B) or (b)(8) in the first year of such eligibility."; and

(3) amending paragraph (12) to read as follows:

"(12) The term 'extent of growth lag' means the number of persons who would have been residents in a city or a county eligible to receive a grant under section 106(b), in excess of the current population of such city or county, if such city or county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities.".

(b) The first two sentences of section 104(a)(1) of such Act are each amended by striking out "metropolitan" and "urban" each time they appear.

(c) Section 105(c)(2)(B) of such Act is amended by striking out "metropolitan city or urban county" and inserting in lieu thereof "a city or county eligible to receive a grant under section 106(b)".

(d) Section 106(a) of such Act is amended by—

(1) striking out "metropolitan cities and urban counties" in the first sentence and inserting in lieu thereof the following: "metropolitan cities, urban counties, and cities and counties eligible to receive a grant under subsection (b) (7) or (8)"; and

(2) striking out "metropolitan city and urban county" in the second sentence and inserting in lieu thereof the following: "metropolitan city, urban county, and city and county eligible to receive a grant under subsection (b) (7) or (8)".

(e) Section 106(b) of such Act is amended by—

(1) inserting after "each metropolitan city" in paragraph (1) the following: "and each city eligible to receive a grant under paragraph (7)";

(2) inserting after "metropolitan cities" in paragraph (1)(B)(i) the following: "and all cities eligible to receive a grant under paragraph (7)";

(3) inserting at the end of paragraph (1) the following new sentence: "Values for population, extent of poverty, extent of housing overcrowding, extent of growth lag, and age of housing used in determining ratios under this paragraph shall be reduced by 50 per centum for cities eligible to receive a grant under paragraph (7)(A), and for cities eligible to receive a grant under paragraph (7)(B) in their second year of eligibility thereunder.";

(4) inserting after "each urban county" in paragraph (2) the following: "and each county eligible to receive a grant under paragraph (8)";

(5) striking out "urban" each time it appears in paragraphs (2)(A), (2)(B) (ii) and (iii);

(6) amending clause (i) of paragraph (2)(B) to read as follows:

"(i) The extent of growth lag in that county and the extent of growth lag in all metropolitan cities, all cities eligible to receive a grant under parapraph (7), all urban counties, and all counties eligible to receive a grant under paragraph (8);";

(7) inserting at the end of paragraph (2) the following new sentence: "Values for population, extent of poverty, extent of housing overcrowding, extent of growth lag, and age of housing used in determining ratios under this paragraph shall be reduced by 50 per centum for counties eligible to receive a grant under paragraph (8) in their second year of eligibility thereunder.";

(8)(A) in the first sentence of paragraph (4), inserting after "urban county" the first time it appears the following: "or county eligible to receive a grant under paragraph (8)", and striking out "urban" each time it appears thereafter;

(9) in paragraph (5), inserting after "urban county" the first time it appears "or county eligible to receive a grant under paragraph (8)", and striking out "urban" each time it appears thereafter; and

(10) adding the following two new paragraphs after paragraph (6):

"(7)(A) Any city that qualified as a metropolitan city for fiscal year 1985 by reason of the second sentence of section 102(a)(4), but that does not qualify as a metropolitan city under that section for fiscal year 1986, shall be eligible to receive a grant computed under paragraph (1) based on 50 per centum of the values considered in the formulas under that paragraph for fiscal year 1986. A city that is eligible under this subparagraph shall also be eligible to receive a distribution from the State allocation under section 106(d) for fiscal year 1986. A city that is eligible to receive a grant under this subparagraph, but that elects to have its population included in an urban county for fiscal year 1986 shall not receive an allocation under this subparagraph.

"(B) Any city that loses its classification as a metropolitan city by reason of a loss of population or revisions in the designations of metropolitan areas or central cities and that does not qualify under subparagraph (A) shall be eligible to receive a grant computed under paragraph (1) for the two fiscal years immediately following the last fiscal year in which it so qualified. In the first year, the grant shall be based on 100 per centum of the values considered in the formulas under paragraph (1). In the second year, the grant shall be based on 50 per centum of the values considered in the formulas under paragraph (1). A city that is eligible to receive a grant under this subparagraph shall also be eligible for a distribution from the State allocation under section 106(d) for the second (but not first) year of eligibility under this subparagraph. A city that is eligible to receive an allocation under this subparagraph, but that elects to have its population included in an urban county, shall not receive a grant under this subparagraph. No city that receives a grant under this subparagraph for its first year of eligibility for such funding may elect to have its population included in an urban county for its second year of such eligibility.

"(8) Any county that loses its classification as an urban county under section 102(a)(6) by reason of a loss of population (including the classification of a previously included area as a metropolitan city), other than by reason of the election of any unit of general local government included in such county to have its population excluded under section 102(a)(6)(B)(i) or to not renew a cooperation agreement under section 102(a)(6)(B)(ii), shall be eligible to receive a grant computed under paragraph (2) for the two fiscal years immediately following the last fiscal year in which it so qualified: *Provided*, That the county otherwise meets the requirements of section 102(a)(6)(A) and that all units of general local government (except metropolitan cities) located within such county, which could participate with the county, elect to participate with the county for such two-year period. In the first year, the grant shall be based on 100 per centum of the values considered in the formulas under paragraph (2). In the second year, the grant shall be based on 50 per centum of the values considered in the formulas under paragraph (2). A county that is eligible to recieve a grant under this paragraph, and each of its participating units of general local government, shall also be eligible to receive a distribution from the State allocation under section 106(d) for the second (but not first) year of eligibility of the county under this paragraph.".

(f) Section 106(c)(1) of such Act is amended by—

(1) striking out in the first sentence "metropolitan city or an urban county" and inserting in lieu thereof "city or a county eligible to receive a grant under subsection (b)"; and

(2) inserting at the end thereof the following new sentence: "Notwithstanding the foregoing, no reallocated funds shall be awarded to a city or county eligible to receive a grant under subsection (b)(7) or (8).".

(g) Section 106(d)(1) of such Act is amended by inserting at the end thereof the following new sentence: "If a city or county is eligible to receive a grant under section 106(b) (7) or (8) based on 50 per centum of the values for population, extent of poverty, extent of housing overcrowding, and age of housing, the remaining 50 per centum of such values shall be added to the values for nonentitlement areas in the State in which such city or county is located.".

(h) Section 106(f) of such Act is amended to read as follows:

"(f) If the total amount available for distribution in any fiscal year to cities and counties eligible to receive grants under subsection (b) is insufficient to provide the amounts to which they would be entitled under that subsection, and funds are not otherwise appropriated to meet the deficiency, the Secretary shall meet the deficiency through a pro rata reduction of all amounts determined under that subsection. If the total amount available for distribution in any fiscal year to cities and counties eligible to receive grants under subsection (b) exceeds the amounts to which they would be entitled under that subsection, the Secretary shall distribute the excess through a pro rata increase of all amounts determined under that subsection.".

MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 106. (a) Section 106(d)(3)(A) of the Housing and Community Development Act of 1974 is amended by striking out "$102,000" and inserting in lieu thereof "$100,000".

(b) Section 113 of such Act is amended to read as follows:

"SEC. 113. (a) Not later than 180 days after the close of fiscal year 1985 and of every period of three fiscal years thereafter in which assistance under this title is furnished, the Secretary shall submit to the Congress a report that shall contain:

"(1) a description of the progress made in accomplishing the objectives of this title; and

"(2) a summary of the use of such assistance during the preceding reporting period.

"(b) With respect to grants under section 119, as it existed immediately before the effective date of section 107 of the Housing

and Community Development Amendments of 1985, the report required by subsection (a) for fiscal year 1985 shall contain a listing of each unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during such fiscal year. The report for fiscal year 1985 shall constitute the final report on activities under such section 119.

"(c) The Secretary is authorized to require recipients of assistance under this title to submit such reports and other information as may be necessary in order for the Secretary to make the report required by this section.".

MISCELLANEOUS REPEALERS

SEC. 107. (a)(1) Section 104(g) of the Housing and Community Development Act of 1974 is hereby repealed.

(2) On or after the effective date of this section, no revolving loan may be established or extended under section 104(g), as it existed immediately before such effective date.

(3) Any revolving loan fund established under section 104(g), as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 104(g).

(b)(1) Section 107(b) of such Act is amended by striking out paragraph (1) and redesignating the remaining paragraphs accordingly.

(2) On or after the effective date of this section, no grant may be made under section 107(b)(1), as it existed immediately before such effective date.

(3) Any grant made under section 107(b)(1), as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 107(b)(1).

(c)(1) Section 108 of such Act is hereby repealed.

(2) On or after the effective date of this section, no guarantee may be made under section 108, as it existed immediately before such effective date, except pursuant to a commitment to guarantee made before such effective date.

(3) Any guarantee made under section 108, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 108.

(4) The second sentence of section 101(c) and section 104(b)(3) of such Act are each amended by inserting after "section 108" the following: "(as such section existed immediately before the effective date of section 107 of the Housing and Community Development Amendments of 1985)".

(d)(1)(A) Section 119 and 121 of such Act are hereby repealed.

(B) The first sentence of section 106(a) and (d)(1) of such Act is amended by striking out "and section 119" each place it appears.

(C) Sections 107(d)(1) and (2) of such Act are each amended by striking out "or section 119".

(D) Section 102(a) is amended by striking out paragraphs (13), (14), (15), (16) and redesignating the remaining paragraphs accordingly.

(2) No grant may be made under section 119, as it existed immediately before the effective date of this section, after the grants awarded for large cities and urban counties for which the decision date under 24 CFR 570.460 is September 30, 1985.

(3) Any grant made under section 119, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of sections 102(a)(13), (14), (15), and (16), 107(d), 119, and 121 of such Act, as they existed immediately before such effective date.

(4) Any amounts that, in the absence of this subsection, would have been available for making grants under section 119 of such Act on or after the effective date of this section shall be rescinded.

(5) Clause (ii) of the penultimate sentence of section 235(h)(1) of the National Housing Act is amended by inserting after "1974" the following: "(as such section existed immediately before the effective date of section 107 of the Housing and Community Development Amendments of 1985)".

(e)(1) Section 312 of the Housing Act of 1964 is hereby repealed, except that the first and second sentences of section 312(d) shall remain in effect until September 30, 1986, or until the assets and liabilities of the revolving fund under such section are transferred to the Revolving Fund (liquidating programs) established under title II of the Independent Offices Appropriation Act, 1955, whichever is earlier. All monies in the Revolving Fund (liquidating programs) shall be made available for necessary expenses of servicing and liquidating loans made under section 312, including reimbursement or payment for services and facilities of the Government National Mortgage Association and of any public or private entity for the servicing or liquidation of such loans.

(2) On or after the effective date of this section, no loan may be approved under section 312, as it existed immediately before such effective date.

(3) Any loan approved under section 312, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 312.

(f) This section shall become effective on the later of October 1, 1985 or the date of enactment of this Act.

URBAN HOMESTEADING

SEC. 108. (a) The first sentence of section 810(k) of the Housing and Community Development Act of 1974 is amended by striking out "fiscal year 1984, and such sums as may be necessary for fiscal year 1985" and inserting in lieu thereof the following: "each of fiscal years 1984, 1985, 1986 and 1987".

(b) Section 810 of such Act is amended by—

(1) inserting after "without any substantial consideration" in subsection (b)(1) the following: "in the case of a lower income individual or family, as determined in accordance with section 3(b)(2) of the United States Housing Act of 1937 or for such consideration, if any, as may be agreed upon by the entity and the individual or family, in the case of an individual or family which is not lower income";

(2) striking out "and" the first time it appears in subsection (b)(2) and inserting in lieu thereof a comma;

(3) inserting immediately before the semicolon at the end of subsection (b)(2) the following: ", and ability to pay any consideration agreed upon in connection with conveyance of the property";

(4) striking out "and" at the end of subsection (b)(3)(C) and inserting "and" after the semicolon at the end of subsection (b)(3)(D);

(5) adding the following new clause (E) at the end of subsection (b)(3)(D):

"(E) pay the agreed upon consideration for the property;";

(6) inserting after "without consideration" in subsection (b)(5) the following: "in the case of a lower income individual or family or for such consideration, if any, as may be agreed upon by the entity and the individual or family, in the case of an individual or family which is not lower income,"; and

(7) inserting at the end of subsection (b) the following: "Any unit of general local government, State or agency designated by a unit of general local government or a State, which receives consideration in connection with the conveyance of a property to an individual or family under this section, shall remit to the Secretary may amounts received in such manner and at such time or times as the Secretary any prescribe. The Secretary shall deposit in miscellaneous receipts of the Treasury of the United States any amounts so remitted.".

EFFECTIVE DATE

SEC. 109. The amendments made by sections 101 through 106 shall apply only with respect to funds available for fiscal year 1986 and thereafter.

TITLE II—HOUSING ASSISTANCE PROGRAMS

PART A—GENERAL

ANNUAL CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

SEC. 201. (a) Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraph:

"(8) The aggregate amount of budget authority that may be obligated for contracts for annual contributions is increased by $499,000,000 on October 1, 1985, and by such sums as may be approved in appropriation Acts on October 1, 1986. During fiscal year 1986, the Secretary shall not enter into contracts providing for more than $175,000,000 in the aggregate of budget authority for comprehensive improvement assistance under section 14, and no contract shall be entered into for purposes other than to meet emergencies for which assistance under section 14 may be used. The Secretary may enter into contracts for annual contributions in, and the aggregate authority to enter into such contracts is increased by, such amounts as are consistent with the foregoing increase in budget authority.".

(b) Section 9(c) of such Act is amended by striking out "on or after October 1, 1984" and inserting in lieu thereof "thereafter".

PREVENTING FRAUD AND ABUSE IN HUD PROGRAMS

SEC. 202. (a) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to assure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) disclose his or her social security number or employer identification number to the Secretary.

(b) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of an ap-

plicant's or participant's household) sign a consent form approved by the Secretary authorizing (1) the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits, to verify the information furnished by the applicant or participant, and (2) any Federal, State, or local agency or private person or entity to release information related to the determination of eligibility and benefit level. The information may include, but is not limited to, data concerning wages (not including return information as defined in section 6103(b)(2) of title 26, United States Code), unemployment compensation, benefits made available under the Social Security Act, and veterans benefits under title 38, United States Code. Any individually identifiable information received by the Secretary under this section shall be subject to the requirements of section 552a of title 5, United States Code. An applicant or participant shall have the right to obtain, examine, and correct any information which the Secretary, public housing agency or owner responsible for determining eligibility or level of benefits has received under this section, unless a criminal investigation is pending.

(c) As used in this section—

(1) the term "Secretary" means the Secretary of Housing and Urban Development;

(2) the term "applicant" shall have such meaning as the Secretary by regulation shall prescribe; and

(3) the term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers or employees of the Department of Housing and Urban Development and to officers or employees of any public housing agency responsible for determining the eligibility and level of benefits of particular applicants or participants (including members of an applicant's or participants' household), any of the following information contained in the records of the State agency—

"(i) wage information, not including return information as defined in section 6103(b)(2) of title 26, United States Code,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by the individual, and

"(iii) the current (or most recent) home address of the individual, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under the programs of the Department of Housing and Urban Development.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify the State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any failure to comply. Until the Secretary of Labor is satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to the State.".

REVISED DEFINITION OF DISABILITY

SEC. 203. (a) Clause (A) of the first sentence of section 3(b)(3) of the United States Housing Act of 1937 is amended by striking out "section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting in lieu thereof "section 102(7) of the Developmentally Disabled Assistance and Bill of Rights Act".

(b) The third sentence of section 202(d)(4) of the Housing Act of 1959 is amended by striking out "section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950" and inserting in lieu thereof "section 102(7) of the Developmentally Disabled and Bill of Rights Act".

PART B—PUBLIC AND INDIAN HOUSING

PUBLIC AND INDIAN HOUSING FINANCING REFORMS

SEC. 211. (a) Section 4(a) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "The Secretary shall not make any commitment to make a loan under this subsection except with respect to a lower income housing project for which funding has been reserved before October 1, 1986.".

(b) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary pursuant to subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. This cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan, the repayment of which was not to be made using annual contributions, or to any loan, all or part of the proceeds of which are due a public housing agency from contractors or others.

"(2)(A) On September 30, 1985, or on the date of the enactment of the Housing and Community Development Amendments of 1985 into law, whichever is later, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest which has accrued on each obligation, is forgiven; and any other term or condition specified by each such obligation is canceled.

"(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary pursuant to subsection (b) during the fiscal year ending that day, together with any such promise to repay, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.".

(c) "(B) Section 5 of such Act is amended by—

(1) striking out "ANNUAL" in the section heading;

(2) striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years. The Secretary shall not enter into a contract guaranteeing the payment of annual contributions under this section with respect to public housing projects, except with respect to a project for which funding has been reserved before October 1, 1986.

"(2)(A) On and after October 1, 1987, the Secretary may make one-time capital contributions to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and the period (not to exceed 40 years) during which the terms and conditions of such contract shall remain in effect.

"(B) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of subparagraph (A).

"(3) The amount of contributions which would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures which are suitable for lower income housing use and obtained in the local market."; and

(3) striking out "annual" in subsection (e)(2).

(d) Section 6 of such Act is amended by—

(1) inserting "The" immediately before "Secretary" in the first sentence of subsection (a); and

(2) striking out "annual" the first time it appears in the first sentence of subsection (g), and each place it appears in subsection (d) and the first sentence of each of subsections (a), (b), and (c).

(e) Section 7 of such Act is amended by—

(1) striking out "annual" in the proviso in the first sentence; and

(2) striking out "low-rent" each time it appears in the second sentence and inserting in lieu thereof "public".

(f) Section 9(a)(2) of such Act is amended by—

(1) striking out "being assisted by an annual contributions contract authorized by section 5(c)" and inserting in lieu thereof "one developed pursuant to a contributions contract authorized by section 5"; and

(2) stiking out "any such annual" and inserting in lieu thereof "any such".

(g) Section 12 of such Act is amended by striking out "annual".

(h) Section 14 of such Act is amended by—

(1) striking out "receive assistance under section 5(c)" in subsection (c)(2) and insert-

ing in lieu thereof "assisted under section 5"; and

(2) striking out "annual" in each of paragraphs (2) and (4)(C) of subsection (d).

(i) Section 15 of such Act is amended by striking out "with loans or debt service annual contributions" in clause (2).

(j) Section 16(b) of such Act is amended by striking out "annual".

(k)(1) Section 18(a)(2)(B) of such Act is amended by—

(A) inserting immediately before "the net proceeds" the following: "except as otherwise provided by this subparagraph,"; and

(B) inserting immediately before the period at the end thereof the following: "; in the case of a public housing project financed under section 5(a)(2) or with respect to which a loan made under section 4(a) was forgiven under section 4(c), the net proceeds of the disposition will be used in a manner prescribed by the Secretary in regulations, which shall be comparable (as determined by the Secretary, taking into account that the indebtedness was forgiven or a different financing method was used, as appropriate) to the requirements for the use of such net proceeds applicable to other public housing projects under this subparagraph".

(2) Section 18(c) of such Act is amended by striking out "annual contributions authorized under section 5(c)" and inserting in lieu thereof "contributions authorized under section 5".

EXEMPTION OF PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS FROM PROVISIONS PERTAINING TO RENTS PAYABLE BY TENANTS

SEC. 212. Section 3(a) of the United States Housing Act of 1937 is amended by inserting after "under section 8(o)" in the final sentence the following: "or under a public housing homeownership program".

PUBLIC HOUSING AGENCY RECEIVERSHIP

SEC. 213. Section 6 of the United States Housing Act of 1937 is amended by—

(1) redesignating subsection (g) as subsection (f); and

(2) adding the following new subsection:

"(g) Notwithstanding any other provision of this Act or of any contract for annual contributions, upon the occurrence of events or conditions which, in the opinion of the Secretary, constitute a substantial default in respect to the covenants or conditions to which the public housing agency is subject, the Secretary may petition for the appointment of a receiver of the public housing agency to any district court of the United States or to any court of the State or District of Columbia in which the real property of the public housing agency is situated which is authorized under the laws of such jurisdiction to appoint a receiver for the purposes and having the powers prescribed herein. Upon a determination that such a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court shall provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary. The appointment of a receiver shall be terminated upon the petition of the Secretary or when the court determines that all defaults have been cured and that the projects of the public housing agency will thereafter be operated by the public housing agency in accordance with the covenants and conditions to which the public housing agency is subject.".

PART C—OTHER ASSISTED HOUSING

AUTHORIZATION FOR INCREASING BORROWING AUTHORITY FOR DIRECT LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 221. The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "such sum as may be approved in an appropriation Act on October 1, 1984" and inserting in lieu thereof "such sums as may be approved in appropriation Acts thereafter".

ESTABLISHMENT OF SECTION 8 FAIR MARKET RENTS FOR EXISTING HOUSING

SEC. 222. Notwithstanding the requirement to establish fair market rents at least annually under section 8(c)(1) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall not establish fair market rents for section 8 existing housing for fiscal year 1986. The fair market rents established for fiscal year 1985 shall continue in effect for fiscal year 1986. Establishment of fair market rents in accordance with section 8(c)(1) shall resume beginning with the fair market rents for fiscal year 1987.

PERMANENT HOUSING VOUCHER PROGRAM; REPEAL OF MODERATE REHABILITATION PROGRAM

SEC. 223. (a) Section 8(o) of the United States Housing Act of 1937 is amended by—

(1) striking our "In connection with" and all that follows through "demonstration program" in the first sentence of paragraph (1) and inserting in lieu thereof "Notwithstanding the provisions of subsection (c), the Secretary is authorized to provide assistance"; and

(2) striking out paragraph (4) and redesignating the remaining paragraphs accordingly.

(b) Section 8(c)(1) of such Act is amended by inserting after the third sentence the following new sentence: "The Secretary shall increase the maximum monthly rental above the amount of assistance otherwise permitted by this paragraph, if the Secretary determines that such increase is necessary to assist in the sale of multifamily housing projects owned by the Secretary.".

(c)(1) Section 8 of such Act is amended by—

(A) striking out in subsection (e) "(e)(1)" and inserting in lieu thereof "(e)",

(B) striking out subsection (e)(2);

(C) striking out in subsection (n) "subsections (b)(1) and (e)(2)" and inserting in lieu thereof "subsection (b)(1)"; and

(D) striking out in subsection (p) "and moderate rehabilitation programs" and inserting in lieu thereof "program".

(2) On or after the effective date of this subsection, no contract may be entered into under section 8(e)(2), as it existed immediately before such effective date, except pursuant to a commitment to contract made before such effective date.

(3) Any contract made under section 8(e)(2), as it existed immediately before the effective date of this subsection, shall continue to be governed by the provisions of such section 8(e)(2).

(4) This subsection shall become effective on the later of October 1, 1985 or the date of enactment of this Act.

(d) Section 5(c) of such Act is amended by striking out clause (v) in each of paragraphs (7) (A) and (B) and redesignating the remaining clauses accordingly.

USE OF HOUSING VOUCHERS IN CONNECTION WITH RENTAL REHABILITATION

SEC. 224. The first sentence of section 8(o)(3) of the United States Housing Act of 1937 is amended by—

(1) striking out "or" before "(C)"; and

(2) inserting before the period at the end thereof the following: ", or (D) a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 per centum of the family's monthly adjusted income".

ALLOCATION AND USE OF HOUSING ASSISTANCE

SEC. 225. (a) Section 213 of the Housing and Community Development Act of 1974 is amended by striking out the section heading and subsections (a) through (c) and inserting in lieu thereof the following:

"ALLOCATION AND USE OF HOUSING ASSISTANCE

"SEC. 213. (a) This section shall apply to the allocation and use of housing assistance made available under the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or section 202 of the Housing Act of 1959.

"(b) The Secretary of Housing and Urban Development shall not approve an application for housing assistance referred to in subsection (a) unless the Secretary determines that there is a need for such assistance and that there are or will be available in the area public facilities and services adequate to serve the housing proposed to be assisted. The Secretary shall give the unit of general local government in which the assistance is to be provided an opportunity, during a 30-day period following the Secretary's receipt of the application for assistance, to provide comments or information relevant to the Secretary's determination.

"(c) The provisions of subsection (b) shall not apply to applications for assistance involving 12 or fewer housing units in a single project or development.".

(b) Section 213(d)(2) of such Act is amended to read as follows:

"(2) In allocating assistance under paragraph (1), the Secretary shall allocate not less than 20 per centum nor more than 25 per centum of the total assistance available in any fiscal year to nonmetropolitan areas, except that beginning on or after October 1, 1987, the Secretary shall allocate not to exceed 50 per centum of such assistance to metropolitan areas and not to exceed 50 per centum of such assistance to nonmetropolitan areas.".

(c) Section 213(d)(3) of such Act is amended by striking out "he" and inserting in lieu thereof "the Secretary".

(d) Section 213(d)(4) of such Act is amended by—

(1) striking out "(a)(1)" in the first sentence and inserting in lieu thereof "(a)";

(2) revising clause (E) to read as follows:

"(E) projects approved by the Secretary to meet lower income housing needs; and"; and

(3) striking out in clause (F) "lower-income" and inserting in lieu thereof "lower income".

TENANT ELIGIBILITY DETERMINATIONS IN RENT SUPPLEMENT PROJECTS

SEC. 226. Section 101 of the Housing and Urban Development Act of 1965 is amended by—

(1) striking out the second sentence of subsection (e)(1); and

(2) striking out subsection (k) and inserting the following in lieu thereof:

"(k) In making tenant selection decisions in accordance with eligibility criteria and procedures established under subsection (e)(1) of this section, the project owner

shall give priority to individuals or families who are occupying substandard housing, are paying more than 50 per centum of family income for rent, or are involuntarily displaced at the time they are seeking housing assistance under this section.".

REPEAL OF REQUIREMENT FOR SIGNIFICANT COMMUNITY REPRESENTATION ON GOVERNING BOARDS OF SECTION 202 PROJECTS

SEC. 227. Section 202(d)(2) of the Housing Act of 1959 is amended by striking out "(B) which has" and all that follows through "and (C)" and inserting in lieu thereof "and (B)".

TECHNICAL AMENDMENTS TO THE UNITED STATES HOUSING ACT OF 1937

SEC. 228. (a) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended by striking out "or are paying more than 50 per centum of family income for rent" and inserting ", are paying more than 50 per centum of family income for rent," after "substandard housing".

(b) Sections 6(k) (4) and (5) of such Act are each amended by striking out "his" and inserting in lieu thereof "their".

TITLE II.—PROGRAM AMENDMENTS AND EXTENSIONS

PART A—FHA

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) The first sentence of section 2(a) of the National Housing Act is amended by striking out "1985" and inserting in lieu thereof "1987".

(b) Section 217 of such Act is amended by—

(1) inserting "section 222, section 232," after "section 221,";

(2) inserting "section 242," after "section 236,";

(3) striking out "1985" and inserting in lieu thereof "1987"; and

(4) inserting "made on or" before "before that date".

(c)(1) The fifth sentence of section 221(f) of such Act is amended by—

(1) striking out "1985" and inserting in lieu thereof "1987"; and

(2) inserting "made on or" before "before that date".

(d) Section 222 of such Act is amended by adding at the end thereof the following new subsection:

"(h) No mortgage may be insured under this section after September 30, 1985, except pursuant to a commitment to insure made on or before that date.".

(e) Section 232 of such Act is amended by adding at the end thereof the following new subsection:

"(j) No mortgage may be insured under this section after September 30, 1985, except pursuant to a commitment to insure made on or before that date.".

(f) Section 242 of such Act is amended by adding at the end thereof the following new subsection:

"(i) No mortgage may be insured under this section after September 30, 1985, except pursuant to a commitment to insure made on or before that date.".

(g) Section 244(d) of such Act is amended by—

(1) striking out "1985" and inserting in lieu thereof "1987"; and

(2) inserting "on or" before "before that date.".

(h) Section 244(h) of such Act is amended by striking out "1985" and inserting in lieu thereof "1987".

(i) The last sentence of section 245(a) of such Act is amended by—

(1) striking out "1985" and inserting in lieu thereof "1987"; and

(2) striking out "entered into prior to" and inserting in lieu thereof "made on or before".

(j) The last sentence of section 1002(a) is amended by—

(1) striking out "1985" and inserting in lieu thereof "1987"; and

(2) striking out "issued" and inserting in lieu thereof "made on or".

MISCELLANEOUS AMENDMENTS

SEC. 302. (a) Section 232(i)(2)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;".

(b) Section 235 of such Act is amended by—

(1) inserting in subsection (m) "made on or" before "before that date"; and

(2) striking out in the last sentence of subsection (q)(1) "entered into prior to" and inserting in lieu thereof "made on or before".

(c) The last sentence of section 236(i)(1) of such Act is amended by striking out "(h)" and inserting in lieu thereof "(f)(4)".

(d) Section 247(a)(2) of such act is amended by striking out "Mortgagor" and inserting in lieu thereof "mortgagor".

(e) Section 248 of such Act is amended by—

(1) striking out in subsection (a)(1) "lands" and inserting in lieu thereof "land";

(2) striking out in subsection (a)(2) "lands"; and

(3) striking out "tribal or trust land" in subsection (d) and inserting in lieu thereof "trust or otherwise restricted land".

(f) Section 253 of such Act is amended by—

(1) striking out the fourth sentence of subsection (b) and inserting in lieu thereof the following:

"For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary.";

(2) striking out in the first sentence of subsection (c) "204" and inserting in lieu thereof "207"; and

(3) striking out the last sentence of subsection (c) and inserting in lieu thereof the following:

"The term 'original principal face amount of the mortgage' as used in section 207 shall not include the mortgagee's share of net appreciated value.".

(g) The last sentence of section 809(f) of such Act is amended by inserting "made on or" before "before such date".

(h) The first sentence of section 810(h) of such Act is amended by—

(1) striking out "(exclusive of" and all that follows through "207" and inserting in lieu thereof "at such rate as may be agreed upon by the mortgagor and the mortgagee"; and

(2) striking out before the period at the end thereof ", and shall bear interest at not to exceed the rate applicable to mortgages insured under section 203".

(i) The last sentence of section 810(k) of such Act is amended by inserting "made on or" before "before such date".

(j) The last sentence of section 1101(a) of such Act is amended by striking out "issued" and inserting in lieu thereof "made on or".

(k) Section 482 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "such Act" and inserting in lieu thereof "the National Housing Act".

EXPANDED AUTHORITY FOR SETTING INSURANCE PREMIUM CHARGES ON TITLE I LOANS

SEC. 303. Section 2(f) of the National Housing Act is amended by striking out "The Secretary" and all that follows through "such premium charge" the second place it appears and inserting in lieu thereof the following:

"The Secretary shall fix one or more premium charges for the insurance granted under this section, but such charge or charges for any loan, advance of credit, or purchase shall not exceed an aggregate amount equivalent to one per centum per annum of the net proceeds of such loan, advance of credit, or purchase for the term of the obligation. Such premium charge or charges".

MORTGAGES ON HAWAIIAN HOMELANDS AND INDIAN LANDS TO BE OBLIGATIONS OF THE GENERAL INSURANCE FUND

SEC. 304. (a) Section 247 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(d) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund created pursuant to section 519 of this Act. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 of this Act with respect to mortgages insured pursuant to this section, except that all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(b) Section 248 of the National Housing Act is amended by—

(1) redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund created pursuant to section 519 of this Act. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 of this Act with respect to mortgages insured pursuant to this section, except that all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured."; and

(2) striking out in the last sentence of subsection (g)(3) and the first sentence of subsection (g)(5), as such subsections were redesignated by paragraph (1), "insurance fund" each place it appears and inserting in lieu thereof "General Insurance Fund".

REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR ONE- TO FOUR-FAMILY DWELLING UNITS

SEC. 305. The Housing and Community Development Act of 1977 is amended by striking out section 904.

AUTHORITY FOR INCREASED MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS IN HIGH-COST AREAS

SEC. 306. Section 207(c)(3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section

221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2) and section 234(e)(3) of the National Housing Act are each amended by striking out "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting in lieu thereof the following: "not to exceed 110 per centum in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 per centum where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 per centum where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved".

DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME

SEC. 307. (a) This section may be cited as the "Civil Recovery Double Damages Act".

(b)(1) The Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act, or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretrary under title II of the National Housing Act, "any person" shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 per centum or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignees, successor in interest, or agent of any owner.

(c) The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any, applicable regulation and loss of value of the realty and personality involved.

(d) In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the project's assets and income that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act, or deposit it in miscellaneous receipts of the Treasury of the United States, as the Secretary determines is appropriate.

(e) Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including six years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(f) The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

PART B—OTHER PROGRAMS

RESEARCH AUTHORIZATION

SEC. 311. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and such sums as may be necessary for fiscal year 1985" and inserting in lieu thereof the following: "not to exceed $16,900,000 for fiscal year 1985, not to exceed $18,900,000 for fiscal year 1986, and such sums as may be necessary for fiscal year 1987".

FAIR HOUSING INITIATIVES PROGRAM

SEC. 312. (a) The Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary") is authorized to make grants to, or to enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate:

(1) programs or activities designed to obtain enforcement of the rights granted by Title VIII of Public Law 90-284, as amended (hereafter referred to in this section as "Title VIII"), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in Title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

(b) There are authorized to be appropriated for the purposes of this section and for necessary expenses of the Secretary in carrying out such purposes, including program evaluations, an amount not to exceed $10,000,000 for each of the fiscal years 1986 and 1987. Any amounts appropriated under this section shall remain available through the end of the fiscal year after the fiscal year for which they were originally made available.

REPEAL OF LEGISLATIVE REVIEW REQUIREMENTS APPLICABLE TO HUD REGULATIONS

SEC. 313. (a) Section 7(o) of the Department of Housing and Urban Development Act is hereby repealed.

(b) Section 506(e) of the Solar Energy and Energy Conservation Bank Act is amended by striking out ", subject to the provisions of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o))".

MANUFACTURED HOMES FEES

SEC. 314. Section 620 of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by striking out the heading and all that follows and inserting in lieu thereof the following:

"FEES

"SEC. 620. The Secretary may establish and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the costs (including the costs of contractors and State agencies) of carrying out the Secretary's responsibilities under this title.".

DELETION OF MAXIMUM FEE FOR INTERSTATE LAND SALES REGISTRATION

SEC. 315. Section 1405(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "a fee, not in excess of $1,000," and inserting in lieu thereof "a reasonable fee,".

TECHNICAL AMENDMENTS TO THE SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT

SEC. 316. (a) Section 520(b)(4)(A) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "12" and inserting in lieu thereof "10".

(b) Sections 506(f)(1), 509(b)(2)(E), 515(b)(1)(A)(iii), 515(b)(1)(B), 515(b)(1)(C)(ii), 515(b)(1)(D) and 515(b)(2) of such Act are amended by striking out "38" and "44C" wherever they appear and inserting in lieu thereof "23" and "38", respectively.

TITLE IV—RENTAL REHABILITATION AND DEVELOPMENT GRANTS

RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAMS

SEC. 401. (a) The section heading of section 17 of the United States Housing Act of 1937 is amended to read as follows: "RENTAL REHABILITATION GRANTS".

(b) Section 17(a) of such Act is amended by—

(1) striking out paragraph (1) and inserting in lieu thereof the following:

"(1) REHABILITATION GRANTS.—The Secretary is authorized to make rental rehabilitation grants to help support the rehabilitation of privately owned real property to be used for primarily residential rental purposes in accordance with the provisions of this section."; and

(2) striking out paragraph (3).

(c) Section 17(b)(1) of such Act is amended to read as follows:

"(1) FORMULA ALLOCATION.—Of the amount available in any fiscal year for rehabilitation grants under this section, the Secretary shall allocate amounts to cities having populations of 50,000 or more, urban counties, and States for use as provided in subsection (d), on the basis of a formula which shall be contained in a regulation. This formula shall take into account objectively measurable conditions in such jurisdictions, including such factors as low-income renter population, overcrowding of rental housing, the extent of physically inadequate housing stock, and such other objectively measurable conditions as the Secretary deems approriate to reflect the need for assistance under this section.".

(d) Sections 17(b)(2) (A) and (B) and (c)(1)(A) of such Act are amended by striking out "subsection (e)" each place it appears and inserting in lieu thereof "subsection (d)".

(e) The subsection caption of section 17(c) of such Act is amended to read as follows: "RENTAL REHABILITATION GRANTS.".

(f) Section 17(c)(2) (C), (E), (F) and (G) of such Act and section 17(e) of such Act, as redesignated by subsection (g) of this section, are amended by striking out "structure" and "structures" each place they appear and inserting in lieu thereof "project" and "projects", respectively.

(g) Section 17 of such Act is amended by striking out subsections (d) and (j) and redesignating the remaining subsections accordingly.

(h) Section 17(d) of such Act, as redesignated by subsection (g) of this section, is amended by—

(1) striking out in the second sentence ", but may" and all that follows through the end of that sentence and inserting in lieu thereof a period; and

(2) striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(i) Section 17(h)(1) of such Act, as redesignated by subsection (g) of this section, is amended by striking out "or development" each place it appears.

(j) Section 17(i) of such Act, as redesignated by subsection (g) of this section, is amended by—

(1) striking out paragraphs (1) and (2) and redesignating the remaining paragraphs accordingly;

(2) striking out paragraph (3), as redesignated by paragraph (1) of this subsection, and inserting in lieu thereof the following:

"(3) The term 'grantee' means—

"(A) any city or urban county receiving resources under subsection (b);

"(B) any State administering a rental rehabilitation program, as provided in subsection (d)(1); and

"(C) any unit of general local government that receives assistance from the Secretary, as provided in subsection (d)(2);"; and

(3) striking out paragraph (5), as redesignated by paragraph (1) of this subsection, and inserting in lieu thereof the following:

"(5) the term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.".

(k) Section 17(j) (1) and (2) of such Act, as redesignated by subsection (g) of this section, is amended by striking out "subsection (e)(1)" each place it appears and inserting in lieu thereof "subsection (d)(1)".

(l)(l) On or after the effective date of this section, no housing development grant may be made under section 17 of such Act, except pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before that date.

(2) Any housing development grant made under section 17, as it existed immediately before the effective date of this section, shall continue to be governed by the provisions of such section 17.

(3) Any amounts that, in the absence of this section, would have been available for reservation for housing development grants under section 17 of such Act on or after the effective date of this section shall be rescinded.

(m) This section shall become effective on the later of October 1, 1985 or the date of enactment of this Act.

AMENDMENTS TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

SEC. 402. (a) Section 104(f)(4) of the Housing and Community Development Act of 1974 is amended by inserting after "106(d)" the following: "or States distributing rental rehabilitation resources to units of general local government as provided in section 17(d)(1)(B) of the United States Housing Act of 1937".

(b) Section 106(d)(3)(A) of such Act is amended by striking out "section 17(e)(1)" and inserting in lieu thereof "section 17(d)(1)".

(c) Section 107(d) of such Act is amended by—

(1) striking out in paragraph (1) "and no assistance may be made available under section 17 of the United States Housing Act of 1937 unless the grantee" and inserting in lieu thereof "unless the applicant"; and

(2) striking out "grantee or" before "applicant" in paragraph (3).

(d) Section 817 of such Act is amended by—

(1) inserting "and" after "1966,"; and

(2) striking out ", and section 17 of the United States Housing Act of 1937".

CONFORMING AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 403. (a) Sections 223(f)(5) and 244(h) of the National Housing Act are amended by striking out "or developed" each place it appears.

(b) Section 223(f)(5)(A) of such Act is amended by striking out "or development".

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, March 11, 1985.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

Subject: Proposed "Housing and Community Development Amendments of 1985."

DEAR MR. PRESIDENT: I am enclosing proposed legislation to extend HUD-FHA insuring authorities, to provide funding authorizations for certain programs of the Department, and to make a number of program amendments to existing authorities.

Among the major features of this proposal are:

A proposal to make the Housing Voucher program permanent.

A new Fair Housing Initiatives program to supplement existing fair housing efforts by making funding available for various administrative and private enforcement, and education and outreach activities.

A Public and Indian Housing financing reform proposal that would replace the current tax-exempt, long-term loan arrangements with one-time capital contributions.

A proposal to support the Department's efforts to detect fraud and abuse in its programs.

A proposal to change the amounts allocated under the CDBG program to entitlement communities and to States from 70 percent and 30 percent, respectively, to 60 percent and 40 percent, to continue the current distribution of Federal community development funds after termination of funding for certain Department of Agriculture community development programs.

A two-year moratorium on new assisted housing commitments, as part of the Administration's program to reduce the deficit. The impact of the moratorium will be minimized by the fact that 207,000 additional units will become available during 1986 and 1987 due to prior-year commitments.

Termination of the Urban Development Action Grant [UDAG] and Housing Development Grant [HoDAG] programs, as part of a government-wide effort to eliminate all local economic development subsidies and to reduce the budget deficit.

In addition to these initiatives, the proposal contains a number of program amendments designed to increase the efficiency of the Department's housing assistance and mortgage insurance programs, to simplify program administration, and to reduce Federal regulation.

A section-by-section explanation and justification accompanies this letter and more fully sets out the contents of the bill. Timely enactment of this proposal would provide the Department with the necessary authority to carry out its responsibilities effectively during fiscal years 1986 and 1987. I request that the bill be referred to the appropriate Committee and urge its early enactment.

The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

Very sincerely yours,

SAMUEL R. PIERCE, JR.

SECTION-BY-SECTION EXPLANATION AND JUSTIFICATION

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT

AUTHORIZATIONS—TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Section 101 of the bill would provide funding authorizations for fiscal years 1986 and 1987 for the Community Development Block Grant [CDBG] Program and the Secretary's Discretionary Fund [SDF].

Subsection (a) would amend section 103 of the 1974 Act to provide an overall title I authorization of $3.1248 billion for fiscal year 1986 and such sums as may be necessary for fiscal year 1987. The fiscal year 1986 amount is a 10 percent reduction from the amount appropriated for fiscal year 1985, in furtherance of the Administration's objective of reducing the Budget deficit by reducing Federal outlays. The amount authorized for fiscal year 1985 would be increased by $4 million to reflect the amount actually appropriated for that fiscal year.

Subsection (b) would amend section 107 of the 1974 Act to make up to $60.5 million available for the Secretary's Discretionary Fund from amounts authorized under section 103 for fiscal year 1986 and such sums as may be necessary for fiscal year 1987. The amount authorized for fiscal year 1984 would be changed to $66.2 million, which was the amount set aside for use in that year, and fiscal year 1985 would be changed to $60.5 million reflecting the amount actually set aside for that year.

DEFINITIONS

Revised Definition of Indian Tribe Eligibility

Section 102(a) would amend section 102(a)(13) of the Housing and Community Development Act of 1974, as redesignated by section 107(d)(1)(D) of the bill, to revise the definition of Indian tribe for purposes of the Community Development Block Grant [CDBG] Indian program.

The proposal is needed to clarify that the Department will only make block grant funds available to Indian tribes, bands, nations or Alaskan Native Villages recognized by the Secretary of the Interior as eligible for services because of their status as Indian tribes or Alaskan Native Villages, provided that all or part of the land of such tribe or village is held in restricted or trust status by the United States.

At present, section 102(a)(17) defines "Indian tribe" in part as any "Indian tribe . . . which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act. . . ." Under this definition, tribal organizations as well as tribes are eligible. The amendment will

assure that all eligible recipients will have the full governmental powers necessary to carry out a CDBG program.

The proposed definition of Indian tribes reflects the Administration's efforts to establish a more uniform and equitable policy for Indians. It emphasizes the historical government-to-government relationship between the Federal government and Federally-recognized Indian tribes and limits CDBG assistance to such tribes. For those not meeting the definition, State and local programs, including those funded by CDBG, are the appropriate sources of assistance. Use of the Federal recognition criteria also assures that the process and standards established under laws passed by Congress are applied in a consistent manner to determine eligibility.

Modify the Definition of Low- and Moderate-Income Persons—State's Program

Subsection (b) would modify section 102(a)(16)(A) of the 1974 Act, as redesignated by section 107(d)(1)(D) of the bill, to provide that in the State's program, low- and moderate-income persons in nonmetropolitan areas be based on the median for the entire nonmetropolitan area of the State, instead fo the area used for Section 8. The section 8 definition is based on the higher of 80 percent of the median income on a county-by-county basis for nonmetropolitan areas or 80 percent of the nationwide median income of renters, curently $12,950, with adjustments for family size and unusually high or low family incomes. For metropolitan areas, the section 8 definition based on the median income for the metropolitan area would continue to be used.

Under the CDBG program, grantees (entitlement localities and States) must use at least 51 percent of their funds to principally benefit low- and moderate-income persons over a period of up to three years. Grantees may only use funds to benefit persons of low and moderate income, to eliminate or prevent slums or blight or to meet urgent community development needs. The definition proposed to be changed is used in part to determine compliance with these requirements.

The county-by-county basis for nonmetropolitan areas makes it more difficult to concentrate funding within relatively poor counties, since only about 40 percent of those within a county are at or below 80 percent of the county median income, and thus would be low- and moderate-income persons. Activities to aid in the elimination of slums and blight or to meet urgent needs would also qualify, but do not count towards the 51 percent low- and moderate-income benefit statement requirement. By using the statewide median, more residents in a relatively poorer, nonmetropolitan county would be considered to be of low- and moderate-income for purposes of meeting the 51 percent requirement. In contrast, defining low- and moderate-income on a county-by county basis results in benefiting relatively affluent individuals, since funds may be counted towards meeting the low- and moderate-income benefit test for about 40 percent of each county's population, regardless of the respective wealth or poverty in the county vis-a-vis other counties.

Using 80 percent of median for the entire nonmetropolitan area of the State as the cut-off for defining low- and moderate-income persons for the nonmetropolitan area would permit funding to be more easily concentrated in counties with about 40 percent of the State's neediest persons living in nonmetropolitan areas. Using a statewide median would also make it easier for the poorer counties receiving funds from a State to fund activities designed to serve an area generally.

STATEMENT OF ACTIVITIES AND REVIEW

Modify Information Required in Statement of Activities

Section 103(a) would amend section 104(a)(1) of the Housing and Community Development Act of 1974 by deleting the last sentence which requires that the grantee's statement of activities contain a description of the grantee's past use of funds and assessment of the relationship of such use to (1) community development objectives identified by the grantee in the previous year's statement of activities, and (2) the provision of section 104(b)(3) relating to the grantee's certification relating to projected use of funds.

As currently in effect, the provisions of section 104(a)(1) that would be deleted duplicate requirements imposed upon grantees by section 104(d) of the Act. Section 104(d) requires a grantee to submit to the Secretary an annual performance and evaluation report concerning activities carried out by the grantee pursuant to Title I of the 1974 Act, and an assessment of the relationship of those activities to the objectives of Title I and the needs and objectives identified by the grantee in the statement it submitted under section 104(a) and to the requirements of section 104(b)(3). The annual performance and evaluation report under section 104(d) must be made available to citizens in their jurisdictions for review and comment before the grantee submits the report to HUD. The report must contain the information called for in the statement of activities under section 104(a)(1) and, also, more specific and detailed information dealing with such matters as programmatic accomplishments and the extent to which such funds were used to benefit low- and moderate-income persons. The amendment would, therefore, reduce unnecessary costs and paperwork burdens for the grantee.

Simplifying Planning Requirements—State's Program

Subsection (b) would amend the planning requirements under section 104(b)(4) of the 1974 Act by exempting States from the requirement that a grantee certify that it has developed a community development plan, covering a period up to three years, that identifies community development and housing needs and specifies short- and long-term community development objectives developed in accordance with the primary objective and requirements of Title I.

States, unlike metropolitan cities and urban counties, undertake no community development activities; thus, a community development plan has little practical application. The distinction in functions between States and entitlement grantees is reflected in the section 104(a)(1) requirement relating to the statement of projected use of funds that each grantee must file. In the case of States, the statement consists of the method by which the State will distribute funds to units of general local government in nonentitlement areas. (The method of distribution must be developed by a State in consultation with the units of general local government, and the units of general local government, in turn, must identify their housing and community development needs—a process similar to that required of States by section 104(b)(4). See sections 106(d)(2)(C) and (D)). In the case of metropolitan cities and urban counties, their statement of projected use of funds consists of proposed community development activities since they carry out the activities directly.

Moreover, it is logical to assume that States do, in fact, take into account their short- and long-term community development and housing needs when preparing the section 104(a)(1) final statement. The final statement is subject to more public scrutiny than any other phase of the Community Development Block Grant application processing, and must reflect public and local concerns. HUD experience indicates that the final statement ordinarily describes the State's long-term objectives, and that short-term priorities are reflected in the method of distribution of funds developed by the State in consultation with local officials.

Accordingly, the State's final statement and its method of distribution of funds represent the State's strategy and provide sufficient basis for States to allocate resources.

The proposal would reduce unnecessary red tape and burdens on States, by simplifying the planning process.

Repeal of Housing Assistance Plan Requirement

Subsection (c)(1) would amend the Housing and Community Development Act of 1974 by repealing section 104(c) which requires, as a condition for receiving a grant, that an entitlement grantee (metropolitan city or urban county) certify that it is following a current housing assistance plan [HAP] that has been approved by the Secretary. Subsection (c)(4) would amend section 104(b) of the 1974 Act to substitute for the HAP certification a certification by the entitlement grantee that it will cooperate in the provision of assisted housing opportunities suited to the needs of persons of low and moderate income who reside in the community or who are expected to reside in the community as a result of current or planned employment. The 1974 Act defines persons of low and moderate income as families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by HUD. Subsections (c)(2), (3), (5) and (6) would make appropriate conforming changes elsewhere in Title I of the 1974 Act.

Currently, section 104(c) requires that entitlement grantees develop a detailed and comprehensive HAP which (1) surveys the condition of existing housing stock and assesses the housing assistance needs of lower income persons; (2) specifies a realistic annual goal for the number of dwelling units or lower income persons to be assisted; and (3) indicates the general locations of proposed housing for lower income persons in order to further revitalization of the community, promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas with a high proportion of low-income persons, and assure the availability of public facilities and services adequate to serve the proposed housing projects.

In earlier years, the cost in dollars and time of developing a HAP could be justified, since it permitted grantees to influence the type and location of federally assisted housing within the community. The HAP also enabled HUD to coordinate the assistance it provided under the CDBG and housing programs. The realignment of Federal housing assistance, away from expensive new construction and substantial rehabilitation to the use of existing housing through the

Housing Voucher program, has greatly reduced the need for the HAP process.

While the HAP requirement would be repealed, the Department believes that entitlement grantees should be required to certify that they will cooperate in providing housing opportunities suited to the needs of their low- and moderate-income residents and those expected to reside in the community due to current or planned employment. This new certification would be consistent with the CDBG program's historical emphasis on principally benefitting low- and moderate-income persons. It is appropriate that where entitlement cities and counties oppose efforts to provide housing for low- and moderate-income persons, the Department has the authority to condition their CDBG grants. The new certification would be the basis for the Department to sanction an entitlement grantee where it engages in systematic or otherwise apparent actions to discourage, preclude, or subvert efforts to provide housing opportunities suited to the needs of low- and moderate-income persons.

Subsection (c)(7) would amend section 8(c)(1) of the United States Housing Act of 1937 to delete the provision that the maximum monthly rent may exceed the fair market rent by more than 10 percent but not more than 20 percent where the Secretary determines that such higher rent is necessary to implementation of a local HAP. The Secretary would continue to permit such higher rent where the Secretary determines that special circumstances warrant a higher maximum rent.

Subsection (c)(8) would amend section 18(b)(1) of the 1937 Act to modify the provision for local government review of certain applications involving the demolition or disposition of public housing. Current law requires the applications to contain a certification by appropriate local government officials that the proposed activity is consistent with any applicable HAP. Since HAPs would no longer be required, the proposal would require the application to contain evidence that the chief executive officer of the unit of general local government had the opportunity to review and comment on the application. This would assure local government participation in plans to demolish or dispose of public housing units, and is consistent with the approach proposed in section 225 of this bill for local government participation in the Secretary's decision to approve housing assistance applications under section 213 of the 1974 Act. Subsection (c)(8) would also limit the local government review and comment requirement to applications involving at least 20 units or 10 percent of the PHA's total number of public housing units, whichever is less. This threshold is intended to relieve PHAs of the burden of complying with the public participation requirement for applications involving a relatively small number of units. The requirement in current law for the PHA to consult with tenants and tenant councils in developing the application would not change.

Delete the Limitation Against Imposing Assessments to Recover the Cost of CDBG-Assisted Public Improvements

Subsection (c)(4) would also delete the requirement in section 104(b)(5) of the 1974 Act that entitlement grantees certify that they will not attempt to recover the capital costs of CDBG-assisted public improvements by assessing amounts against properties owned by low- and moderate-income persons, unless (1) CDBG funds are used to pay the proportion of the assessment that relates to the improvements' costs that are financed from other sources or (2) for purposes of making assessments against low- and moderate-income properties, the grantee certifies that it lacks sufficient CDBG funds to meet the requirements of (1), above. Subsection (d) would delete section 106(d)(5)(D) of the 1974 Act, which imposes a similar requirement on State program recipients.

The Administration has found that implementation and enforcement of these provisions is overly cumbersome and limits the flexibility of CDBG grantees. Further, the Administration believes that the provision may provide a disincentive for CDBG grantees to make public improvements in those neighborhoods that most need the improvements.

ALLOCATION AND DISTRIBUTION OF FUNDS

Altering the CDBG Distribution Between Entitlement and Nonentitlement Areas

Section 104(a) would amend sections 106 (a) and (d) of the Housing and Community Development Act of 1974 to provide that of the amounts appropriated for Community Development Block Grants, 60 percent shall be allocated to metropolitan cities and urban counties under the entitlement program and 40 percent of the States under the State's program. The current statute provides for a 70/30 distribution. The allocation adjustment reflects termination of funding for certain Department of Agriculture community development programs. The proposed termination of these programs would otherwise result in nonrural areas receiving a disproportionate share of Federal funding for community development activities. This amendment, by providing for a 60/40 split between entitlement and nonentitlement recipients, respectively, approximates and continues the current distribution of Federal community development funds.

Use of Reallocated Entitlement Funds

Subsection (b) would amend section 106(c)(1) of the 1974 Act to prevent an entitlement grantee whose grant is reduced under section 104(d) or 111 from receiving not only a share of the amount available for reallocation because of actions against it, as provided under current law, but also from receiving any allocation of amounts available because of sanctions in the same fiscal year taken against any other entitlement grantee in the same metropolitan statistical area (MSA).

Current law requires block grant entitlement funds which become available for reallocation to be reallocated in the next year to other metropolitan cities and urban counties in the same MSA. To receive amounts, grantees have to certify that they would be adversely affected by the loss of the funds from the MSA. No grantee may receive more than 25 percent of its regular formula grant. Funds for which no grantee in the MSA qualifies are added to the funds available for distribution to entitlement grantees for the next year, and distributed in accordance with the national formula. No change to these aspects of current law are proposed.

This amendment would strengthen the current incentive in the statute for grantees to avoid sanctions under section 104(d) and 111 by providing that the reduction in the amount of their grant due to these sanctions will not be made up, in whole or in part, because of a reallocation of amounts available due to sanctions against other grantees in the same MSA.

Mandate State Administration

Subsection (c) would amend section 106(d) of the 1974 Act to mandate State administration of the CDBG State program beginning in fiscal year 1986. Present law allows States to assume administration of the program. Any decision to administer the program for fiscal year 1985 or later years is irreversible. If the State later changes its mind and chooses not to administer the program, HUD may not do so for it. HUD is required to continue operating the program for a State until it opts to take over administration.

In fiscal year 1983, only four States elected not to administer the program. For fiscal years 1984 and 1985, only three States elected not to administer the program. The small number of States electing not to administer the program does not justify the expense of maintaining a separate Federal structure of rules, requirements, and oversight. If a State does not assume responsibility for the program, those funds should be reallocated to States that are willing to do so. Since the vast majority of States have elected to administer the program themselves and since States have been given adequate administrative funds to administer the program under the formula in section 106(d)(3)(A), there is no reason all States should not be required to administer the program.

In any State where the Secretary is administering the program for fiscal year 1985, any amounts not obligated by January 1, 1986 would be turned over to the State if it were participating or returned to the United States Treasury if it were not.

Paragraph (2) would delete the requirement that the Secretary encourage and assist national associations of grantees and national associations of recipients to develop and recommend by November 30, 1984 uniform administrative procedures for such entities. Upon receipt and approval of these recommendations, the Secretary is required to change procedural requirements accordingly. The deletion is intended as a purely technical change. The Secretary has received recommendations and plans to implement the necessary changes by September 30, 1985.

Paragraph (3) would clarify, among other technical corrections, that distributions by States cannot be made in the form of loans to units of general local government.

The remaining provisions of subsection (c) would make technical, conforming changes to a number of 1974 Act provisions, including a change in subsection (c)(5) to the reallocation rule that applies where amounts become available due to administrative actions against units of general local government or closeouts, to provide for such funds to be returned to Treasury if the State in which the unit of general local government is located does not receive a grant for that year. Having reallocated funds returned to the United States Treasury avoids the administrative burden of reallocating and tracking by source year the small amount of funds that the Department anticipates will become available through administrative sanctions or grant closeouts. Tracking by source year is required to comply with fund lapse provisions in our appropriations Acts.

Delete the Requirement To Have the Governor Certify

Subsection (d) would amend sections 106(d)(2) (C) and (D) of the 1974 Act to eliminate the requirement that the Governor sign the certifications for States running the State's program. Under the propos-

al, the Governor, or anyone authorized by the Governor, could sign the necessary documents.

Other title I certification requirements provide simply that the grantee execute the certification. (See, for example, section 104(b).) Since section 106 specifically mentions the Governor, the provision has been interpreted as requiring the Governor to sign, not a designee. Requiring the Governor to sign is administratively cumbersome and unnecessary.

ENTITLEMENT TRANSITION

Introduction

Section 105 would amend the CDBG program under the Housing and Community Development Act of 1974 to provide the communities which lose their classification as either a metropolitan city or urban county for fiscal year 1986 or thereafter would be eligible to receive transition funding equal to full entitlement funding for the first year following loss of designation and one-half of full funding for the second year. This provision would apply instead of any other grandfathering mechanism. Metropolitan cities that received funding for fiscal year 1985 as a result of a grandfathering provision would be eligible to receive transition funding equal to one-half of full entitlement funding for one year—fiscal year 1986. There are no urban counties receiving funding under grandfathering provisions for fiscal year 1985.

During the second year of transition funding, cities, counties, and the units of general local government included in the county would also be eligible to apply for funds under the State's program as nonentitled units of general local government. Cities losing their classification as metropolitan cities for fiscal year 1986, which were grandfathered for fiscal year 1985, would only be eligible to apply for funds under the State's program for fiscal year 1986.

For urban counties losing designation, the proposal would limit transition funding to those whose potential maximum combined population drops below 200,000 (a condition in the current grandfathering provision) and which can secure participation in both years by all of their included units of general local government that are not eligible to receive entitlement grants. Counties whose potential combined population drops below 200,000 because a previously included area attains metropolitan city classification would also qualify under this provision.

History

In each year since 1976, the CDBG program has had one or more statutory provisions in effect which served to continue entitlement status for various communities which would otherwise have lost this status. For fiscal year 1984, approximately $18 million was allocated to grantees that, in the absence of grandfathering, would have lost eligibility for entitlement funding because of the 1980 census or changes in the designation of metropolitan statistical areas or of central cities. The primary justification for these provisions has been that communities are unprepared to deal with the loss of funding upon which they had come to rely as entitlement communities. However, the continued grandfathering of disqualified communities has served to reduce funding to both existing and newly qualifying communities, since the amount of CDBG funds available for the entitlement program does not expand with the number of communities participating. The proposal would establish a permanent transition funding mechanism that would provide a time-specific, but reasonable, period for communities to adjust from entitlement status to competing for funds as nonentitled entities.

Major Provisions

Subsection (e)(10) would add two new paragraphs in section 106(b) of the 1974 Act. Proposed paragraph (7)(B) would make any city (not including a city grandfathered for fiscal year 1985) losing its classification as a metropolitan city for fiscal year 1986 or thereafter eligible to receive full entitlement funding for the first year of its loss of classification and one-half funding for the subsequent year. (Funding levels in the second year would be computed based on only one-half of the city's values in the formulas factors.) In the city's second year of eligibility for transition funding, it would also be eligible to participate in the State's program. If a city chose to participate as part of an urban county in the first year of its eligibility, it would not receive transition funding. No city receiving transition funding in the first year could join with an urban county in its second year of eligibility.

Currently the last sentence of section 102(d) of the 1974 Act permits a unit of general local government to join with an urban county for the first year of its loss of designation regardless of where the urban county is in its three year qualifying period. Should the city not elect to take advantage of this provision for the first year of its loss of designation, the Department believes it would be inappropriate to permit the city, where the urban county is requalifying for the second year, to join with the urban country given the provision's purpose of assisting the unit of general local government to adjust to competing for funds under the State's program. Of course, if a city requalified as a metropolitan city, it would receive funding as an entitlement entity for as long as it met the requirements for designation as a metropolitan city.

Proposed paragraph (8) would apply equivalent rules to a county losing its classification as an urban county for fiscal year 1986 or thereafter. To qualify, the county must not only have legal authority to conduct funded activities within its unincorporated territory but also have all units of general local government (except metropolitan cities) participating in the county. While the agreement the county would sign with its participating units of general local government would be similar to the cooperation agreement required of an eligible urban county under section 102(a)(6)(B)(ii), it would cover at least a two-year period, instead of at least the three-year period required for urban counties. The county would be eligible to receive full funding the first year of its loss of classification and one-half funding in the second year. Any county receiving funding under this provision (and each of its participating units of general local government) could also participate in the State's program in its second year of transition eligibility funding. Of course, if a county requalified as an urban county, it would receive funding as an entitlement entity.

Proposed paragraph (7)(A) would make metropolitan cities, which currently receive funding for fiscal year 1985 under a grandfathering provision, eligible for one-half funding for one more year (1986). These cities would also be eligible to participate in the State's program for fiscal year 1986. However, any city which decides to participate with an urban county for a period including fiscal year 1986 would be ineligible for transition funding under these new provisions.

The remaining provision of the proposal would amend the 1974 Act to make it possible to fund transition entities under section 106(b) as described above, even though they no longer qualify as metropolitan cities or urban counties. Specifically, subsections (e)(3) and (7) would amend the allocation formula variables in section 106(b) of the 1974 Act to permit counting the values for population, extent of poverty, extent of housing overcrowding, extent of growth lag, and age of housing at half the full value for transition cities which received funding under a grandfathering provision in fiscal year 1985 and all cities and counties eligible to receive funding in the second year as a transition city or county. This amendment to the allocation values results in funding at the 50 percent level in fiscal year 1986 for cities which received grandfathered funding in fiscal year 1985 and for newly disqualified cities and counties in the second year of such transition funding.

Subsection (f) would amend the entitlement reallocation provisions to require that any amounts allocated to a transition city or county under section 106(b) which are not received by the city or county for a fiscal year because of a failure to meet program requirements or as a result of sanctions be reallocated to metropolitan cities and urban counties only. Due to the short funding cycle for transition entities, it is administratively simpler and cost-efficient to include only metropolitan cities and urban counties in the reallocation process.

Subsection (g) would amend the State's allocation variables to include, for cities or counties receiving transition funding, the values relating to population, extent of poverty, extent of housing overcrowding, and age of housing at half the full value in the year the city or county receives one-half funding under section 106(b). This provision does not shift funding from the entitlement program to the State's program. It merely provides, in determining the allocation among States under the State's program, for the inclusion of 50 percent of the values for these transition entities for the year they receive one-half funding. Since these communities would be eligible to compete for State funds, this provision ensures that the State receive additional funds commensurate with the number of transition communities they may have competing.

MISCELLANEOUS AND TECHNICAL AMENDMENTS

Change in the Base for Administrative Expenses for the Small Cities Program

Section 106(a) would amend section 106(d)(3)(A) of the Housing and Community Development Act of 1974 to provide that a State may not deduct administrative expenses from amounts received for distribution in nonentitlement areas in excess of the sum of $100,000 ($102,000 under current law) plus 50 percent of a State's administrative expenses above $100,000. The $102,000 base is apparently a typographical error.

Triennial Report

Subsection (b) would amend section 113 of the 1974 Act to provide that the Secretary furnish an annual report on the CDBG program not later than 180 days after the close of fiscal year 1985 and a triennial report for every three-year period thereafter. The current statute provides for the submission of an annual report. The fiscal year 1985 annual report would be the last one cover-

ing the UDAG program, which is proposed for repeal.

An annual report is no longer warranted since the CDBG program is firmly established and operates smoothly, and the Department anticipates no major changes in the way grantees administer the funds. Additionally, the administrative costs associated with the annual report would be reduced by implementing a triennial report.

MISCELLANEOUS REPEALERS

Section 107 would repeal several HUD community development and related authorities.

Lump Sum Drawdowns

Subsection (a) would repeal section 104(g) of the Housing and Community Development Act of 1974. Section 104(g) allows grantees to draw down in a lump sum up to the entire amount designated in their programs for rehabilitation activities before the funds are actually needed to finance the activities. The funds are deposited with local banking institutions pending disbursement. Any interest earned on these accounts is considered program income and must be spent on rehabilitation activities in accordance with program guidelines.

The lump sum provision for rehabilitation is unique in the Block Grant program. It is the only provision allowing for drawdown of funds before commitment. While use of the deposited funds must begin within 45 days, and substantial disbursement begin within 180 days of receipt, the fund itself can be used over a two-year period before remaining amounts are returned to the recipient's letter of credit. A recipient may extend the lump sum agreement beyond the two-year period. Actual drawdown amounts for fiscal years 1978 through 1981 (the latest years for which estimates are available) total as high as $300 to $400 million.

The current advance drawdown system forces the Federal Government to borrow funds unnecessarily at high rates of interest long before their actual need and commitment to eligible projects. The Inspector General issued a report dated May 11, 1983, which concluded that:

We did find . . . that the Federal Government was incurring substantial costs in order for grantees to earn program income. . . . The total benefits from all lump sum agreements in effect nationwide are estimated to be approximately $600,000 less than the costs to the Federal Government for providing the lump sum drawdowns.

The most frequently cited rationale for having lump sum drawdowns is that they are necessary to achieve private participation usually referred to as leveraging. It was initially thought that allowing communities to draw down large amounts and place the funds in local banking institutions would encourage those institutions to offer more loans at lower interest to finance eligible activities. However, there are about 200 programs throughout the country involving significant private lending institution participation without lump sum agreements. Since the benefit of private participation can be achieved without resort to lump sum agreements, eliminating this feature would potentially save the Federal Government millions of dollars in interest. Given the concern with the current budget deficits, lump sum drawdowns should be eliminated.

No revolving loan fund could be established or extended on or after the effective date of repeal but those established before repeal would continue in effect until expiration, and would continue to be governed by the provisions of section 104(g) as they existed before repeal.

Discretionary Fund Grants for New Communities

Subsection (b) would repeal section 107(b)(1) of the 1974 Act which authorizes the Secretary to make grants from the discretionary fund established under section 107 in behalf of new communities. Activity under the various new communities authorities is phasing out and there is no longer any need for authority to make grants under section 107(b)(1) for this purpose. No grant could be made on or after the effective date of repeal, but grants made before repeal would continue to be governed by the provisions of section 107(b)(1) as they existed before repeal.

Loan Guarantees

Subsection (c) would repeal section 108 of the 1974 Act. This section provides for guarantees of notes and other obligations issued by units of general local government or by public agencies designated by such units for financing the acquisition of real property or the rehabilitation of real property owned by the unit of general local government.

Termination of this program is consistent with Administration policy intended to reduce the pressure that Federal loans and loan guarantees place on the Nation's credit markets, by encouraging recourse to individuals and private financial institutions as the primary source of credit. Termination of this program is further indicated by its low activity level (28 projects in fiscal year 1984). Activity levels have been low enough to suggest the Community Development Block Grant (CDBG) funds could be used instead of section 108 loan guarantees in many projects. This would eliminate unnecessary and unintended costs to the Federal government and the misallocation of the Nation's resources.

No guarantee could be made by the Secretary under section 108 on or after the effective date of repeal, except pursuant to a commitment to guarantee made before the repeal. Any guarantee made under section 108 would continue to be governed by the provisions of section 108 as they existed before repeal.

Urban Development Action Grants

Subsection (d) would repeal the Urban Development Action Grant [UDAG] program by amending sections 107(d) (Secretary's discretionary fund) and repealing section 119 [UDAG] and 121 (historic preservation) of the 1974 Act. The definitions in sections 102(a)(13)–(16) would also be repealed since they relate solely to the UDAG program. The repeal is contained in subsections (d)(1); conforming changes are contained in subsections (d)(2)–(6).

The repeal of the UDAG program is part of the Administration's overall effort to reduce the budget deficit by eliminating programs for local economic development. This effort would result in nearly $2 billion in savings over a three-year period, which would include $359 million in UDAG savings. Communities will continue to have CDBG funds to use for economic development projects.

No UDAG grants would be made after the grants awarded in the last funding round for large cities and urban counties in fiscal year 1985. The decision date for the last round under 24 CFR 570.460 is September 30, 1985. Grants made under section 119 would continue to be governed by sections 102(a), 107(d), 119, and 121 as they existed immediately before the effective date of the amendment.

Any amount that, absent repeal, would have been available for preliminary approval of grants on or after October 1, 1985, would be rescinded.

Section 235(h)(2)(ii) would be amended to indicate that the reference to units also funded under section 119 means section 119 as it existed before repeal.

This proposal would not amend section 103(b)(6) of the Internal Revenue Code, which allows a tax exemption in connection with bonds on "certain small issues" even if such bonds would otherwise be disqualified as industrial revenue bonds. This section would continue to apply to UDAG projects underway and would expire on December 31, 1988.

Rehabilitation Loans

Subsection (e) would repeal the Rehabilitation Loan program contained in section 312 of the Housing Act of 1964, which authorizes direct loans to property owners and tenants to finance the rehabilitation of residential and business properties. Programs such as section 312 which combine ongoing subsidies with loans are not an efficient mechanism of providing assistance when compared to programs which split the subsidy from the financing so each element can be developed on an independent basis. No loan could be approved under section 312 on or after the effective date of repeal. Any loan approved under section 312 would continue to be governed by the provisions of section 312 as they existed before repeal.

These section 312 functions are eligible for funding under a number of existing eligible activities in the Community Development Block Grant program. For example, section 105(a)(4) includes as an eligible activity the rehabilitation of buildings and improvements, including the financing of public or private acquisition of privately-owned properties for rehabilitation and the rehabilitation of those properties. Section 105(a)(14) provides that block grants may be used, among other things, to finance the rehabilitation of commercial or industrial buildings or structures and other commercial or industrial real property improvements. Finally, section 105(a)(15) allows block grants to be used for a wide range of rehabilitation activities undertaken by neighborhood nonprofit groups, local development corporations and small business investment companies. In light of this CDBG existing authority, continuation of the section 312 program is no longer necessary or desirable.

The proposal would retain provisions of section 312 concerning the creation and uses of the program's revolving fund. These provisions would be retained to ensure that funds for servicing and liquidating section 312 loan contracts would be available until September 30, 1986 or until the assets and liabilities of the fund are transferred to the Revolving Fund (liquidating programs), whichever is earlier. The provision also would make clear, that, at the least, the monies in the Revolving Fund (liquidating programs) derived from the section 312 loan fund may be used for necessary expenses (including the use of private contractors) for servicing (including protection of security) and liquidating section 312 loans.

Effective Date

This section would become effective on the later of October 1, 1985 or the date of enactment.

URBAN HOMESTEADING

Section 108 of the bill would amend section 810 of the Housing and Community Development Act of 1974 to provide funding authorizations for fiscal years 1986 and 1987 for the Urban Homesteading program and to permit States and units of general local government to charge consideration for properties transferred to prospective homesteaders.

Funding Authorization

Subsection (a) would authorize $12 million for the Urban Homesteading program for each of fiscal years 1986 and 1987.

Authorize Localities to Convey Urban Homesteading Properties for Some Consideration

Subsection (b) would amend section 810 of the 1974 Act to permit States and units of general local government to transfer properties for some financial consideration to homesteaders whose incomes exceed 80 percent of the median income for the area, as determined under section 3(b)(2) of the U.S. Housing Act of 1937. Any consideration received by the State or locality would be returned to the Treasury Department.

Section 810 now prohibits States and localities from charging consideration when conveying property to the homesteader on a permanent basis. States and localities are not allowed to charge more than nominal consideration for conditional conveyance of the property.

This proposal would permit States and localities that are transferring homestead properties to charge consideration to non-lower income individuals who are capable of paying something for the property. States and localities could charge the full amount of such consideration at either the conditional conveyance or fee simple title conveyance stage or split such consideration to be paid between both stages. Permitting States and localities to charge these individuals would avoid the possibility of an individual realizing excessive gain from the homesteading program. This proposal would not conflict with the 1983 Act's requirement that essentially lower income prospective homesteaders be given a priority in the award of homestead properties. In no event would a State or locality be permitted to charge an individual at or below 80 percent of area median income any consideration for homestead properties. The proposal would merely permit a State or locality that had no applicants meeting the priority, or whose priority applicants refused available properties, to charge a prospective homesteader who could afford it something for the property rather than give it away.

While requiring all funds collected to be returned to the Treasury offers no incentive for States or localities to charge consideration, permitting States or localities to keep any portion of such proceeds could conflict with the goal of giving a priority to low-income prospective homesteaders who would not be able to contribute. Rather than risk giving States or localities an incentive to charge consideration even where not appropriate, the proposal would not permit States or localities to benefit financially from charging consideration and, therefore, would avoid the potential weakening of the "lower income" priority.

EFFECTIVE DATE

Section 109 would provide that the amendments made by sections 101 through 106 would apply only with respect to funds available for fiscal year 1986 and thereafter.

TITLE II—HOUSING ASSISTANCE PROGRAMS

PART A—GENERAL

ANNUAL CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

Section 201(a) would amend section 5(c) of the U.S. Housing Act of 1937 to authorize $499,000,000 of new budget authority for the assisted housing programs funded through section 5(c). Because the focus of program level control has shifted over the past several years to the amounts of budget authority, contract authority is requested only in such amounts as are consistent with the budget authority increase.

The amount of new budget authority, together with amounts expected to be carried over from fiscal year 1985, would fund an annual program at the level of $1.4 billion. This program level reflects the first year of a proposed two-year moratorium, during which only certain ongoing requirements would be funded. These are described below:

Public and Indian Housing Development. The 1937 Act provides for locally operated public and Indian housing programs. Currently, HUD provides financial assistance through the use of Annual Contributions Contracts (ACCs) to cover the debt service on bonds and notes issued for the construction and modernization of projects owned and operated by local public housing agencies, including Indian housing authorities (PHAs and IHAs, respectively).

For fiscal year 1986, no new development activity is proposed for public and Indian housing. Contract amendments for public and Indian housing projects under development will be funded on a one-year basis. A portion of the budget authority available for amendments also will be used for IHA off-site water and sewer projects where necessary. The amount of budget authority anticipated to be required for the foregoing amendments is $82.3 million.

Starting in fiscal year 1987, Federal financing for development would be through one-time capital funding, as more fully described in connection with section 211 of this bill.

Public and Indian Housing Modernization. Currently authority for modernization funding enables PHAs and IHAs to obtain capital funds (loan authority) to correct physical and management deficiencies and achieve operating efficiency and economy. Since 1981, modernization has been performed pursuant to section 14 of the U.S. Housing Act of 1937, which provides for a Comprehensive Improvement Assistance program (CIAP) to improve the physical and management conditions of existing public and Indian housing projects. Under CIAP PHAs and IHAs may perform alternations, additions, demolition, or rehabilitation of existing structures and the replacement of nonexpendable equipment, and upgrading the management and operation of their projects in order to assure that they continue to be available to serve lower income families.

The budget authority for section 14 is provided in section 5(c). For fiscal year 1986, $175 million is expected to be required for emergency needs. The proposed authorization language includes a limitation on the use of all budget authority in fiscal year 1986 to $175,000,000 for section 14 emergencies. Beginning in fiscal year 1986, the Department will fund modernization using one-time capital contributions rather than long-term loans. The level of funding requested for modernization reflects a one-year partial moratorium. HUD expects to be requesting higher funding levels, more consistent with historical levels for modernization, starting in fiscal year 1987.

Section 8 Housing Assistance Payments, Vouchers, and Section 23 Leased Housing. The section 8 Housing Assistance Payments program (except for section 8 Housing Vouchers) provides a subsidy based on the difference between the rent (including utilities) for the unit and the family contribution (usually 30 percent of adjusted income).

The Housing Voucher Demonstration program was authorized by the Housing and Urban-Rural Recovery Act of 1983 under section 8(o) of the 1937 Act. The initial Voucher subsidy is generally based on the difference between an established payment standard for each market and 30 percent of adjusted income. A major innovation of the Voucher program is that it does not place a limit on the rent which tenants may pay. Tenants may live in units which have rents higher than the payment standard, and pay the difference from their own resources. Conversely, tenants who choose to rent units below the payment standard are permitted to keep the difference, subject to a minimum rent payment. This results in a "shopping incentive" for tenants to locate units in the market which best meet their individual needs.

For 1986, of the $1.4 billion in budget authority which would be newly authorized ($499 million) and carried over ($892 million), about $1.1 billion would be for the section 8 programs, including the Voucher program, and for the section 23 Leased Housing program. HUD's current plans call for use of this authority approximately as follows:

Vouchers for tenants displaced when a Section 8 project owner chooses to end participation in a program ("opt-outs") and for tenants displaced as a result of public housing demolition: $65 million.

Amendments for section 8 projects: $421 million. This includes section 8 project reserve amendments (including those for section 202/8 projects) as well as amendments for section 8 projects (not including section 202/8) in the pipeline to bring them to construction start.

Amendments to section 202/8 contracts to allow projects in the pipeline to start: $150 million.

Property disposition activities: $350.1 million. This is to allow the sale of multifamily properties in which lower income tenants reside with section 8 existing housing assistance.

Loan management activities: $84.4 million. This provides additional section 8 existing subsidies to projects in financial difficulty.

Adjustments under the section 23 Leased Housing program, and conversion of units under that program to section 8 assistance. Lease agreements in this program were for a period of 5 to 10 years with options to renew up to a maximum of 20 years. Adjustments to the existing contracts are made to cover unavoidable increases in the operating and maintenance costs of leased units as well as to provide interim transition assistance to projects that are being converted to the section 8 Certificate program: $63.8 million.

Section 201(b) would amend section 9(c) of the U.S. Housing Act of 1937 to provide that the authorizations for appropriations starting in fiscal year 1985 are to be in amounts for "such sums as may be necessary" for operating subsidies for lower income housing projects under section 9, rather than a specific dollar amount. The fiscal year 1985 authorization was in the

form of "such sums . . ." and the existing statutory language may be construed as authorizing "such sums" in 1986 and later years. As so construed, the amount for operating subsidies would be set only in the appropriation process. The proposed clarifying change in the statutory language would confirm this result.

Operating subsidies are provided in accordance with section 9 of the 1937 Act to PHAs and IHAs for dwellings they own. The subsidies are provided to help meet operating and maintenance expenses. Annual subsidy requirements are calculated on the basis of a formula—the Performance Funding System (PFS)—which takes into account what it would cost a comparable, well-managed PHA or IHA to operate its units. In addition to PFS needs, requirements are calculated separately for certain areas which have unusual circumstances—for example, Alaska, Guam, Puerto Rico, and the Virgin Islands—and certain types of projects such as Homeownership and Mutual-Help.

The 1986 Budget proposes an appropriation of $1,010,600,000 for paying operating subsidies. In addition, the Budget proposes a rescission of $253.1 million in 1985, since resources available for 1985 (including $15 million made available for modernization planning under section 14) are estimated to be in excess of currently anticipated funding requirements.

PREVENTING FRAUD AND ABUSE IN HUD PROGRAMS

Section 202 contains provisions to help prevent fraud and abuse in HUD programs. Subsection (a) would authorize HUD to require applicants and participants (including all household members) in HUD programs involving loans, grants, interest or rental assistance, or mortgage or loan insurance to provide their social security numbers or employer identification numbers, as a condition of initial or continuing eligibility for participation. Legislation to require social security numbers (SSNs) is needed because section 7(a)(1) of the Privacy Act bars mandatory disclosure of SSNs unless there is an exemption provided in Federal statute. Both the Food Stamp and Aid for Dependent Children (AFDC) programs have had such exemptions enacted.

Subsection (b) would authorize HUD to require applicants or participants (including all household members) to sign a consent form as a condition of initial or continuing eligibility for participation in HUD programs involving initial or periodic review of participants' incomes. The Department intends to require the consent form for all such assistance programs under the National Housing Act, the U.S. Housing Act of 1937, and section 202 of the Housing Act of 1959. The consent form would authorize (1) the Secretary or the entity administering the program (PHAs and private owners) to verify information furnished by such applicants or participants and (2) Federal, State, or local government agencies or private entities such as employers, to release information relating to the determination or verification of eligibility or benefit level (other than tax return information), to HUD or administering entities (PHAs and private owners). Failure of an applicant to consent to the release of information pursuant to this section would be grounds for rejection of the application or termination of participation in the program involved. An applicant or participant would have the right to obtain, examine and correct any information which the Secretary, PHA or owner responsible for determining eligibility or level of benefits has received under this section, unless a criminal investigation were pending. All individually identifiable information provided to the Department would be subject to the controls of the Privacy Act.

The Department encourages States and localities participating in its community development programs to adopt similar fraud and abuse programs.

Subsection (d) would amend the Social Security Act to give the Secretary and PHAs (but not private owners) access to data bases (not including tax return information of the Internal Revenue Service) maintained by State unemployment agencies. This authority would permit HUD and PHAs to take advantage of automated methods for performing large numbers of income and address verifications—often called "machine matching"—at one time.

The automated wage data maintained by the States is collected from employers by State employment security agencies to determine eligibility and benefits under the unemployment insurance program. In 38 States, this data is reported for each employee quarterly and is generally considered to be the best wage information for verification purposes. The Federal Unemployment Tax Act does not preclude the State employment security agencies from providing State wage data to other programs, although they are not required to do so. Congress has required that access to this wage data be made available for both the AFDC and Food Stamp programs, thus permitting machine matching for these programs.

Because many of the State agencies also have State privacy acts and other legislative restrictions, there is often some reluctance to voluntarily disclose wage information to other agencies. The Administration believes that legislated access is needed to assure that meaningful verification on an automated basis can be carried out in all States.

Access to Federal, State and local data bases is essential to enable the department and the PHAs to undertake post-audit, quality control, and other investigative reviews based on computer matching to such data bases. Requiring release of social security numbers, execution of consent forms, and access to State unemployment agency information would facilitate this process.

Private owners would continue to verify information supplied by applicants and participants at the time of application and annual recertification, but only HUD and the PHAs would be authorized to have access to government data bases. The authority provided under this section would help the Department to assure that complete and accurate information has been submitted by beneficiaries of HUD programs. The HUD Office of Inspector General estimates that at least $200 million is spent annually in Section 8 assistance for tenants who are ineligible or are receiving more than is allowable. Benefits now going to ineligible families under the section 8 and other covered programs would become available for legitimately eligible program participants. Replacing ineligible households with eligible households will not necessarily save money but it will ensure that limited Federal funds are going to the right people and are being spent for the purpose intended.

In the past, such provisions have been recommended for HUD specifically or for the Federal government as a whole by the HUD Inspector General's Office, the Grace Commission and the General Accounting Office. This proposal is also supportive of Departmental initiatives relating to waste and fraud.

REVISED DEFINITION OF DISABILITY

Section 203 would amend the definition of "disability" contained in section 3(b)(3) of the U.S. Housing Act of 1937 and the definition of "developmentally disabled individual" contained in section 202(d)(4) of the Housing Act of 1959 to conform to the current Department of Health and Human Services (HHS) definition of "developmental disability," contained in section 102(7) of the Developmentally Disabled Assistance and Bill of Rights Act as codified at 42 U.S.C. 6001. The current definitions refer to the HHS definitions in effect before an amendment to the term "developmental disability" made most recently by section 503 of Public Law 95-602 and to an amendment to the short title of the Act made most recently by Public Law 94-103.

Section 3(b)(3) of the U.S. Housing Act of 1937 and section 202(d)(4) of the Housing Act of 1959 [1] now provide that individuals who are disabled, as defined by section 102 of the Developmental Disabilities and Facilities Construction Amendments of 1970 (P.L. 91-517), are considered "families" who may be eligible for housing assistance under those programs. Individuals may also qualify under these statutes if they fall within certain other classes, including those who are handicapped. Only the reference to the definition of developmental disability in the 1970 Act would be changed.

Section 102 of the Developmental Disabilities and Facilities Construction Amendments of 1970 defined "developmental disability" as "a disability attributable to mental retardation, cerebal palsy, epilepsy, or another neurological condition of an individual found by the Secretary [of Health, Education, and Welfare] to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, which disability originates before such individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individuals."

Section 102(7) of the Developmentally Disabled Assistance and Bill of Rights Act currently defines "developmental disability" as "a severe, chronic disability of a person which—

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age twenty-two;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity: (i) self care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated."

Revising the definitions would not significantly change the current coverage of these programs. The new definition is somewhat

[1] Section 202, as it now exists, refers to "section 102(5)" of the "1950 Act." A footnote to the U.S.C. indicates that "section 102(a)(5)" and "1970 Act" were probably intended.

more expansive in that it includes some additional disabilities for which coverage was previously unclear, and the age of onset shifts from before age 18 to before age 22. Neither of these changes, however, significantly increases the eligibility pool since most of these individuals would also be eligible as "handicapped" persons under the two statutes.

There are at least three benefits to be derived from the proposed change. First, the proposed change would help clarify the legal validity of the definition of "developmental disability." Second, updating the definition to the one currently used by HHS promotes consistency between HUD and HHS when housing and disability benefits are coordinated at the State and local level. Third, changing from the superseded definition to the one now applicable to HHS assures that the Department can use the currently accepted statutory definition of developmental disability.

PART B—PUBLIC AND INDIAN HOUSING

PUBLIC AND INDIAN HOUSING FINANCING REFORMS

Under Section 211 the Department is proposing a major reform to the method the Federal government uses to pay for public and Indian housing development and modernization. Generally, under this reform, the Federal government would provide one-time direct funding for the capital costs of projects, instead of the current multiyear debt service commitments and complex loan arrangements. The reform would not apply to projects that have already been financed with permanent notes sold to the Federal Financing Bank and bonds sold in the private market. Implementation of this reform for the development of public and Indian housing requires legislative changes to the U.S. Housing Act of 1937. No change in authorizing legislation is required to provide for one-time contributions for modernization under section 14 of the 1937 Act.

The financing of public and Indian housing projects under the proposal would limit the growth of tax-exempt financing. The major Federal costs for these projects would thus be "up front," rather than being incurred as direct outlays and tax expenditures over long periods of time. Further, HUD and public housing agencies (PHAs) and Indian housing authorities (IHAs) would be able to save on accounting and administrative costs relating to servicing the loans.

The proposed approach would not have a substantive effect on the public and Indian housing projects themselves. The proposed reform would not affect the responsibilities of IHAs and PHAs to maintain the lower income character of the projects, or the eligibility of projects for operating subsidies under section 9 or modernization funding under section 14 of the 1937 Act.

The proposed reform would apply to three classes of projects, as described below.

The first class of projects covered by the reform are those that receive new Federal commitments beginning in fiscal year 1988 for development and in fiscal year 1986 for modernization. (The different starting points reflect the Budget proposals for the two programs.) Historically, financing for such projects has been with a 20- to 40-year Federal commitment to make annual contributions for principal and interest payments on tax-exempt notes ("project notes") and bonds sold on the private market, and on permanent notes sold to the Federal Financing Bank. In fact, sales of new bonds on the private market were discontinued in June 1974, and sales of permanent notes to the Federal Financing Bank terminated in December 1983. Under the proposed reform, public and Indian housing projects developed or modernized would be financed on the basis of fully funded, one-time Federal contributions of assistance to the PHAs and IHAs.

The second class to which the reform would apply are those projects for which development has been completed and the Federal financial commitment has been funded with short-term, tax-exempt notes. This class includes notes issued both for the development of new projects and the modernization of existing projects. These projects have been financed as follows:

Until September 1984, project notes were issued by the PHAs and IHAs and sold in the private market. As they became due, they were refinanced ("rolled over"). HUD made annual contributions on behalf of PHAs and IHAs, thereby incrementally retiring the principal and interest costs on these notes.

Since September 1984, the Department has borrowed from the Treasury, and redeemed on behalf of PHAs and IHAs the project notes as they matured. Accordingly, the PHAs and IHAs are indebted to HUD for the amounts of these loans. Notwithstanding that these amounts are owed to HUD, HUD continues to make the annual contributions on this PHA and IHA indebtedness. (The switch to direct loan financing was the result of provisions first enacted in the Tax Reform Act of 1984 that clouded the tax-exempt status of short-term public and Indian housing notes.)

Under the reform proposal for this class of projects, the project notes, together with the annual contributions HUD makes to PHAs and IHAs, would be eliminated. Instead, this class of projects would be treated in the following way:

As project notes mature:

Treasury would make direct loans to HUD; and

HUD would use these funds to make direct loans on behalf of PHAs and IHAs, which in turn would be used to retire the project notes.

After the notes have been retired:

The Treasury loans to HUD would be forgiven annually;

The PHAs' and IHAs' indebtedness to HUD with respect to any retired notes would be forgiven at appropriate times, as determined by the Secretary (usually when the actual total development cost for the project has been determined);

HUD would automatically recapture the unliquidated budget authority, and the associated contract authority, made available by cancellation of the PHA and IHA loans; and pursuant to a provision such as the one carried in HUD's fiscal year 1985 appropriation Act, this budget authority and contract authority would be rescinded.

The third class of projects covered by the reform are those projects still in the development stage—those in the preconstruction and contruction pipeline. All these projects are expected to be completed by fiscal year 1990. Under the present system, HUD borrows amounts from the Treasury to provide advances to PHAs and IHAs to fund the development and modernization of the projects.

Under the reform, HUD would continue to borrow from the Treasury and make advances, until the PHA or IHA has completed project development or modernization. As in the second class of projects, HUD's Treasury borrowings to make these loans would be forgiven on an annual basis; the PHA's or IHA's indebtedness to HUD would be forgiven by the Secretary from time to time, as appropriate (usually when the actual total development cost for the project has been determined); and HUD would recapture the unliquidated budget authority and associated contract authority, to be rescinded under the terms of an appropriation Act.

Through January 1985, the Department has borrowed approximately $8.9 billion from the Treasury to fund direct advances for development and modernization, and to retire maturing project notes for the second and third class of projects. It is expected that the total short-term, tax-exempt project note inventory (which as of September 30, 1984 amounted to $13.0 billion) would be retired by the end of August 1985.

Budget authority to be recaptured, under the reform proposal as a whole, representing in some cases a 40-year Federal commitment, is estimated to amount to $22.3 billion in fiscal year 1985.

Adoption of the foregoing proposal would require certain amendments to the 1937 Act, as described below:

Section 211(a) of this bill would amend section 4 of the 1937 Act to limit the Secretary's authority to make temporary loans to PHAs and IHAs under section 4(a) only to public housing projects for which funding reservations have been made before October 1, 1986. Thus, projects that do not have funding reserved by that date would not be developed with temporary financing under section 4(a), but would be funded through the new system of one-time capital contributions. Projects with funding reservations by October 1, 1986 would continue to be financed under the terms of section 4(a). As noted above, implementation of the new system for modernization projects would begin in fiscal year 1986.

Section 211(b) would further amend section 4 to provide for forgiving the Secretary's loans to PHAs and IHAs under section 4(a). A limited class of loans—those that were not intended to be repaid from annual contributions—would not be forgiven. The latter loans, amounting in the aggregate to about $13 million, would be either pursued to collection, or written off in accordance with existing standards and procedures, rather than being forgiven under this proposal. Similarly, where amounts are owed PHAs and IHAs by third parties, these debts would not be forgiven. Finally, the amendment would make clear that forgiving PHA and IHA indebtedness would not affect their other obligations under the annual contributions contract.

Section 211(b) would also provide for the cancellation of the Secretary's debt to the Treasury under section 4(b).

Section 211(c) would provide for termination of the annual contributions method of financing public housing, except for projects that have funding reserved by October 1, 1986. This provision also contains the authority for the new financing method—one-time capital contributions, in lieu of annual contributions—starting in the case of development with projects to be funded on October 1, 1987 and thereafter. Resumption of funding for new projects in fiscal year 1988 is consistent with the Administration's two-year moratorium on incremental assisted housing.

Finally, section 211(c) includes the first of a number of amendments that are technical and conforming in nature. The balance of these amendments is set forth in the re-

mainder of section 211. By and large, these amendments adjust the terms of the 1937 Act to accommodate one-time capital contributions contracts, in addition to annual contributions contracts. None of these changes is intended to have a substantive impact on projects financed with annual contributions contracts. Similarly, none of the changes is intended to provide any preference or prejudice in the treatment of projects financed with the one-time capital contributions contracts, as compared with annual contributions contracts. Only one of these technical changes amounts to more than a change in a few words: section 211(k)(1)(B) would provide for a parallel method for determining and using the proceeds of disposition of a project, if the project is financed using one-time contributions. The provision, which would amend section 18 of the 1937 Act, is intended to treat such projects in a manner comparable to how projects financed with annual contributions are treated.

EXEMPTION OF PUBLIC HOUSING HOMEOWNERSHIP PROGRAMS FROM PROVISIONS PERTAINING TO RENTS PAYABLE BY TENANTS

Section 212 would amend section 3(a) of the U.S. Housing Act of 1937 to permit families participating in lease-purchase homeownership programs under the Public Housing program to pay a greater portion of their incomes for rent than is currently allowed. The primary purpose of the amendment is to mitigate hardship situations that occasionally arise for homebuyers under the existing Turnkey III Homeownership Opportunities program.

The Turnkey III program permits lower income families to acquire homeowner status with the assistance of a Federal debt service subsidy. Participation is limited to families with real economic potential for assuming the full obligations of homeownership upon acquisition of title after a reasonable period of tenancy, on the rationale that homeownership is appropriate to the needs of lower income families only if they have such homeownership potential. The amount of the homebuyer's required monthly payment is, however, subject to the limitations of the 1937 Act's tenant rent formula stated in section 3(a). A decrease in family income or an increase in relevant project budget items or utility costs may thus result in a required monthly payment under the section 3(a) formula which is less than the amount required to meet reasonable homeownership potential requirements.

Under these circumstances, the homebuyer is no longer eligible to participate in the existing homeownership program and is subject to termination of the lease-purchase agreement and transfer to rental status as a regular public housing tenant. Although the current regulation provides for some forbearance where there is a reasonable prospect that the homebuyer will regain the requisite homeownership potential, a regulatory change to allow extended forbearance is not an acceptable solution because it risks jeopardizing the overall financial viability of the Turnkey III project.

The proposed amendment would allow the Secretary, by appropriate regulations, to permit a homebuyer, at his or her individual option, to pay the higher amount required to maintain homeownership potential. Alternatively, the homebuyer would have the option to continue to pay no more than the section 3(a) amount, and agree to termination of the lease-purchase agreement and transfer to public housing rental status. Regular HUD reviews would assure that the amounts which the PHA budgets as the basis for homeownership potential are reasonable for the current needs of the particular unit and project.

This change will allow flexibility to increase monthly payments by the homebuyer, which is appropriate in light of the additional financial benefits and responsibilities of homeownership. The homebuyer would decide on the upper limit of payment which is acceptable. This change is made in lieu of permitting the alternative, continuing operating subsidy for homeownership projects, because that alternative would continue in homebuyer status many families who would not be able to pay operating costs and, therefore, do not really possess homeownership potential.

This proposal would provide the same exemption from section 3(a) for the Turnkey III program and other public housing lease-purchase arrangements that has been provided for the Mutual Help Homeownership Opportunity program, which is limited to Indian Housing Authorities. It would thus result in consistency among all 1937 Act homeownership programs that involve lease-purchase arrangements.

PUBLIC HOUSING AGENCY RECEIVERSHIP

Section 213 would amend section 6 of the U.S. Housing Act of 1937 to authorize the Secretary to apply to a Federal or State court for appointment of a receiver for a public housing agency if, in the opinion of the Secretary, the PHA is in substantial default of the covenants and conditions to which it is subject. If the court determines that such a substantial default has occurred, a receiver is to be appointed without regard to collateral questions sometimes considered under common law standards such as the availability of alternative remedies. Also, the amendment empowers the Secretary to petition the court for appropriate temporary or preliminary relief pending the court's determination of whether to appoint a receiver. Injunctive relief, such as freezing the assets of the agency or mandating remedial actions, may be appropriate where it appears that project assets are being misused or that health and safety violations are present. The receivership would terminate upon petition by the Secretary or when the court determines that all defaults have been cured and that the public housing projects of the PHA will be operated by it in accordance with the ACC and the Act.

Under current law, the Secretary is authorized, upon the occurrence of a substantial default, to require either conveyance of title or delivery of possession of a project to HUD. This remedy, because it operates only at the project level, is inadequate to address PHA deficiencies that may exist at the administrative or policy level. However, the amendment recognizes that PHAs are created under State law and their governing bodies are appointed by State or local officials. Accordingly, direct HUD usurpation of the internal administration of a State-created entity would be inappropriate. Receivership provides independent, court-supervised management of PHA affairs, obtainable only upon HUD's demonstration of the substantiality of the default requiring such intervention.

To enhance clarity and continuity, subsection (g) would be redesignated as subsection (f), and the PHA receivership amendment would be designated subsection (g). Subsection (f) was repealed by section 214(b) of the Housing and Urban-Rural Recovery Act of 1983.

PART C—OTHER ASSISTED HOUSING

AUTHORIZATION FOR INCREASING BORROWING AUTHORITY FOR DIRECT LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Section 221 would amend section 202 of the Housing Act of 1959 to increase HUD's authority to borrow funds from the Treasury by such sums as are necessary for making direct loans for elderly and handicapped housing projects. Borrowing authority was authorized in this form for fiscal year 1985, and the proposed amendment would make this form of authorization permanent.

The President's Budget for Fiscal Year 1986 proposes a two-year moratorium in approvals for new section 202 projects. The Budget provides, however, for the addition of $50 million in direct loan authority to be used only for amending commitments for approved projects, which are not as yet completed. The amendment under this section to increase borrowing authority as needed would assure the necessary authorization for funding of these increased loan commitments.

Action in an appropriation Act is needed, and language for such an Act has been proposed in the Budget, to release the $50 million of direct loan authority, and to provide for the requisite borrowing authority as would be authorized by the amendment to section 202 made by this proposal.

ESTABLISHMENT OF SECTION 8 FAIR MARKET RENTS FOR EXISTING HOUSING

Section 222 would provide for a one-year suspension in establishing section 8 fair market rents for existing housing, with the fiscal year 1985 fair market rents continuing in effect for fiscal year 1986. These fair market rents are also the amounts used as the payment standards for the Housing Voucher program.

This proposal would hold rents constant for one fiscal year in furtherance of the Administration's objective of reducing the Budget deficit by cutting Federal outlays. With the rate of rent increases reflecting the reduced inflation rate of the past year, this one-year suspension can be implemented without substantial impact on the program.

PERMANENT HOUSING VOUCHER PROGRAM; REPEAL OF MODERATE REHABILITATION PROGRAM

Permanent Housing Voucher Program

Section 223(a) would amend the Housing Voucher program contained in section 8(o) of the U.S. Housing Act of 1937, as added by section 207 of the Housing and Urban-Rural Recovery Act of 1983, to convert it from a demonstration to a permanent program and to remove the requirement that substantially all of the Voucher authority be used in connection with the Rental Rehabilitation program and for displacees under the Development Grant and the FmHA Housing Preservation Grant programs.

The Housing Voucher program is based on the findings of the Experimental Housing Allowance program, the largest social science experiment ever conducted by the Federal government, and on the experience of the Section 8 Existing Housing Certificate program. These programs demonstrate that this type of subsidy mechanism improves the housing conditions of eligible families at a cost much lower than required for traditional, project-based approaches, benefits families by giving them freedom to choose their own units, and works well in virtually all areas of the country in all types of housing markets. Thus, the Housing Voucher

program is based on premises already well-tested. HUD will continue with current and planned research to evaluate possible future needs for program refinements.

The Freestanding Voucher Demonstration now underway will provide a basic comparison of Vouchers and Certificates. In fiscal year 1985, an additional research project will be initiated to study Voucher use in rural and small PHA settings. This combination of past and current studies covers the principal variable factors that affect the program, including performance in urban and rural markets, administration by State agencies and by local PHAs, administration by PHAs representing the full range of agency sizes, and the cost of administering the Voucher program in each of these settings.

By fiscal year 1986, PHAs in Rental Rehabilitation program localities, and in additional sites where demonstration programs are underway, will be administering Vouchers. The Voucher program thus will have become national in scope, and many PHAs will have experience with administering the program, contributing to the firm basis which exists for a permanent program.

Considering both the research findings already in hand and the actual program experience now under way, we believe there is an adequate base upon which to expand the use of Vouchers.

Repeal of Moderate Rehabilitation

Subsection (b) would repeal section 8(e)(2), which authorizes the section 8 Moderate Rehabilitation program. The Department plans no additional funding for the Moderate Rehabilitation program. The Department intends to rely on Vouchers to assist eligible families requiring rental assistance and to promote rehabilitation to increase the stock of standard, affordable rental housing through the Rental Rehabilitation program.

The Rental Rehabilitation program is an improvement on the Moderate Rehabilitation program in several key aspects. It separates the rehabilitation and rental subsidies, and relies on private market forces to encourge owner participation and availability of rehabilitated units.

The Rental Rehabilitation program requires 100 percent lower income initial occupancy after rehabilitation (adjustable to 70 percent on an exception basis) with strong encouragement for participating governments to select neighborhoods and properties where unregulated market rents will remain affordable to tenants with a Housing Voucher. Moreover, the Rental Rehabilitation program provides greater mobility to lower income families with Housing Vouchers than possible under the section 8 Moderate Rehabilitation program and greater flexibility to the participating State and local governments in implementing a Rental Rehabilitation program. Finally, Housing Vouchers supported by Rental Rehabilitation will be a more frugal use of budget authority for housing eligible families than section 8 Moderate Rehabilitation. (A definitive comparison of long-term cost effectiveness of the two programs is not now available.)

In addition, subsection (b)(1) would permit the Secretary to increase the maximum monthly rental above the amount otherwise permitted where necessary to assist in the sale of HUD-owned multifamily projects. This would replace the authority the Secretary now has to provide increased assistance for these projects under the Moderate Rehabilitation program.

USE OF HOUSING VOUCHERS IN CONNECTION WITH RENTAL REHABILITATION

Section 224 would amend section 8(o) of the United States Housing Act of 1937 to expand eligibility for families to participate in the Housing Voucher program. Under section 8(o), as enacted in 1983, the Secretary was authorized to issue Vouchers to very low-income families (those with incomes of 50 percent or less of area median income) and to families continuously assisted under the 1937 Act. Section 102(a)(9)(B) of the Technical Amendments Act of 1984 provides that Housing Vouchers may also be issued to lower income families with incomes above 50 percent but not more than 80 percent of area median income (50/80 families) who are (1) determined to be lower income at the time they initially receive assistance and (2) displaced by Rental Rehabilitation program activity. Section 224 would extend the 1984 amendment to allow Vouchers to be issued to 50/80 families residing in these projects whose rent burden would be 30 percent or more of their adjusted income, based on post-rehabilitation rents. These families would use the Housing Vouchers to remain in their present units or to move.

The Rental Rehabilitation program is designed to increase the supply of standard, private market rental housing available to lower income tenants through the rehabilitation of substandard rental units and the provision of rental assistance to eligible families to help them pay the post-rehabilitation rents. The program has requirements for occupancy by lower income families immediately after rehabilitation and long-term performance standards for continued affordability for lower income families (i.e., very low-income and 50/80 families). The program is designed to minimize the displacement of lower-income families residing in these substandard properties. This policy would be facilitated by this amendment.

Currently, Housing Vouchers can only be used for families with incomes at or below 50 percent of the area median, for families continuously assisted under the 1937 Act, and for 50/80 families who are displaced by Rental Rehabilitation program activity. Voucher assistance can be provided to the 50/80 families only if they are required to move from the rehabilitated project for reasons such as the rehabilitation itself or to alleviate overcrowding. Therefore, Vouchers presently provide no assistance to 50/80 families currently residing in rehabilitation projects where the post-rehabilitation rents would exceed 30 percent of their adjusted income. This proposal would provide Voucher rental assistance for these 50/80 families, permitting them to move or stay in place, thus reducing public relocation assistance costs as well as minimizing hardship for displacees.

Section 8 Certificates can now be used for 50/80 families whose rents would exceed 30 percent of adjusted income, subject to HUD approval on a case-by-case basis of the use of the 1937 Act's 5 percent exception authority under section 16(b). Use of Vouchers for families with these incomes also is subject to section 16(b). This proposed amendment will eliminate the inconsistency between Vouchers and Certificates and promote more efficient administration of the program at the local level. In addition, it would permit the Department to assist such families in future years, since no Certificates are planned to be allocated for Rental Rehabilitation projects after fiscal year 1984.

ALLOCATION AND USE OF HOUSING ASSISTANCE

Section 225 would amend section 213 of the Housing and Community Development Act of 1974 to: (1) delete the provisions providing for comment by units of general local government on applications for housing assistance where the unit of government has a HUD-approved housing assistance plan (HAP); (2) provide for a single local comment process, based on the provisions now applicable to units of general local government without approved HAPs, that would apply to all applications for housing assistance (except for applications for 12 or fewer housing units in a single project or development); and (3) provide that, for fiscal year 1988 and later years, HUD would allocate housing assistance on an equal basis to metropolitan and nonmetropolitan areas.

Currently, section 213 distinguishes between applications for housing assistance based upon whether the proposed assistance is to be provided in a unit of general local government that has a HUD-approved HAP. In the case of an application involving a unit of government with an approved HAP, section 213 now requires that the Secretary (1) notify the chief executive officer of the locality that the application is under consideration, and (2) give the locality a 30-day period to object to approval of the application on grounds that the application is inconsistent with the approved HAP. If the unit of government objects on the basis of inconsistency with the HAP, the Secretary may not approve the application, unless the Secretary determines that the application is consistent with the HAP and gives the chief executive officer written notification of the determination and the reasons for it.

Subsection (a) would amend section 213(a) of the 1974 Act to delete the local review and comment procedures based on approved HAPs. This change is necessary to conform to the proposed amendments in section 103(c) of this bill that would delete the current requirement in Title I of the 1974 Act that CDBG entitlement communities certify that they are following a current, HUD-approved HAP. However, to assure that all appropriate units of general local government have an opportunity to comment on an application for housing assistance to be located in their jurisdiction, subsection (a) would extend the provisions of section 213(c), which now apply only to applications for housing assistance in areas without an approved HAP, to cover all applications, except for certain applications involving 12 or fewer housing units. Under this provision, the Secretary could not approve an application for housing assistance unless the Secretary determines that (1) there is a need for the housing assistance, and (2) there are or will be available in the area adequate public facilities and services to serve the proposed assisted housing. Additionally, the Secretary would be required to give the community a 30-day period before the Secretary's determination is made to provide comments or information relevant to the determination.

Subsection (a) would also delete provisions from section 213(b) that currently exempt from the notice and comment requirement applications for housing assistance relating to (1) new community developments under title IV of the Housing and Urban Development Act of 1968 or title VII of the Housing and Urban Development Act of 1970, and (2) certain housing financed by loans or loan guarantees by States or State agencies. Since the new communities program has

been terminated, the need for the exemption no longer exists. The exemption for State financing agencies has been of limited effect, since section 213(b)(3) also provides that the exemption does not apply where the unit of general local government in which the assisted housing is to be provided objects in its HAP to the exemption. Many localities have objected in their HAPs to the exemption. Therefore, repeal of the exemption for State financing agencies would continue the current prevailing practice of giving units of general local government the opportunity to comment on all applications for housing assistance, regardless of the source of the financing.

Subsection (b) would require the Secretary, beginning with fiscal year 1988, to allocate under the section 213(d)(1) formula not more than 50 percent of the total amount of available assistance to metropolitan areas and not more than 50 percent of such assistance to nonmetropolitan areas. Currently, the amount of such assistance allocated to nonmetropolitan areas is required to be in the 20 to 25 percent range. The proposed amendment is consistent with HUD's budget proposal to delay funding of incremental housing assistance for two years and the Administration's proposal to terminate funding for the FmHA's housing assistance programs. At the end of the moratorium, HUD would assume full responsibility for rural housing assistance needs. The even split between metropolitan and nonmetropolitan areas approximates the distribution of HUD and FmHA units between 1980 and 1984. The requirement for HUD to consult with the Secretary of Agriculture in determining how much section 8 existing housing assistance to make available under section 8(d) of the U.S. Housing Act of 1937 for use with the Housing Preservation Grant program under section 533 of the Housing Act of 1949 would be deleted, since funding under section 533 would be terminated.

Subsection (c) would amend section 213(a)(3) to delete the gender-specific term "he" and insert instead "the Secretary".

Finally, subsection (d) would amend the provision in section 213(d)(4)(E) that permits the Department to use a portion of the Secretary's reserve for lower income housing needs described in HAPs, including activities carried out under areawide housing opportunity plans (AHOPs). Subsection (d) would delete the references to HAPs and AHOPs, and instead would permit assistance to be used for projects approved by the Secretary to meet lower income housing needs. As noted above, section 103(c) of the bill would repeal HAPs. The reference to AHOPs would be deleted to reflect the fact that they are no longer used in Departmental programs.

TENANT ELIGIBILITY DETERMINATIONS IN RENT SUPPLEMENT PROJECTS

Section 226 would amend section 101(e)(1) of the Housing and Urban Development Act of 1965 to eliminate the requirement that HUD, upon request by a Rent Supplement project owner, must issue certificates on the income of applicants and on whether they are occupying substandard housing, are involuntarily displaced, or are paying more than 50 percent of income for rent at the time assistance is being sought. The proposal would also amend section 101(k) to provide that the project owner, instead of the Secretary, shall give priority for available units to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking housing assistance under the Rent Supplement program, and, as a conforming amendment, would add the additional priority for applicants who are paying more than 50 percent of income for rent.

Elimination of the HUD certificate provision is consistent with the general approach to tenant selection currently used in the Rent Supplement program, under which project owners have primary responsibility for making tenant selection decisions in accordance with HUD eligibility criteria and procedures. This proposal should have little or no effect on prospective tenants, since project owners have been making tenant selection decisions without certificates from the Secretary since 1972, except in those few cases where owners have asked for certificates. In addition, the proposal would make eligibility determinations under the Rent Supplement program consistent with the Section 8 and Public Housing programs, and would relieve HUD of the staff-intensive and costly burden of issuing certificates in those few instances where they are requested.

Adding the rent burden consideration to the list of priorities in section 101(k) is a technical conforming amendment to make this provision consistent with the current provisions of section 101(e) and the preference rules for the other affected assisted housing programs.

REPEAL OF REQUIREMENT FOR SIGNIFICANT COMMUNITY REPRESENTATION ON GOVERNING BOARDS OF SECTION 202 PROJECTS

Section 227 would amend section 202(d)(2)(B) of the Housing Act of 1959 to remove the requirement (added in 1978) that nonprofit entities receiving loans for developing housing for the elderly or handicapped must include, on their governing boards, members selected in a manner to assure significant representation of the views of the community in which the project is located.

A significant number of national organizations which are active sponsors of section 202 housing have objected strenuously to this requirement. The sponsors have pointed out that, as national organizations, it is impossible for them to have representatives on their governing boards from all communities in which they may wish to operate. Similar concerns have been expressed by State-wide housing corporations, as well as county and community groups, which find it difficult to have representatives from all areas in which they intend to operate. The existing requirement of section 202 curtails participation by many organizations which have been organized specifically to share resources and to develop a more comprehensive and coordinated approach to providing housing for the elderly or handicapped. With the exception of one or two isolated cases, there is no evidence of the need for this provision.

This section would also delete, as unnecessary, the requirement that the corporation have a governing board responsible for the operation of the housing project. This provision is unnecessary since all corporations have governing boards, and the overall purpose of their activities as stated in section 202(a)(1) is "to provide housing and related facilities for elderly or handicapped families," which is broader than just "operation of the housing project."

TECHNICAL AMENDMENTS TO THE UNITED STATES HOUSING ACT OF 1937

Section 228 would make several technical amendments to the United States Housing Act of 1937.

Subsection (a) would amend section 6(c)(4)(A) of the Act to change the placement of the clause providing a priority for public housing applicant families who "are paying more than 50 per centum of family income for rent" to follow "substandard housing" to make it consistent with other comparable provisions.

Subsection (b) would amend paragraphs (4) and (5) of section 6(k) of the Act to change "his" to "their" to conform to the plural subject (tenants) and to eliminate the gender-specific reference.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

PART A—FHA

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

Section 301 would extend (through September 30, 1987) the authority of the Secretary of Housing and Urban Development to insure mortgages or loans under certain HUD-FHA mortgage and loan insurance programs contained in the National Housing Act.

Under existing law, the authority of the Secretary of Housing and Urban Development to insure mortgages and loans under these programs will expire on September 30, 1985. After that date, the Secretary may not insure mortgages or loans under any of the major HUD-FHA insuring authorities contained in the National Housing Act, except pursuant to a commitment to insure issued before that date.

Extensions

Insuring authorities which will expire on September 30, 1985, and are proposed for extension through September 30, 1987, include those for the following HUD-FHA mortgage or loan insurance programs:

Title I—property improvement and manufactured home loan insurance;

Section 203—basic home mortgage insurance;

Section 207—rental housing insurance;

Section 213—cooperative housing insurance;

Section 220—rehabilitation and neighborhood conservation housing insurance;

Section 221—housing for moderate-income and displaced families;

Section 223—miscellaneous housing insurance, including insurance in older, declining urban areas and for existing multifamily housing projects and hospitals;

Section 231—housing for the elderly;

Section 233—experimental housing;

Section 234—mortgage insurance for condominiums;

Section 237—special mortgage insurance assistance;

Section 240—homeowner purchases of fee simple title;

Section 241—supplemental loans for multifamily housing projects, health facilities and energy conserving improvements;

Section 243—homeownership for middle-income families;

Section 244(d)—mortgage insurance on a coinsurance basis generally;

Section 244(h)—mortgage insurance on a coinsurance basis for rental rehabilitation property;

Section 245—mortgage insurance on graduated payment and indexed mortgages;

Section 247—single family mortgage insurance on Hawaiian home lands;

Section 248—single family mortgage insurance on Indian reservations;

Section 251—adjustable rate single family mortgages;

Section 252—shared appreciation mortgages for single family housing;

Section 253—shared appreciation mortgages for multifamily housing; and

Title X—mortgage insurance for land development.

The proposed extensions of the above listed mortgage insuring authorities are designed to guarantee the continued availability of FHA mortgage insurance and thus to maintain and enhance the Department's capacity to contribute to achieving the national housing goal of "a decent home and a suitable living environment for every American family."

Expirations

Extensions have not been included for a number of programs. Many of these programs are little used either because of diminished demand or because financing needs are being met in the private lending market. In order to avoid a clash between competing public and private credit demands and to better direct Federal credit programs to those areas of actual need, the following programs are not extended:

Section 222—mortgage insurance for servicemen;

Section 232—mortgage insurance for nursing homes, intermediate care facilities, and board and care homes;

Section 235 (h) and (m)—homeownership for lower income families;

Section 235(q)—countercyclical economic stimulus;

Section 242—mortgage insurance for hospitals;

Title VIII—armed services housing; and

Title XI—group practice facilities.

The program of mortgage insurance for servicemen under section 222 would be permitted to expire on September 30, 1985. Military personnel, Coast Guard personnel, and employees of the National Oceanic and Atmospheric Administration certified as requiring housing by the Secretaries of Defense, Transportation and Commerce, respectively, are eligible under this program. However, since the Department of Defense no longer participates in the program, it is rarely used. In fiscal year 1984, only 40 homes were insured under the section 222 program.

The authority to insure mortgages for nursing homes, intermediate care facilities, and board and care facilities under section 232 would be permitted to expire on September 30, 1985. Many facilities currently in existence have been developed and financed without the benefit of federally insured mortgages. Section 232 has not been a high-volume mortgage insurance program, and there appears to be no reason to believe that the private market cannot meet the financing needs of such facilities in the absence of the section 232 program. In fiscal year 1984, only 37 mortgages were insured under the 232 program.

Authority to contract to make assistance payments under section 235(h) (homeownership for lower income families) will expire September 30, 1985. Authority to insure these mortgages under section 235(m) also expires September 30, 1985, except pursuant to previous commitments. No extension is requested for sections 235 (h) and (m). In light of the budget deficit, this program should not be extended. To the extent housing assistance is provided, it should be made available to those most in need, rather than to a narrow group of potential homebuyers. All supplemental appropriations for section 235 program provided in the Second Supplemental Appropriations Act, 1984 (Pub. L. 98-396, approved August 22, 1984), will be committed before the September 30, 1985 expiration date of the program.

The section 235(q) authority (countercyclical economic stimulus), scheduled to expire on September 30, 1985, is not proposed for extension. This emergency authority has never been activated.

The authority to insure mortgages for hospitals under section 242 is not proposed for extension beyond the current September 30, 1985 expiration date. The Administration's attempts to bring cost containment to the health and medical sector, plus the fact that many areas already have a surplus of hospital beds, suggest that only a very limited need exists for financing hospitals. Since the private market has provided financing to many existing hospitals and appears quite capable of meeting credit needs in those few cases where new hospital construction is appropriate, extension of section 242 is not being sought. Only five projects were insured under section 242 in fiscal year 1984.

The authority to insure armed services housing under Title VIII of the National Housing Act (sections 809 and 810) is not proposed for extension beyond the current September 30, 1985 expiration date. These programs have been inactive for several years. No applications for insurance under title VIII are currently pending.

Finally, there has been little activity under the Title XI authority to insure group practice facilities, suggesting that whatever need exists is being met adequately by the private market. Accordingly, no further extension of this authority is being sought.

MISCELLANEOUS AMENDMENTS

Section 302 would:

(1) Amend section 232(i)(2)(B) of the National Housing Act, which establishes authority to insure loans for the purchase and installation of fire safety equipment in nursing homes, intermediate care facilities and board and care homes, to permit the borrower and lender to negotiate the interest rate on the loan. Amending this section would establish consistency with section 232(d)(3)(B) and other provisions of the Act that provide for a negotiated interest rate. Section 404 of the Housing and Urban-Rural Recovery Act of 1983 deleted the Secretary's authority to set maximum interest rates on most of the other mortgage and loan insurance programs, but section 232(i)(2)(B) was inadvertently omitted.

(2) Amend sections 235 (m) and (q) to clarify the expiration date of the programs covered by those subsections.

(3) Change an incorrect reference in section 236(i)(1) from subsection "(h)" to "(f)(4)."

(4) Change an incorrect capitalization of the word "Mortgagor" in section 247(a)(2).

(5) Amend sections 248 (a) and (d) of the Act, which are concerned with single family mortgage insurance on Indian lands, to use the defined term "trust or otherwise restricted land" consistently in section 248.

(6) Amend section 253(b) of the Act to base the definition of "net appreciated value" in the multifamily shared appreciation mortgage program on the actual project cost after completion, as approved by the Secretary, rather than basing it on the speculative measures of estimated value of replacement cost. Using the actual cost would eliminate the possibility that the mortgagee, at the time of sale, would be entitled to share in residual receipts notes that had been executed by the mortgagor during construction. This amendment also should help to minimize cost increases because mortgagees would have an incentive to limit change orders, and thereby increase the amount of appreciation to be shared.

(7) Amend section 253(c) of the Act, which is concerned with insurance benefits in the event of default, to indicate that multifamily shared appreciation mortgages are obligations of the General Insurance Fund, rather than the Mutual Mortgage Insurance Fund.

(8) Amend section 809(f) to clarify the expiration date of the program covered by the section.

(9) Amend section 810(h) of the Act to conform with other provisions of the Act that provide for a negotiated interest rate. This amendment will have no substantive effect on the mortgage insurance program, but simply deletes the Secretary's authority to set a maximum interest rate. Section 810(k) is also amended to clarify the expiration date of section 810.

(10) Amend section 1101(a) to clarify the expiration date of section 1101.

(11) Change an incorrect reference in section 482 of the Housing and Urban-Rural Recovery Act of 1983 from "such Act" to "the National Housing Act".

EXPANDED AUTHORITY FOR SETTING INSURANCE PREMIUM CHARGES ON TITLE I LOANS

Section 303 would amend section 2(f) of the National Housing Act to give the secretary more flexible authority for setting insurance premium charges under the Title I property improvement and manufactured home loan programs.

Section 2(f) currently gives the Secretary authority to fix a premium charge under the Title I program based on a percentage of the net proceeds of the loan, not to exceed one percent per year, for the term of the loan. Under this authority, HUD collects premiums on Title I insurance in force at an annual rate of .50 percent of the proceeds for property improvement loans and .54 percent of the net proceeds for manufactured home loans. Because of the statutory language, the lender must pay the same premium charge for each year that insurance on the loan is in force.

Experience under the Title I program indicates that the highest probability of a claim occurs within the first three years after the loan is reported for insurance, with the claims rate dropping sharply about five years into the loan term. Thus, deficits are much higher during the early years of any annual group of loans, with the losses being recouped to some extent during the later years by the premium charges on those loans that run for the full term. In recent years, fluctuations in the amount of insurance written under the Title I program have resulted in annual deficits based on a comparison of premium income with the amount of claims paid. While the Secretary could increase the premium charge for all new loans in order to offset these annual deficits, this would not resolve the inequities of the present system.

The Secretary needs authority to be able to collect a higher premium charge during the early years of the loan when the risk is greatest. The amendment would give HUD the flexibility (1) to charge a percentage of the outstanding loan balance during the year (as is authorized under Title II); (2) to charge a level premium for a fixed number of years, but for some period less than the full term of the loan; (3) to charge a declining percentage of the net proceeds; or (4)

some combination of these. Whatever the basis adopted by regulation, the premium would continue to be collected in advance and would continue to be subject to an aggregate limit equivalent to one percent per year of the net proceeds for the term of the loan.

MORTGAGES ON HAWAIIAN HOME LANDS AND INDIAN LANDS TO BE OBLIGATIONS OF THE GENERAL INSURANCE FUND

Section 304 would amend sections 247 and 248 of the National Housing Act to provide that mortgages insured pursuant to either section would be obligations of the General Insurance Fund. Currently, any mortgage insured pursuant to either section would be an obligation of the fund applicable to the specific section of the Act under which the mortgage is insured. Since most of these mortgages are expected to be insured under section 203(b), they would be obligations of the Mutual Mortgage Insurance Fund (MMIF).

Hawaiians

In attempting to implement section 247 of the National Housing Act, the Department discovered that the Hawaiian Homelands Commission (HHC) Act (part of the Hawaii Constitution) contained specific rules which control every aspect of land ownership and financing. It is in part due to these restrictions that there is currently no private lending activity for home acquisition on Hawaiian Homelands. The Department conducted negotiations with the HHC to see what program could be implemented which would require the fewest revisions to both their Constitution and HUD's statute. The resulting program now being designed provides that the HHC will receive virtually all of the mortgage insurance premium (MIP) and assume all the risk of loss. A small portion of the MIP would be retained by the Department to cover costs of reviewing creditworthiness and other processing costs. While different in outline from other FHA programs, including Indians, both the Department and the Hawaiian Homeland Commission have agreed that this program design is viable.

Since the HHC under this negotiated program design retains virtually all of the MIP and assumes all of the risk, it should not have to make the distributions the Secretary is authorized to make under the MMIF to the mortgagor upon termination of the insurance obligation where national claim experience for a particular class of mortgages is better than predicted. Making these mortgages obligations of the General Insurance Fund also would not increase potential appropriation requests since the HHC would be reimbursing HUD almost immediately for any losses.

Indians

Mortgages for homes on Indian lands are likely to involve greater risks than other mortgages under the MMIF, due to the unique nature of the ownership of these lands and the restrictions which are imposed on their sale or lease. The extent of these risks was recognized by the Congress in providing for up to a three percent mortgage insurance premium under the Indian program, and in its reimbursement and security features. While these provisions are intended to prevent losses to the MMIF, it is questionable whether they will be sufficient. Therefore, in order to avoid any possibility of jeopardizing the solvency of the MMIF, mortgages under section 248 should be made obligations of the General Insurance Fund.

REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR ONE- TO FOUR-FAMILY UNITS

Section 305 would repeal section 904 of the Housing and Community Development Amendments of 1977, which requires HUD to prepare and publish annually prototype housing costs for one- to four-family dwelling units for each of the approximately 650 housing market areas in the United States. Publication of prototype costs under section 904 is expensive and unnecessary. The legislative history of this provision gives no specific reason for the requirement to publish this information other than for "public" information. These cost figures are not used for operating any HUD program. Neither the general public nor any public agency or private entity has expressed the view that the information is useful. The main area of comment has been from mortgagees, builders and developers challenging the accuracy of the figures.

AUTHORITY FOR INCREASED MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS IN HIGH-COST AREAS

Section 306 would amend sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2) and 234(e)(3) of the National Housing Act to increase the maximum high-cost area adjustment factor from 75 percent to 110 percent of the basic mortgage limits for dwelling units of various sizes and types (90 percent in the case of Tandem projects). The Secretary's authority to approve higher limits on a project-by-project basis up to 140 percent of the maximum dollar limits (90 percent for Tandem projects) would not be changed.

Each of these sections of the Act provides the Secretary with discretionary authority to increase the maximum dollar amounts on insured mortgages by not more than 75 percent in any geographical area where the Secretary finds that cost levels require such an increase. In addition, where the Secretary determines that it is necessary, the maximum dollar amounts may be increased on a project-by-project basis by not more than 140 percent, or 90 percent for Tandem projects under section 305 of the NHA. (Section 305 was repealed by section 483 of the Housing and Urban-Rural Recovery Act of 1983, but a number of projects remain in the pipeline.) The Secretary's exception authority for individual projects was increased from 90 to 140 percent by the Further Continuing Appropriations Act, 1983 (P.L. 97-377), enacted December 21, 1982. However, no commensurate change was made to the 75 percent high-cost area limitation.

In implementing these provisions, HUD periodically reviews local construction cost levels and establishes a percentage increase for each high-cost area, within which the field office may approve multifamily projects without Headquarters review. However, in areas where cost levels exceed the 75 percent limitation, nearly all multifamily projects must be referred to Headquarters for a project-by-project determination. Headquarters review does not presently cause excessive delays, but greater delays may occur in the future as more areas bump up against the 75 percent high-cost area limitation. At present, there are 19 metropolitan areas which are at the 75 percent limitation for all multifamily buildings, and another 7 metropolitan areas which are at the 75 percent limitation for elevator buildings. Cost levels in many of these areas could justify increasing the area limit above the current 75 percent high-cost area limitation. An increase in the high-cost area limitation from 75 to 110 percent would streamline FHA processing by permitting HUD field offices to review and approve higher cost projects within the maximum limits set by Headquarters, without the need for Secretarial oversight of individual projects or an increase in the basic dollar limits.

In light of the subsidy levels which Tandem projects enjoy and the higher subsidy costs which would result from larger Tandem mortgages, the special 90 percent limit would continue to apply to the small number of projects remaining in the Tandem pipeline.

DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME

Section 307 would expand the ability of the Secretary to deter the use of the assets and income of multifamily housing projects under the National Housing Act in violation of the project's regulatory agreement or applicable regulations by enacting a double damages civil recovery statute. Currently, the only civil remedy available to recover project assets and income that are used in violation of these requirements is a suit for civil recovery. In addition, section 239(b) of the National Housing Act provides a criminal penalty of a $5,000 fine or a prison term of up to three years in jail, or both, for unauthorized use of project rents or other funds.

Congress added section 239 to the National Housing Act in 1968 because civil actions for recovery were viewed as ineffective as a means of discouraging misuse of project rents or other funds. Therefore, Congress established a criminal punishment of a fine or imprisonment, or both. However, this criminal statute has not been as effective a deterrent as was hoped, and is not broad enough to cover all project assets. In addition, HUD recognizes that not all wrongful conduct warrants the severity of a criminal fine and imprisonment and, in certain cases, civil relief is more appropriate. However, HUD's present civil remedy of recovering the amount of the project assets and income used is an insufficient deterrent. The only risk for such an owner is to pay back those amounts, plus interest.

The civil double damages remedy would be enforceable against project owners violating the project regulatory agreement's prohibition against unauthorized use of project assets or income for non-project-related or otherwise unapproved uses. Paragraph 6 of the Department's standard form of regulatory agreement for multifamily projects with mortgages insured under the National Housing Act does not permit the unauthorized use of project assets or income.

Under the regulatory agreements, all books and accounts relating to the operation of the mortgaged property and the project must be kept in accordance with the requirements of the Secretary and in reasonable condition for proper audit. The statute would provide that use of assets or income without adequate documentation would constitute a prima facie case that the assets and income were used in violation of the regulatory agreement. The statute reaffirms the mortgagor's obligation to maintain books and records in accordance with the requirements of the Secretary and in reasonable condition for proper audit. Where the books and records do not establish that the use was made for a reasonable operating expense or necessary repair, the statute confirms HUD's right to recover damages for such an unauthorized use. For

fiscal years 1980 through 1984, the Office of Inspector General disallowed $17.3 million in costs charged to project accounts and questioned $17.5 million in costs charged to project accounts. The Office of Inspector General questions a cost when there is insufficient documentation relating to that cost. During this time period, the Department only recovered 8 percent of questioned costs. The Secretary's ability to recover these questioned costs would be greatly improved if improper use of project assets and income could not be hidden behind inadequate recordkeeping. Inadequate books and records provide a mechanism for owners who use project assets and income without authorization to argue that a "questioned cost" is not a proveable unauthorized use. This escape hatch exists at great cost to taxpayers and is a material frustration for HUD in its attempts to ensure compliance with the regulatory agreement.

The statute also would provide that the Secretary, at the Secretary's discretion, could apply recovered funds to the project accounts or to the applicable insurance fund, or deposit them in the Treasury of the United States. Recoveries now go to the Treasury in most cases, which precludes the Department from minimizing the actual damage caused. In addition, the statute would provide that the Attorney General could bring an action under this authority at any time up to six years after the latest date the Secretary discovered any use of assets or income in violation of applicable requirements. This would give the Department the time needed to discover the extent of use of assets and income in violation of the regulatory agreement before tolling of the statute. Finally, the statute would give the Attorney General, upon request of the Secretary, sole right to initiate proceedings, thus preventing third-party and mandamus suits.

This double damage approach is consistent with other enforcement statutes that provide civil, multiple damages as well as criminal remedies, such as the Sherman Antitrust Act treble damages action; patent treble damages actions; double damages and a $2,000 forfeiture under the False Claims Act; and the recently enacted Securities and Exchange Commission's treble damage remedy for insider trading.

PART B—OTHER PROGRAMS

RESEARCH AUTHORIZATION

Section 311 would authorize the appropriation of $18,900,000 in fiscal year 1986 and necessary sums for fiscal year 1987 for the Department's research and technology program. Particular areas which the Department's research program will focus on include:

Identification of stable sources of housing finance, with particular emphasis on secondary market activities, and analysis of the effects of various Federal, State, and local initiatives on the continuing availability of these sources;

Demonstrations to improve the quality of life in public housing and the urban environment in which public housing residents live, with special emphasis on single parent households;

Evaluation of the approaches to providing housing assistance authorized under the Housing and Urban-Rural Recovery Act of 1983, including Vouchers and Rental Rehabilitation;

Activities to increase the efficiency and effectiveness of current assisted and Public Housing programs;

Identification of new building technology and regulatory strategies to help make housing more affordable; and

Analysis of current Departmental activities to promote voluntary compliance on fair housing and prevent discrimination, and identification of new strategies to promote fair and non-discriminatory housing.

Inclusion of the $16.9 million funding authorization for fiscal year 1985 is a technical amendment to reflect the amount which was in fact appropriated for research and technology for fiscal year 1985.

FAIR HOUSING INITIATIVES PROGRAM

As part of its effort to enforce Title VIII and further fair housing, HUD, through its Fair Housing Assistance Program (FHAP), has provided funding for a variety of fair housing activities to Community Housing Resource Boards (CHRBs), which provide monitoring and implementation assistance to local housing industry groups that have signed voluntary affirmative marketing agreements (VAMAs) with HUD (see 24 CFR Part 120), and to State and local fair housing agencies administering fair housing laws that provide rights and remedies that are substantially equivalent to those provided under Title VIII (see 24 CFR Part 111). To strengthen this effort, section 312 would establish a Fair Housing Initiatives Program (FHIP). This new program would provide the means to assist projects and activities designed to enhance compliance with Title VIII and substantially equivalent State or local laws.

Subsection (a) would authorize the Secretary to make grants to, or to enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. HUD contemplates providing funding for three distinct categories under FHIP:

"The Administrative Enforcement Initiative;

"The Private Enforcement Initiative; and

"The Education and Outreach Initiative.

These initiatives will be administered by the Assistant Secretary for Fair Housing and Equal Opportunity.

Under the Administrative Enforcement Initiative, the Secretary would provide funding to substantially equivalent State and local fair housing agencies in support of initiatives designed to broaden the range of enforcement and compliance activities that they conduct. (Substantially equivalent agencies eligible for funding under this program would include State or local agencies that have entered into agreements with HUD permitting the interim referral of complaints under 24 CFR 115.11.) The types of projects that could be funded include: (a) providing assistance concerning applicable fair housing laws and regulations to State and local governments administering housing and community development programs; (b) developing fair housing testing capacities for State and local agencies; and (c) conducting investigations of systemic discrimination for further processing by State or local agencies, HUD, or the Department of Justice.

This assistance would replace the existing Type II—Competitive Funding assistance currently provided under FHAP (24 CFR 111.103), except education and outreach funding which would be replaced by the Education and Outreach Initiative described below. The Type I—Noncompetitive Funding component of FHAP (24 CFR 111.102), which provides assistance to substantially equivalent State and local agencies for the processing of complaints alleging discriminatory practices referred to them under Title VIII, would continue to be funded through FHAP.

Currently, the Secretary has no authority to fund directly non-governmental efforts to enforce or ensure compliance with fair housing laws. The Private Enforcement Initiative would permit the Secretary to provide funding assistance to nonprofit organizations or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices (for example, private fair housing organizations and civil rights groups). Types of projects to be funded include: (a) professionally conducted testing or other investigative support for administrative and judicial enforcement; (b) standardizing and refining fair housing testing and other investigative techniques; (c) linking fair housing organizations regionally to address broader market discriminatory practices; and (d) establishing effective means of meeting legal expenses related to the litigation of fair housing cases. (Consistent with existing administrative requirements governing the use of Federal assistance, the funding of litigation against the Federal government under FHIP would not be permitted.)

The Education and Outreach Initiative would provide assistance to State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices to develop, implement, carry out, or coordinate education and outreach programs designed to inform the public concerning their rights and obligations under Title VIII and substantially equivalent State and local laws. Currently, HUD is authorized to support outreach and education programs provided by State and local fair housing agencies under FHAP Type II—Competitive Funding, and by CHRBs. This initiative would permit the consolidation of the existing education and outreach programs and would expand these efforts by making assistance available to a broader universe of eligible parties.

The CHRB funding set-aside under FHAP would be reduced to reflect the transfer of the education and outreach aspect of CHRBs to FHIP. CHRBs' activities with local real estate industry groups in connection with VAMAs would continue to be funded under FHAP. CHRBs would also be eligible to receive funding under the Education and Outreach Initiative and for activities that are supportive of the goals of the New Horizons program. New Horizons is a national program to assist State and local governments in planning and executing comprehensive, community-wide approaches to fair housing.

Education and Outreach Initiative assistance would encourage the development of nationally, regionally, and locally based media campaigns (written and audio-visual materials) and other special efforts to educate the general public and housing industry groups about fair housing rights and obligations. The types of educational projects that could be funded include those aimed at: (a) developing informative material on fair housing rights and responsibilities; (b) developing fair housing and affirmative marketing instructional material and educating

national, regional, and local housing industry groups; (c) providing educational seminars and working sessions for churches, community-based civic organizations, and other groups; and (d) developing educational material targeted at persons in need of specific or additional information on their fair housing rights.

The type of outreach projects that could be funded include: (a) developing advertising programs through the use of various forms of media; (b) bringing housing industry and civic or fair housing groups together to identify illegal real estate practices, and to determine how to correct them; (c) designing innovative outreach projects to inform all persons of the availability of housing opportunities; (d) developing and implementing a response to new trends and sophisticated practices that result in discriminatory housing practices; and (e) developing mechanisms for the identification of, and quick response to, housing discrimination cases involving the threat of physical harm.

Subsection (b) would authorize the appropriation for the new program of not to exceed $10,000,000 for each of fiscal years 1986 and 1987. Appropriated amounts would be available for necessary expenses of the Secretary in carrying out the purposes of the program, including costs for promotion and marketing, training and technical assistance, and evaluation.

REPEAL OF LEGISLATIVE REVIEW REQUIREMENTS APPLICABLE TO HUD REGULATIONS

Section 313 would repeal section 7(o) of the Department of Housing and Urban Development Act, the 1978 addition to the Department's organizational statute that provides for House and Senate Banking Committee review of HUD regulations.

Under section 7(o), HUD is required twice annually to submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and agenda of all regulations under development or review by the Department. During a period of 15 congressional session days following an agenda submission, the Department may not publish for comment any regulation on the agenda. If either Banking Committee, in response to the agenda submission, requests review of particular listed regulations that are to be published for comment, each requested regulation must be submitted to both Committees—before its publication—for a period of 15 section days.

In addition, all HUD rules published for effect must have their effectiveness delayed for a period of 30 session days following the date of publication. If, during that period, either Committee reports out, or is discharged from further consideration of, a joint resolution of disapproval or other legislation intended to modify or invalidate the regulation, section 7(o) requires that the regulation's effectiveness be delayed for an additional period of 90 calendar days from the date of the Committee's action. The 15- and 30-day clocks must begin anew if interrupted by an adjournment of Congress sine die, and the count of session days stops during any recess of either House of more than three days.

The Department is seeking repeal of section 7(o) because in several respects it calls for the unconstitutional exercise of legislative power by a single congressional committee. Even beyond the Constitutional issues, this section should be repealed because in practice the legislative review process has been seriously disruptive of the Department's efforts to implement newly enacted statutory authorities and other policy initiatives without providing compensating benefit to the Committees. Both the 15-day and 30-day waiting periods have caused lengthy delays, especially during recesses and adjournments, even while the Committees have actually exercised their statutory (but unconstitutional) prerogative to review proposed rules before publication on few occasions during the six-year history of the requirement.

Unconstitutionality of Section 7(o)

Several pivotal features of section 7(o) are clearly beyond congressional authority under *INS* v. *Chadha*, U.S.——, 77 L.ED 2nd 317 (1983). The requirement in section 7(o)(2)(A) that a single Committee of the Congress may cause a delay in publication of a proposed rule, simply by notifying the Secretary, clearly has the purpose and effect of "altering the legal rights, duties, and regulations of persons, including Executive officials . . ., outside the legislative branch . . . ." Under Chadha, when an action of the Congress has such an effect, and the action taken is other than by passage of a law by both Houses with presentment to the President, the action is beyond the power of the Legislative Branch and is unconstitutional.

For the same reasons, the section 7(o)(3) provision calling for 90 days' delayed effectiveness of a final regulation, based on a single Committee's resolution of disapproval, must fall under the Chadha rationale.

Finally, the 7(o) process allowing HUD to seek waivers of the statutory waiting periods is constitutionally unsound. Under the statute, a waiver of the 15- and 30-day waiting periods can be secured with the approval of the Chairmen and Ranking Minority members of the two Committees. This waiver-granting process also is clearly an invalid exercise of legislative power, and HUD has refrained from requesting any waiver of section 7(o) waiting periods since the announcement of the Supreme Court's opinion in Chadha almost two years ago.

It is clear, then, that the provision in section 7(o) that particular rules selected by a Committee from an agenda not be published for comment pending review by both Committees is invalid. The requirement that the Department honor any resolution of disapproval action taken by either Committee, purporting to delay the effectiveness of a rule for an additional 90 days in invalid. Finally, the Department cannot avail itself of the waiver procedures provided in section 7(o)(4), because that process also is constitutionally defective.

The unconstitutional portions of section 7(o) are the law's principal components—the system for requesting prepublication review and the delay procedure triggered by Committee resolutions against final rules published for effect. Absent the validity of these two components, there is no point to any of the other components of the scheme. The appropriate course is for the Congress to repeal section 7(o) and look to more traditional forms of legislative oversight to assist the Committee in influencing HUD policymaking.

Committee Exercise of Legislative Review

Through January 1985, HUD has made 11 agenda submissions to the Banking Committees since the adoption of section 7(o). Between 1979 and 1981, each Banking Committee requested review of certain submitted HUD rules on the occasion of each HUD agenda submission. However, the last agenda submission to the House Banking Committee that prompted a committee response requesting review of rules was made in September 1982. The Senate Committee has requested review of certain HUD rules only once (in May 1984), the first request received from that Committee since August 1981. Each Committee, then, has made only one request for review of rules out of the five most recent agenda submissions. No regulations were requested by either Committee during 1983, nor in response to the most recent submission in January 1985.

Delay and Disruption of HUD's Regulatory Program

Since under section 7(o), the publication of rules requested from an agenda—or, more significantly in view of the record of requests described above, rules not listed on an agenda—and the effectiveness of all rules requires the passing of Congressional session days, the Department's regulatory program is closely linked to the Congressional schedule. This linkage causes enormous delays in the rule making process and distorts regulatory priorities. This past year's experience graphically illustrates both of these problems. In 1984, because of mid-session recesses, HUD was unable to plan its regulations production on the basis of a project's relative importance, but instead planned on the basis of what type of rule was being developed. For example, in July and August 1984, it was necessary for the Department to focus its drafting and reviewing resources almost entirely on rules being published for effect. These rules took precedence (without regard to their relative importance) over all other regulations projects because if they were not published by August 9, 1984, they could not take effect until March 1985. August 9 was the key day because only 30 session days remained between then and the scheduled October 1 adjournment. After August 9, It was useless to publish a final rule—it could not take effect until March 1985, no matter when in 1984 it was published. (This is because, as noted above, the 30 session days required by section 7(o) must begin all over again after an adjournment sine die.) It was also unavailing for HUD to work any time after mid-September 1984 on proposed rules that had been requested for prepublication review or that had not been listed on an agenda: their 15-day prepublication review period, if not secured by the 1984 adjournment date, could not be completed until early February.

It is apparent that HUD cannot produce regulations on a timetable keyed to the relative importance of particular policy initiatives and cannot pursue its regulatory goals with dispatch, or include a full 12-month year in its regulatory scheduling, so long as it is bound to the extraneous considerations that section 7(o) introduces into its planning processes.

The number of occasions that either Banking Committee has communicated concern about a proposed or final rule based on the section 7(o) review process is extremely small. Nevertheless, while legislative review has not been an effective means of reviewing and affecting HUD policy on the merits, it has been a success as a mechanism for delaying all rules. The delays remain whether the Committees actively participate in the review process or not.

Even without section 7(o) the Department will of course be responsive to the concerns of members of Congress. The restraints in

section 7(o) are not necessary in order to permit the Congress to take action against unpopular rules. On a few occasions when Committee members have expressed concern about proposed HUD rules, it has generally been after publication and public response, not before. Moreover, it also is clear that Congress can address its concerns through proper and constitutional legislative action. Indeed, precisely this procedure was used with respect to the only HUD rule invalidated by law after enactment of section 7(o): a rule covering HUD thermal requirements for minimum property standards, as applied to masonry construction (section 322 of the Housing Community Development Amendments of 1979).

But under section 7(o) even active Congressional opposition to a HUD regulation is not necessary to thwart HUD's rulemaking program. It is enough for either House of the Congress merely to adjourn. In October 1982, the Congress unexpectedly recessed one week ahead of its published schedule. The result was that five HUD rules that has already been published with specific effective dates had to be corrected to postpone their effectiveness from October until December 1982. There is no evidence that either Banking Committee objected to any of these rules—they were merely victims of the ponderous section 7(o) process.

Section 334(b) contains a conforming amendment to delete a reference to section 7(o) contained in the Solar Energy and Energy Conservation Bank Act.

MANUFACTURED HOMES FEES

Section 314 would amend the National Manufactured Housing Construction and Safety Standards Act of 1974 ("Title VI") to expand the purposes for which HUD may collect and use fees. Under the proposal, fees could cover HUD's costs (including costs of contractors and State agencies) of carrying out all its responsibilities under Title VI. Existing section 620 limits the collection and use of fees to carrying out Title VI inspections.

Currently, a fee of $19 per manufactured housing unit is collected in connection with inspection of the unit for compliance with safety standards that HUD has developed under Title VI. In calendar year 1985, HUD intends to issue a regulation containing a revised fee schedule. The proposed fee will be $16 per module—for example, $16 per singlewide and $32 per double-wide.

The proposed amendment reflects Administration policy to make programs providing particular services to the public self-supporting. Accordingly, HUD would use the fee collections to support the Title VI program as a whole, and not merely the inspection function alone. The functions performed under Title VI include research and development; collection of construction and safety data; and promulgation of standards for the construction, design and performance of manufactured homes to address the safety, quality, and durability needs of consumers; and implementation and enforcement of these standards, including inspections. At the revised fee level noted above, fee collections are expected to be nearly adequate to cover the expanded purposes for which the collections would be used. The fees may be adjusted from time to time, however, to achieve the goal of self-sufficiency for the program. Initially, any shortfall of collections as compared to costs would be funded by amounts collected from fees in prior years, and estimated to be available in fiscal year 1986. For fiscal year 1986 (the first full year for which the expanded authority would take effect), based on a projection of 372,000 modules to be manufactured and assuming that the revised fee schedule is in effect, collections are estimated at $5,952,000. The costs of activities under Title VI are estimated to be $6,807,000 for that year. This figure includes HUD's staff and related costs, research conducted under contracts (but not research conducted by HUD's Office of Policy Development and Research), and implementation and enforcement activities, including inspections.

The proposal would not reenact the exception under which HUD's fee imposition authority does not apply in States having HUD-approved plans for State enforcement of the manufactured home standards. The exception should not be reenacted for a number of reasons. All manufacturers and home purchasers benefit equally from the Federal standards, without regard to the State in which production of the unit or its use occurs. Similarly, the fees that have supported the inspection system, and would support all Title VI activities under the proposal, are in fact uniform nationwide and should be borne by all manufacturers of housing units, notwithstanding the State in which the plant or factory is located.

Under the current fee system, HUD and participating States share portions of the fees collected in the State. Fees have been charged to manufacturers in participating States, under State rather than HUD authority, and deleting the exception from section 620 would, as a practical matter, merely shift the authority for imposing fees in participating States to HUD. Deleting the exception would have no substantive effect, but would simplify the statute, and to some extent the administration of this aspect of the program.

DELETION OF MAXIMUM FEE FOR INTERSTATE LAND SALES REGISTRATION

Section 315 would amend section 1405(b) of the Interstate Land Sales Full Disclosure Act to delete the $1,000 maximum on the amounts of the fees that the Secretary collects for services rendered under that Act. The amendment would instead require a reasonable fee, without statutory specification of the maximum.

HUD has collected a fee from developers for registration of subdivisions since the OILSR program started, and a revised fee schedule was published in the FEDERAL REGISTER on August 6, 1984 (49 FR 31366).

The revised fee schedule, as well as the proposed amendment to section 1405(b), reflect Administration policy to make programs providing particular services to the public self-supporting. HUD has no plans to make any major further revisions in the fee schedule, even if the maximum amount is deleted, since collections based on the revised fee schedule are expected to be nearly adequate to cover costs of the Interstate Land Sales Registration program. In this regard, on the basis of an average of program activity for fiscal years 1982 through 1984, fee collections would have been $972,000 per fiscal year under the revised August 1984 fee schedule. Under this revised fee schedule, collections of $1.2 million are projected for fiscal year 1985, as compared with projected expenses for program operations of $1.3 million for the same period.

While the amounts and purposes of the foregoing fees now nearly cover the program's costs, some minor revisions may be needed in the future to close the gap between the amounts of collections and these costs. Whenever such minor revisions may be undertaken, HUD believes that the process can be better disciplined if the statute does not prevent a fee in excess of $1,000. Accordingly, deletion of the $1,000 maximum on fee amounts is proposed now, even though that ceiling is not expected to be exceeded in the foreseeable future.

If in the future it appears desirable under the foregoing Administration policy to revise the fee schedule once again, those fees currently below $1,000 on the schedule might well remain below this current maximum, since as shown below, there may be ample opportunities to adjust the fees without disturbing the $1,000 maximum for filing statements of record for large subdivisions.

Currently, the fee schedule provides for payment of $800 for filing a statement of record to register subdivisions of 200 or fewer lots, and $1,000 for subdivision of 201 or more lots. In this connection, the fixed cost component of the program's total costs related to registrations is relatively constant, notwithstanding the size of the subdivision. Variable costs, however, related mostly to enforcement, are estimated to be somewhat higher for the larger subdivisions. The difference between the fees for larger and smaller subdivisions reflects the foregoing situation. The current fee schedule also includes charges of $500 for an advisory opinion or an exemption order; $800 to keep an existing statement of record valid when 101 or more lots are unsold at the end of any year; and $800 to reactivate a suspended statement of record unless there are 100 or fewer lots covered by the statement of record.

TECHNICAL AMENDMENTS TO THE SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT

Section 316(a) would amend section 520(b)(4)(A) of the Solar Energy and Energy Conservation Bank Act to reduce the limitation on the use of funds for administrative expenses from 12 to 10 percent. The 12 percent figure (added by section 463(e) of the Housing and Urban-Rural Recovery Act of 1983) appears to be an error caused by adding the intended 10 percent set forth in earlier versions of the 1983 Act (H.R. 1, as passed by House) to the 2 percent limitation in HUD's interim rule. This corrective amendment would not affect the Secretary's existing discretionary authority to permit a higher percentage of the funds to be used for administrative expenses.

Subsection (b) would amend sections 506, 509 and 515 of the Act to correct a number of obsolete references to the Internal Revenue Code's residential energy tax credit section. Section 471 of the Deficit Reduction Act of 1984 changed the citation to that section of the Code from section 44C to section 23.

TITLE IV—RENTAL REHABILITATION AND DEVELOPMENT GRANTS

Section 401 would amend section 17 of the U.S. Housing Act of 1937 to repeal the Housing Development Grant program and to make a number of changes to the Rental Rehabilitation Grant program. Repeal of the Housing Development Grant program would further the Administration's objective of reducing the Budget deficit by cutting Federal outlays. The repeal is contained in subsection (g), with conforming changes in subsections (a), (b), (d), (e), and (h)—(k). Subsection (1) would terminate the Secretary's authority to make housing development grants on or after the effective date of section 401 (the later of October 1,

1985 or the date of enactment), except pursuant to a reservation of funds made by the Secretary of HUD before the effective date. Under 24 CFR 850.31(e), a reservation of funds occurs when HUD notifies an applicant that its project has been selected and that a certain grant amount has been set aside for it. Subsection (1) would also provide that housing development grants would be governed in the future by section 17's provisions as they existed before repeal, and that any amounts that, in the absence of the repealer, would have been available for reservation for development grants on or after the effective date would be rescinded.

As part of its deficit reduction efforts, the Administration is also proposing a two-year moratorium on new funding authorizations for the Rental Rehabilitation program. Thus, no authorization for appropriation is proposed for fiscal years 1986 and 1987. Sections 401 and 402(a) do contain, however, several substantive changes to the program.

Section (401)(h) would permit States to use rental rehabilitation grant amounts in rural areas—areas eligible for assistance under Title V of the Housing Act of 1949. Section 17(e)(1) of the 1937 Act currently prohibits use of these amounts in areas that are eligible for assistance under Title V.

Compared with the Community Development Block Grant (CDBG) program, the areas in which States may carry out rental rehabilitation activities is significantly limited. As under the CDBG program, States may not operate in localities receiving direct formula allocations, but unlike the CDBG program, they are also prohibitied from working in areas that are eligible for Farmers Home Administration assistance under Title V. The prohibition is very unpopular among States and the smaller CDBG recipients that are excluded from the Rental Rehabilitation program. As a result of the exclusion, even many communities participating in the Rental Rehabilitation Demonstration, using CDBG funds, may not participate in the Rental Rehabilitation program. From a programmatic standpoint, the intended close link between the Rental Rehabilitation and CDBG programs would be furthered by allowing rental rehabilitation eligibility for all small communities eligible for funding under the CDBG State's program.

In addition, like the proposal discussed above to provide additional funding for CDBG nonentitlement areas, this proposal would compensate for the discontinuation of the program administered by the Farmers Home Administration that is somewhat analogous to the Rental Rehabilitation program—the Rural Housing Preservation program, contained in section 533 of Title V of the Housing Act of 1949.

Section 401(c) contains a conforming amendment to remove the exclusion of data for rural areas from the rental rehabilitation grant distribution formula. This change would assure that the areas in which activities may be carried out and from which formula data are drawn would be the same.

Section 401(f) would make a number of changes to sections 17(c)(2) and (f) of the 1937 Act to refer to the property upon which assisted rehabilitation is performed as a "project" rather than a "structure." This is a technical change to make the terminology consistent throughout the Rental Rehabilitation program and to reflect the fact that the term "structure" is too limited, since assisted activities may include undertakings outside the "four walls" of the building itself and may involve more than one building under a single grant.

Section 402(a) would permit States that are Rental Rehabilitation grantees to approve local environmental certifications and release funds to localities, where the States distribute grant amounts to the localities. States already perform these responsibilities under the State's program under the CDBG authority. Under the present Rental Rehabilitation statute, HUD must perform these responsibilities with respect to localities receiving Rental Rehabilitation funds from a State.

Section 17(i)(2) of the 1937 Act generally extends to grantees under the Rental Rehabilitation program the authority to assume the Secretary of HUD's environmental review functions, through section 104(f) of the Housing and Community Development Act of 1974. Under both the CDBG and Rental Rehabilitation programs, the Secretary may approve the release of funds for particular projects only if recipients submit a certification indicating compliance with the National Environmental Policy Act of 1969 and related authorities, give public notice of their intent to request the release of funds, and submit the request to HUD. When the amendments authorizing the State's program in the CDBG program were added, section 104(f)(4) was also added to require the State receiving State's program funds under section 106(d) of that Act to perform the Secretary's duties of reviewing environmental certifications and releasing funds. Had this additional change not been made, the authority under section 104(f) would not have been sufficiently broad to permit States to perform these duties of the Secretary, and States would have had considerably less discretion and responsibility in administering the State's program.

When section 17 was added to the 1937 Act, section 17(i)(2) made the Secretary's award and grantees' use of resources generally subject to section 104(f). However, a particular reference to grants distributed to localities through the States, under section 17(e)(1)(B), paralled to the particular provision for State's program grants, was omitted. The proposal would remedy this omission, so that the State role in the environmental review processes of localities receiving rental rehabilitation grants through the States would be equivalent to the State role for CDBG grants through States to recipient localities.

Without the proposed amendment, States must pass on for HUD approval requests for the release of funds which communities participating under the State Rental Rehabilitation program are required to submit. As indicated, States already perform the Secretary's approval functions under section 104(f) for the State's program, and can readily perform the same role with respect to the State program under section 17. Having equivalent processes is essential to the efficient administration of these Rental Rehabilitation program projects. The amendment, which is in keeping with the thrusts of both section 17 and section 104(f), would avoid the cumbersome process that is otherwise required.

Sections 402(b)-(d) would make conforming changes to the 1974 Act, and delete as unnecessary the provision in section 107(d) of the 1974 Act regarding certifications of compliance with Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. Section 403 would make technical, conforming changes to sections 223(f) and 244 of the National Housing Act.●

By Mr. D'AMATO (for himself and Mrs. HAWKINS):

S. 668. A bill to provide funding for the ACTION Drug Prevention Program in the Department of Health and Human Services out of proceeds received by the Customs forfeiture fund and the Department of Justice assets forfeiture fund; to the Committee on Labor and Human Resources.

FUNDING FOR ACTION DRUG PROGRAM

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to increase annual funding for the ACTION Drug Abuse Prevention Program from $350,000 to more than $2 million. My bill creates a new funding source for an additional $2 million per year for this program: the money and property confiscated from drug traffickers. I am very pleased that the very distingiushed Senator from Florida, Senator HAWKINS, is an original cosponsor of my legislation.

In the last Congress, we provided for an expanded customs assets forfeiture fund and justice assets forfeiture fund. It is the intent of this bill to create a similar fund for our drug abuse prevention efforts.

The ACTION Drug Program has been very successful in its efforts to encourage a nationwide volunteer effort, especially among parents, to combat drug abuse. With the ability to provide only a few hundred thousand dollars in grants each year, this program has organized statewide coalitions of parents groups, and has assisted thousands of such groups nationwide. ACTION has also succeeded in involving the Elks and Lions Clubs, pharmacists and pharmaceutical companies, and the media, in a more aggressive drug prevention effort.

The purpose of my legislation is to provide this program with an increase that, first, can make a noticeable difference in the war on drugs and, second, can at the same time be quickly and easily used for a productive effect by the ACTION drug prevention program.

However, this bill is only part of what must be a comprehensive and coordinated approach to reduce this Nation's epidemic levels of drug abuse and drug-related crime. We must also have more forceful diplomatic efforts and, if necessary, the cutting off of aid to uncooperative countries. Our military must become more actively involved in an expanded and improved drug interdiction effort. We need more drug enforcement agents and prosecutors working on a criminal justice system that deters, rather than encourages, drug crime.

Most of these efforts seek to reduce the supply of drugs reaching our neighborhoods. The need to reduce the demand for drugs is equally great. Thus, I introduce this bill today to involve one of the great untapped pools

of talent and dedication for fighting drug abuse in this country, our Nation's parents.

Mr. President, I urge all my colleagues to give this bill their full support, and I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of subsection (c) of section 524 of title 28, United States Code, as added by section 310 of the comprehensive Forfeiture Act of 1984 (Public Law 98-473), is amended by inserting at the end thereof the following: "Notwithstanding the preceding sentence and as authorized in paragraph (7), there shall be up to $1,000,000 available to the Secretary of Health and Human Services for the ACTION Drug Prevention Program.".

(b) Paragraph (7) of subsection (c) of section 524 is amended to read as follows:

"(7) For fiscal years 1984, 1985, 1986, and 1987, there are authorized to be appropriated—

"(A) such sums as may be necessary for the purposes described in clauses (A), (B), (C), and (D) of paragraph (1); and

"(B) $1,000,000 for the ACTION Drug Prevention Program.

At the end of each fiscal year, any amount in the fund in excess of the amounts appropriated shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and available for appropriation in the next fiscal year.".

SEC. 2. (a) Subsection (a) of section 613a of the Tariff Act of 1930 (19 U.S.C. 1613), as added by section 317 cf the Comprehensive Forfeiture Act of 1984 (Public Law 98-473), is amended by inserting at the end thereof the following: "Notwithstanding the preceding sentence and as authorized in subsection (f), there shall be up to $1,000,000 available to the Secretary of Health and Human Services for the ACTION Drug Prevention Program.".

(b) Subsection (f) of section 613a is amended—

(1) in the first sentence by inserting after "described in" the following: "clauses (1) and (2) of"; and

(2) by inserting after the first sentence the following: "For the ACTION Drug Prevention Program, there are authorized to be appropriated from the fund for each fiscal year 1985, 1986, and 1987, not more than $1,000,000.".●

By Mr. D'AMATO:

S. 669. A bill entitled the "Correctional Facility Development Act"; to the Committee on the Judiciary.

CORRECTIONAL FACILITY DEVELOPMENT ACT

● Mr. D'AMATO. Mr. President, today I am reintroducing the Correctional Facility Development Act, which I originally introduced on April 7, 1983. Although a modified version of that Act did become law last year a part of the Comprehensive Crime Control Act, that legislation did not go far enough in assisting State and local governments. I am, therefore, reintroducing this legislation to increase Federal support for State and local prison and jail construction programs.

The new law authorizes the Director of the Bureau of Justice Assistance [BJA] to make grants of up to $25 million per year to the States to relieve overcrowding and substandard conditions at State and local prisons and jails. Under this law, grants will be awarded for up to 20 percent of the cost of construction and are subject to a determination by BJA that the project represents a prototype of new and innovative methods and advanced technology.

This last point is a most important one. It was a key provision of the bill I introduced in the last Congress. We must be extremely careful that our support for State and local construction is not used to encourage the building of overly expensive prisons that waste space and are built with unnecessarily expensive materials, according to antiquated designs.

The bill I introduce today amends the legislation passed last year in one very important respect: It raises the authorization level from $25 million to $200 million per year for 3 years. By providing up to $600 million over 3 years to cover 20 percent of the cost of State and local construction programs, this bill can leverage the construction of $3 billion worth of prison and jail facilities. This translates into 30,000 to 60,000 additional cells for dangerous criminals who would otherwise be free to prey on innocent, law-abiding citizens.

The Federal responsibility to assist State and local construction programs is clear and direct. Most dangerous crime is related to the use of, and trafficking in, drugs that the Federal Government has the duty to keep out of this country. There is also a Federal responsibility because overcrowding is due in large part to the Federal Government's failure to keep out thousands of criminals released from Castro's prisons and illegal alien felons from other nations.

Prison and jail crowding is a major threat to the safety of our citizens. In 1983 alone, 21,420 individuals were prematurely released from prison and put back on our streets because of overcrowding.

Despite enactment of emergency release legislation and an increased emphasis on alternative sentencing for nondangerous criminals, prison crowding continues to be a major problem for State and local governments.

For example, on December 7, 1984, the Governor of Michigan was notified that his State's prisons were becoming overcrowded and that he should follow the terms of the State's 1981 emergency release law. This law allows the Governor to sign an emergency order automatically reducing the sentences of all inmates by 90 days.

This time, however, the Governor refused to sign. The 1981 law had already been invoked 9 times, resulting in early releases for approximately 2,000 prisoners. It was becoming very difficult to ensure that only the nondangerous were set free. In October, a convicted murderer who had been released early was charged in the killing of a police officer and a civilian.

The Governor's decision in this case prompted the legislature to pass a law allowing the temporary use of a Detroit facility and to accelerate funding of new prison construction. The crowding crisis was averted, but only for the time being.

The Michigan Governor's dilemma is not unique. More than 30 States are under court order to relieve prison or jail overcrowding.

After all our experiments with alternatives, emergency releases, and other programs, we must inevitably recognize that thousands of dangerous criminals are still free to prey on innocent citizens because of prison and jail crowding.

We can address the crowding problem in two ways: Either we add cells or we release criminals onto the street. In November 1983, a Federal judge in New York ordered 613 prisoners released from the New York City jail at Riker's Island. Since then, one-third of those released have been arrested for new crimes, and one-third have skipped bail. The result of such releases is that the good work of law enforcement officers goes for naught. More importantly, our citizens are further terrorized.

The Justice Department, in reporting record recent drops in the crime rate, has attributed the decline, in part, to putting more criminals behind bars. By increasing the number of prison inmates from 230,000 in 1974 to 440,000 today, we have begun to cut into crime, but we have only begun. This process must be continued. Crime cannot be fought without adequate jail and prison space.

I urge my colleagues to give this legislation their full support, and I ask unanimous consent that the Correctional Facility Development Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Correctional Facility Development Act".

SEC. 2. (a) The Congress finds that—

(1) the correctional facilities operated by State and local governments in this Nation are seriously overcrowded, outmoded, and too often in badly deteriorated condition;

(2) these conditions are influencing courts and causing them to be reluctant to impose pretrial detention upon dangerous persons,

and, at the same time, are resulting in the release of tens of thousands of prisoners each year not because they have been rehabilitated or have served their sentences, but simply to relieve overcrowding;

(3) State and local governments are seriously strained to find resources to expand and improve correctional capacity; and

(4) the present outmoded, inordinately expensive design concepts for correctional facilities constitute a major impediment to expansion, renovation, and improvement of the nation's prisons and jails.

(b) It is therefore the purpose of this Act to—

(1) to provide a mechanism for creation of new designs and technology for development of additional correctional facilities and renovation of existing facilities;

(2) encourage State and local governments to take advantage of such innovations; and

(3) assist State and local governments to meet the financial burden involved in expanding and improving their correctional facilities through the use of innovative technology.

SEC. 3. Section 4351(f) of title 18, United States Code, is amended in the first sentence by striking out "The Board is" and inserting in lieu thereof the following: "The Board is authorized to appoint, without regard to the civil service laws, a technical advisory committee qualified to advise it on development of innovative methods for construction of new correctional facilities for long and short term sentenced adults, for juvenile delinquents, and for persons held in detention pending court disposition. The Board is further".

SEC. 4. Paragraph (4) of subsection (a) of section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by striking out "$25,000,000" and inserting in lieu thereof "$200,000,000".●

By Mr. PELL (for himself and Mr. WEICKER):

S. 670. A bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

PERFORMING ARTS LABOR RELATIONS AMENDMENTS

● Mr. PELL. Mr. President, today, I am introducing a bill that will provide basic employment protection to a group of employees who, for many years, has worked without the benefit of Federal safeguards. Those employees are performing artists, actors, musicians, and others who work in the fields of entertainment and the arts.

An overwhelming majority of performing artists travel from one employment engagement to another without any guarantee of continued employment, standardized wages or benefits and without a real opportunity to bargain for these benefits. Through the 1970's the National Labor Relations Board ruled that performing artists, specifically musicians, were independent contractors, and not covered by the protections of the Taft-Hartley Act. This ruling has made it impossible for these artists to bargain collectively with promoters, managers, agents, and other employers. The bill I am introducing today would allow performing artists to bargain collectively for the terms and conditions of their employment. They could bargain for health benefits, salaries, hours of work, and other items that are and have been accepted as standard matters for collective bargaining in other fields and industries.

It is unfair, Mr. President, that performing artists who work in one of the most competitive fields in the Nation have no protection under the Federal labor laws of this Nation. Performing artists as individuals have little leverage to strike a fair bargain with their employers or promoters because their employment is temporary. I believe we should grant the coverage of the labor laws to those employees who need them the most so that they can secure basic employment protections. This legislation will give performing artists the opportunity to bargain for contracts that would provide coverage under our unemployment and Social Security System, health benefits and reasonable and competitive wages. Under existing law, performers have little ability to control their working conditions and working environment governing their performances.

The performing arts always will be highly competitive, and this legislation would not change that at all. Employers would continue to have the right to select the most talented and most accomplished performers available. The legislation I have proposed would simply give performers as a group the right that groups of workers in other fields have long enjoyed—the right as a group to bargain with employers to establish minimum standards and working conditions.●

By Mr. EXON:

S. 671. A bill to authorize the Secretary of the Interior to modify the construction, operation, and maintenance of the O'Neill unit, Pick-Sloan Missouri Basin Program, NE; to the Committee on Energy and Natural Resources.

MODIFICATIONS TO O'NEILL UNIT, PICK-SLOAN MISSOURI BASIN PROGRAM

Mr. EXON. Mr. President, today I am introducing legislation requiring the Secretary of the Interior to modify the principal features of the authorized O'Neill unit of the Pick-Sloan Missouri River Basin Program, replacing the decades old dam and reservoir components of the project with an innovative ground water recharge plan.

These modifications are designed to implement the recommendations of the State-led study of less costly, less environmentally harmful alternatives as required by Public Law 98-63. This study was conducted by the State's water experts as a preliminary evaluation of workable alternatives to the use of a dam and reservoir.

The State recommends an O'Neill unit project that can be built to meet the critical irrigation needs of north central Nebraska without the use of a costly and controversial dam and reservoir. The State plan recommended to the Bureau of Reclamation could be built in a third of the time, at less than half the cost, while irrigating more land with less water and taking significantly less farmland out of production for the project's features.

The Governor of Nebraska has asked for a new consensus on the future of the O'Neill project. I firmly believe that the necessary consensus must provide for two major elements: Preservation of the existing authorization; and resolution of the conflicts and opposition to the dam and reservoir components of this decades old water project for north-central Nebraska.

This project, originally authorized in 1954 and again reauthorized in 1972, has been plagued with fatal problems. The project narrowly escaped deauthorization by the House in 1980 by only two votes. Recognizing the perils facing the authorized project, the Bereuter study of 1981 began the process of searching for a workable alternative.

An entrenched bureaucracy resisted any efforts to design a more acceptable alternative. The 1982 House vote to terminate all funding for the Norden Dam again underscored the need to find an acceptable alternative. The 1983 Exon study relied upon the State's leadership and expertise in advancing an economical and environmentally sound alternative.

This study, conducted by the director of the Nebraska Department of Water Resources was released on January 31, 1985. The report, entitled "Nebraska State-led O'Neill Unit Alternatives Study" provides the basis of the changes to the O'Neill unit which my legislation seeks to implement.

The search for alternatives, initiated at our urgings, is based upon a firm belief that failure to do so will end all water development opportunities for north central Nebraska.

I greatly appreciate the Bureau's recent recognition that alternatives which meet the critical irrigation needs of north central Nebraska without the use of a costly dam and reservoir must now be considered if we are to have any project at all. Our choice is not between the Norden Dam or an alternative. The choice, quite simply, is between an alternative or nothing at all.

The time is now clear that the original decades-old concept for the O'Neill unit will never prevail. I am proposing legislation to modify the features of the authorized project, eliminating the dam and reservoir and replacing those features with groundwater recharge components consistent with the State's recommendations.

Once those changes are in place, the authorization will be preserved from future challenges by those who object not so much to a project as to the dam and reservoir components of that project. Once those changes are made, the Bureau can proceed with detailed studies to design and construct a project as they have proposed.

This project can offer benefits to the entire Nation. As the report of the Six-State High Plains Ogallala Aquifer study noted, future agricultural production will be drastically curtailed due to our depleting groundwater resources. With over 40 percent of agricultural production dependent upon groundwater supplies, new, less costly methods of developing groundwater are imperative.

Mr. President, this offers a unique opportunity for the future of water development in our Nation. It is an opportunity for the decades-old Bureau of Reclamation to move forward into the future. We have been building water projects over the past 80 years in the same way, using costly and controversial surface impoundments. This legislation offers an opportunity to head down a new, more affordable water development path.

This legislation will reduce the cost of this water project by more than half of the original cost. With Federal dollars becoming more constrained, these modifications to the authorized project may offer a model for other Federal projects using new technology to meet an age-old problem in a less costly and less environmentally harmful manner.

In light of projected water needs and future domestic and international demand for grain, we must make good use of otherwise lost water resources. The ultimate goal of the O'Neill unit was always to provide irrigation water to north central Nebraska. This continues to be the goal. The dam and reservoir was only a means to that end, and not the end itself.

In a recent letter to me, Robert Olson, Commissioner of the Bureau of Reclamation, stated that the Department fully supports the effort to find a cost-effective and environmentally sound alternative to the Norden Dam component of the O'Neill unit. He described the State's alternative as being innovative and representing an exciting challenge in water resources development.

I commend the leadership efforts of this matter by the Department of the Interior under Secretary Don Hodel in recognizing the future direction of water development in this Nation.

Certainly, this new direction for the O'Neill unit would not be entirely possible without the support of the local reclamation district as well. It has been a long and trying journey for these Nebraskans who have been waiting 30 years for this project.

In addition, this project is located on the Niobrara River, the only remaining east-west running river on the northern Great Plains unimpeded by a major reservoir. The 100th meridian passes north to south near the proposed Norden Dam site through an area long recognized as biologically unique. This area would have been totally inundated by the proposed dam and reservoir. Now it can be preserved for future generations.

Mr. President, I urge the Senate's favorable and prompt consideration of this legislation which, not only will save the Nation's taxpayers hundreds of millions of dollars but will also help pave the way for affordable and environmentally sound water development in the years ahead.

By Mr. HEFLIN:

S. 673. A bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes; to the Committee on the Judiciary.

ADMINISTRATIVE LAW JUDGE CORPS ACT

● Mr. HEFLIN. Mr. President, I rise today to introduce legislation which will establish an independent corps of administrative law judges. The purpose of the corps is twofold: It would provide needed independence for administrative law judges and would generate significant cost savings and efficiencies in our administrative system.

In 1946, the enactment of the Administrative Procedure Act [APA] brought much-needed reform to our Federal administrative system and provided necessary protections for administrative law judges. Since that time, the number of administrative law judges has proliferated, greatly expanding their authority. The time has come to continue the reform begun in 1946.

Today, administrative law judges serve in a quasi-judicial capacity. They preside over hearings between individuals and Federal agencies which require a formal hearing record.

Administrative law judges issue subpoenas, rule on evidence, make findings of fact and conclusions of law and arrive at an initial decision in a case. The descision of the administrative law judge becomes final if not appealed by the parties or if the agency does not review the case itself.

The types of proceedings heard by administrative law judges have changed over the past 30 years. The emphasis has moved from regulatory policy decisions to decisions involving enforcement actions and benefits cases. Administrative law judges are the trier of facts in the administrative arena—an arena that may be the only "courtroom" some individuals will ever encounter.

I believe that the decisions rendered in these arenas should be adjudicated in an independent atmosphere free of bias, in order to ensure fairness and maintain credibility. These judical officers must be free from any association or personal obligation to any party, in order that every litigant will be afforded due process.

The corps would ensure that administrative law judges will no longer be subject to the potential bias of a particular agency—bias which whether actual or perceived, nonetheless weakens the public's perception of administrative justice.

The corps would consist of all current and future administrative law judges. Judges would continue to have jurisdiction over proceedings and adjudications as granted under the APA. In addition, the corps may accept any other case referred to the corps by any Federal agency or court desiring to make a decision based on a record developed at a hearing. Administrative law judges would continue to be selected under the present merit system, but instead of the "rule of three," selection would be from the top five persons on the register. This will provide a greater diversity in the selection of administrative law judges.

The chief administrative law judge shall be appointed by the President with the advice and consent of the Senate and serve for a 5-year term as chief administrative officer of the corps. A judicial nomination commission would recommend to the President three candidates for the position. The integrity of the merit system is maintained by requiring the candidate to be an administrative law judge for 5 years preceding the appointment.

Initially, the corps would be divided into seven divisions, in keeping with the major specialties of administrative law. The number of divisions may be increased to not more than 10 or decreased to not less than 4, at the discretion of the council. Each administrative law judge will be assigned to a division after considering the judge's experience and expertise.

A division chief judge shall supervise each division. The first division chief judges will be nominated by the judicial nomination commission and appointed by the President with the advice and consent of the Senate. Thereafter, division chief judges will be appointed by the chief judge with the approval of the council.

The policymaking body of the corps shall be the council, which will be composed of the chief judge and the division chief judges. This council

would have authority over all policy decisions, the creation of divisions, and the appointment, assignment, transfers, and reassignment of judges. The council may also prescribe the rules of practice and procedure for the conduct of proceedings and business before the corps.

This measure further provides for the appointment of a five-member judicial nomination commission which shall submit the names of qualified nominees for appointment to the position of chief judge and division chief judges. Also contained in this bill are procedures for more effective removal and discipline of administrative law judges.

The chief administrative law judge will submit an evaluation report on each division to the President and Congress not later than 2 years after the effective date of this act. Provision is also made for the transfer of all functions performed by administrative law judges to the corps, as well as personnel, assets, liabilities, property, and unexpended funds. Any pending procedures shall be continued before the corps.

Centralization under the corps concept would clearly reduce administrative costs and would provide judges with the opportunity to participate in increased areas of administrative adjudication.

Several States have implemented similar systems assigning administrative law judges to a single, central panel that provides trial services to various agencies. Each State has reported improved public confidence in the system and achieved dramatic cost reductions.

I introduced a similar bill, S. 1275, in the 98th Congress, which was reported by the Subcommittee on Administrative Practice and Procedure. S. 1275 was supported by each of the three organizations which represent administrative law judges: The Federal Administrative Law Judges Conference, the National Conference of Administrative Law Judges, and the Association of Administrative Law Judges, Inc.

The States have taken the necessary steps toward improving the public's perception of a fair and impartial administrative system. It is time for the Federal Government to accept this same responsibility.

The bill I am offering today is a positive step in that direction. This legislation will help ensure that our system of administrative justice is indeed just.

I urge my colleagues in the Senate to support this vital legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Administrative Law Judge Corps Act".

ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE CORPS

SEC. 2. Title 5, United States Code, is amended by redesignating subchapter III of chapter 5 as subchapter IV and by inserting a new subchapter III to read as follows:

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGE CORPS

"§ 561. Definitions

"For the purposes of this subchapter—

"(1) 'agency' means an authority referred to in section 551(1) of this title;

"(2) 'Corps' means the Administrative Law Judge Corps of the United States established under section 562 of this title;

"(3) 'administrative law judge' means an administrative law judge appointed under section 3105 of this title on or before the effective date of the Administrative Law Judge Corps Act or under section 567 of this title after such effective date;

"(4) 'chief judge' means the chief administrative law judge appointed and serving under section 563 of this title;

"(5) 'Council' means the Council of the Administrative Law Judge Corps established under section 565 of this title;

"(6) 'Nomination Commission' means the Judicial Nomination Commission for the Administrative Law Judge Corps established under section 566 of this title;

"(7) 'Board', unless otherwise indicated, means the Complaints Resolution Board established under section 569 of this title; and

"(8) 'division chief judge' means the chief administrative law judge of a division appointed and serving under section 564 of this title.

"§ 562. Establishment; membership

"(a) There is established an Administrative Law Judge Corps consisting of all administrative law judges, and such Corps shall be located at the seat of Government.

"(b) An administrative law judge serving as such on the date of the commencement of the operation of the Corps shall be transferred to the Corps as of that date. An administrative law judge who is appointed on or after the date of the commencement of the operation of the Corps shall be a member of the Corps as of the date of such appointment.

"§ 563. Chief administrative law judge

"(a) The chief administrative law judge shall be the chief administrative officer of the Corps and shall be the presiding judge of the Corps. The chief judge shall be nominated as prescribed in section 566 of this title and shall be appointed by the President, by and with the advice and consent of the Senate. The chief judge must be an administrative law judge who has served as an administrative law judge for at least five years preceding the date of appointment as chief judge. The chief judge shall serve for a term of five years or until a successor is appointed and qualifies to serve. A chief judge may be reappointed upon the expiration of his term, by and with the advice and consent of the Senate, if nominated for reappointment in accordance with section 566 of this title.

"(b)(1) If the office of chief judge is vacant, the division chief judge who is senior in length of service as a member of the Council shall serve as acting chief judge until such vacancy is filled.

"(2) In the event that two or more division chief judges have the same length of service as members of the Council, such division chief judge who is senior in length of service as an administrative law judge shall serve as such acting chief judge.

"(c) The chief judge shall, within ninety days after the end of each fiscal year, make a written report to the President and the Congress concerning the business of the Corps during the preceding fiscal year. The report shall include information and recommendations of the Council concerning the future personnel requirements of the Corps. If the Council recommends the appointment of an administrative law judge to add a new position to the Corps, or to fill a vacancy caused by retirement, resignation, removal or death of such judge, the chief judge shall submit information substantiating the need for such appointment.

" (d) After serving as chief judge, such individual may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 569.

"§ 564. Divisions of the Corps; division chief judges

"(a) The Corps shall have not more than ten and not less than four divisions. Each judge of the Corps shall be assigned to a division. The assignment of a judge who was an administrative law judge on the date of commencement of the operation of the Corps shall be made after consideration of the areas of specialization in which the judge has served. Each division shall be headed by a division chief judge who shall exercise administrative supervision over the administrative law judges assigned to such division.

"(b) Except as provided in subsection (a), and after the initial appointment of a division chief judge as provided in subsection (c), and the establishment of each division pursuant to this subsection, the number of divisions and the jurisdiction of each division shall be determined by the Council. Until changed by the Council, the divisions of the Corps shall be as follows:

"(1) Division of Communications, Public Utility, and Transportation Regulation.

"(2) Division of Health, Safety, and Environmental Regulation.

"(3) Division of Labor.

"(4) Division of Labor Relations.

"(5) Division of Benefits Programs.

"(6) Division of Securities, Commodities, and Trade Regulation.

"(7) Division of General Programs and Grants.

"(c)(1) Each division chief judge shall be nominated as prescribed in section 566 of this title. The first division chief judge of each division set forth in subsection (b) shall be appointed by the President, by and with the advice and consent of the Senate. After such initial appointments, each division chief judge shall be appointed by the chief judge, with the approval of the Council.

"(2) To be eligible for nomination and appointment as a division chief judge, an individual must have served as an administrative law judge for at least five years and should possess experience and expertise in the specialty of the division to which such person is appointed.

"(3)(A) Division chief judges shall be appointed for five-year terms except that of those division chief judges first appointed

the President shall designate two such individuals to be appointed for five-year terms, three for four-year terms, and two for three-year terms.

"(B) If the number of divisions provided for under this subsection is increased, the initial appointment of a division chief judge to a new division shall be made for a term of no more than five years, such that the terms of no more than four of such division chief judges expire in any one year.

"(4) Any division chief judge appointed to fill an unexpired term shall be appointed only for the remainder of such predecessor's term, but may be reappointed as provided in paragraph (5).

"(5) Any division chief judge may be reappointed upon the expiration of his term if nominated for such appointment pursuant to section 566.

"(6) Any judge, after serving as division chief judge may continue to serve as an administrative law judge unless such individual has been removed from office in accordance with section 569.

"§ 565. Council of the Corps

"(a) The policymaking body of the Corps shall be the Council of the Corps. The chief judge and the division chief judges shall constitute the Council. The chief judge shall preside over the Council. If the chief judge is unable to be present at a meeting of the Council, the division chief judge who is senior in length of service as a member of such Council shall preside.

"(b) One half of all of the members of the Council shall constitute a quorum for the purpose of transacting business. The affirmative vote by a majority of all the members of the Council shall be required to approve a matter on behalf of the Council. Each member of the Council shall have one vote.

"(c) Meetings of the Council shall be held at least once a month at the call of the chief judge or by a majority of the Council.

"(d) The Council is authorized—

"(1) to assign judges to divisions and transfer or reassign judges from one division to another, subject to the provisions of section 567 of this title;

"(2) to create or reconstitute divisions of the Corps or abolish any such division effective at the expiration of the term of the division chief judge for such division;

"(3) to appoint persons as administrative law judges and members of the Corps under section 567 of this title;

"(4) to file charges seeking adverse action against an administrative law judge under section 569 of this title;

"(5) subject to the provisions of subsection (e), to prescribe, after providing an opportunity for notice and comment, the rules of practice and procedure for the conduct of proceedings before the Corps, except that, with respect to a category of proceedings adjudicated by an agency before the effective date of the Administrative Law Judge Corps Act, the Council may not amend or revise the rules of practice and procedure prescribed by that agency during the two years following such effective date without the approval of that agency, and any amendments or revisions made to such rules shall not effect or be applied to any pending action;

"(6) to issue such rules and regulations as may be appropriate for the efficient conduct of the business of the Corps and the implementation of this subchapter, including the assignment of cases to administrative law judges;

"(7) to determine all other matters of general policy of the Corps;

"(8) subject to the civil service and classification laws and regulations, to select, appoint, employ, and fix the compensation of the employees (other than administrative law judges) that they deem necessary to carry out the functions, powers, and duties of the Corps and to prescribe the authority and duties of such employees;

"(9) to establish, abolish, alter, consolidate, and maintain such regional, district, and other field offices as are necessary to carry out the functions, powers, and duties of the Corps and to assign and reassign employees to such field offices;

"(10) to procure temporary and intermittent services under section 3109 of this title;

"(11) to enter into, to the extent or in such amounts as are authorized in appropriation Acts, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), contracts, leases, cooperative agreements, or other transactions that may be necessary to conduct the business of the Corps;

"(12) to delegate any of the chief judge's functions or powers with the consent of the chief judge, or whenever the office of such chief judge is vacant, to one or more division chief judges or to other officers or employees of the Corps, and to authorize the redelegation of any of those functions or powers;

"(13) to make suitable arrangements for continuing judicial education and training for judges of the Corps; and

"(14) to provide for the training of other employees of the Corps.

"(e) The Council shall select an official seal for the Corps which shall be officially noticed.

"§ 566. Judicial Nomination Commission

"(a) There is established a Judicial Nomination Commission for the Administrative Law Judge Corps. The Nomination Commission shall consist of five members selected as provided in subsection (b). The Nomination Commission shall submit the names of qualified nominees for appointment to the position of chief judge and positions as division chief judges.

"(b) Each of the following persons shall appoint one member to the Nomination Commission within thirty days after the effective date of the Administrative Law Judge Corps Act:

"(1) The chief judge of the United States Court of Appeals for the District of Columbia Circuit.

"(2) The chief judge of the United States District Court for the District of Columbia.

"(3) The Chairman of the Administrative Conference of the United States.

"(4) The President of the American Bar Association.

"(5) The President of the National Bar Association, Incorporated.

"(c)(1) The persons first appointed pursuant to paragraphs (1) and (2) of subsection (b) shall each serve for a term of three years.

"(2) The person first appointed pursuant to paragraph (3) of subsection (b) shall serve for a term of two years.

"(3) The persons first appointed pursuant to paragraphs (4) and (5) of subsection (b) shall each serve for a term of one year.

"(d)(1) Subject to the provisions of this subsection, a vacancy on the Nomination Commission shall be filled in the same manner as the original appointment. An officer or employee of the United States may be a member of the Commission. The Commission shall select one of its members to be the Chairman.

"(2) Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

"(3) Each person appointed pursuant to this section after the initial appointments made in accordance with subsection (c) shall be appointed for a term of three years.

"(e)(1) For the initial appointment of the chief judge or, in the event of a subsequent vacancy in such position prior to the end of the term of such judge, the Nomination Commission, within ninety days after the effective date of the Administrative Law Judge Corps Act or sixty days after notification by the acting chief judge that a vacancy has occurred, as the case may be, shall submit to the President for appointment a list of the names of three persons qualified to fill the vacancy.

"(2) Not less than sixty days before the term of the chief judge expires, the Nomination Commission shall submit to the President for appointment a list of the names of three persons, one of whom may be the incumbent chief judge, who are qualified to be the chief judge.

"(3) For the initial appointment of the division chief judges, the Nomination Commission, within ninety days after the effective date of the Administrative Law Judge Corps Act, shall submit to the President for appointment a list of the names of three persons qualified to fill such positions.

"(4) If there is a vacancy in a position of division chief judge, the chief judge shall notify the Chairman of the Nomination Commission within ten days after such vacancy occurs. Within sixty days after such notice, the Nomination Commission shall submit to the chief judge for appointment a list of the names of three persons qualified to fill the vacancy.

"(5) The President, by and with the advice and consent of the Senate, or chief judge, as the case may be, shall appoint judges pursuant to this subsection from the lists provided by the Nomination Commission. The President, or the chief judge, as appropriate, may, however, reject any list provided for any position and request that such Commission submit another list for any such position.

"(f)(1) A member of the Nomination Commission who is an officer or employee of the United States shall not receive additional compensation while serving as a member of such Nomination Commission. Other members of the Commission shall receive compensation at the daily equivalent of the rate provided for employees in grade GS-18 of the General Schedule, established under section 5332 of this title, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member shall not be deemed an officer or employee of the United States solely by reason of his or her service as a member of the Nomination Commission.

"(2) All agencies of the United States shall provide, to the extent allowed by law, to the Nomination Commission the assistance and facilities that the Nomination Commission requests, including access to records and other information pertaining to prospective nominees, to enable the Nomination Commission to perform its functions. Records and information so furnished shall be treated as privileged and confidential by the Nomination Commission.

"(3) Funds appropriated to conduct the general operations of the Corps may be expended to defray the expenses of the Nomination Commission.

"§ 567. Appointment and transfer of administrative law judges

"(a) After the initial establishment of the Corps, the Council shall appoint new or additional judges as may be necessary for the efficient and expeditious conduct of the business of the Corps. Appointments shall be made from a register maintained by the Office of Personnel Management under subchapter I of chapter 33 of this title. Upon request by the chief judge, the Office of Personnel Management shall certify enough names from the top of such register to enable the Council to consider five names for each vacancy. Notwithstanding section 3318 of this title, a vacancy in the Corps may be filled from the highest five eligible individuals available for appointment on the certificate furnished by the Office of Personnel Management.

"(b) A judge of the Corps may not perform or be assigned to perform duties inconsistent with the duties and responsibilities of an administrative law judge.

"(c) A judge of the Corps on the date of commencement of operation of the Corps may not thereafter be involuntarily reassigned to a new permanent duty station that is beyond commuting distance of the judge's permanent duty station on that date, unless the Council determines and submits a written explanation to the judge stating, that such reassignment is required to meet substantial changes in workloads. A judge may be temporarily detailed, once in a twenty-four-month period, to a new duty station, at any location, for a period of not more than one hundred and twenty days.

"§ 568. Jurisdiction

"(a) Except as provided in subsection (c), an administrative law judge who is a member of the Corps shall hear and render a decision upon—

"(1) every case of adjudication subject to the provisions of section 554 of this title;

"(2) every case in which hearings are required by law to be held in accordance with section 554 or section 556 of this title; and

"(3) every other case referred to the Corps by an agency or court in which a determination is to be made on the record after an opportunity for a hearing.

"(b) When a case under subsection (a) arises, it shall be referred to the Corps. Under regulations issued by the Council the case shall be assigned to an administrative law judge. Administrative law judges shall be assigned to cases within their division in rotation, so far as practicable.

"(c) Notwithstanding subsection (a) or (b)—

"(1) the agency, or one or more members of the body that comprises the agency, may hear the case and render the decision thereon in accordance with section 566 of this title; or

"(2) an agency may provide for omission of the decision of the administrative law judge in accordance with section 557(b)(2) of this title.

"(d) Federal agencies and courts are hereby authorized to refer to the Corps any other case where a determination on the record after an opportunity for a hearing by a judge of the Corps is found by such court or agency to be desirable and appropriate.

"§ 569. Removal and discipline

"(a) Except as provided in subsection (b) of this section—

"(1) an administrative law judge may not be removed, suspended, reprimanded, or disciplined except for misconduct, incompetence, or neglect of duty but may be removed or suspended for physical or mental disability; and

"(2) an action specified in paragraph (1) of this subsection may be taken against an administrative law judge only after the Council has filed a notice of adverse action against the administrative law judge with the Merit Systems Protection Board and the Board has determined, on the record after an opportunity for a hearing before the Board, that there is good cause to take such action.

"(b) Subsection (a) does not apply to—

"(1) the replacement or reassignment of a division chief judge as provided in section 565(d) of this title; and

"(2) an action initiated under section 1206 of this title.

"(c) Under regulations issued by the Council a Complaints Resolution Board shall be established within the Corps to consider and to recommend appropriate action to be taken upon complaints by any interested person including parties, practitioners, and agencies, against the official conduct of judges.

"(d) The Board shall consist of two judges from each division of the Corps appointed by the Council. The chief judge and the division chief judges may not serve on the Board.

"(e) A complaint of misconduct on the part of an administrative law judge must be made in writing. The complaint shall be filed with the chief judge, or it may be originated by the chief judge on his own motion. The chief judge shall refer the complaint to a panel consisting of three members of the Board selected by the Council, none of whom serves in the same division as the administrative law judge who is the subject of the complaint. The administrative law judge who is the subject of the complaint shall be given notice of the complaint and the composition of the panel. The administrative law judge may challenge peremptorily not more than two members of the panel. The Council shall replace a challenged member with another member of the Board who is eligible to serve on such panel.

"(f) The panel shall inquire into the complaint and shall render a report thereon to the Council. A copy of the report shall be provided concurrently to the administrative law judge who is the subject of the complaint. The report shall be advisory only.

"(g) The proceedings, deliberations, and reports of the Board and the contents of complaints under this section shall be treated as privileged and confidential. Documents considered by the Board and reports of the Board are exempt from disclosure or publication under section 552 of this title. Section 552b of this title does not apply to the Board.".

AGENCY REVIEW STUDY AND REPORT

SEC. 3. The chief administrative law judge of the Administrative Law Judge Corps of the United States shall make a study of the various types and levels of agency review to which decisions of administrative law judges are subject. A separate study shall be made for each division of the Corps. The studies shall include monitoring and evaluating data and shall be made in consultation with the division chief judges, the Chairman of the Administrative Conference of the United States, and the agencies that review the decisions of administrative law judges. Not later than two years after the effective date of this Act, the Council shall report to the President and the Congress on the findings and recommendations resulting from the studies. The report shall include recommendations, including recommendations for new legislation, for any reforms that may be appropriate to make review of administrative law judges' decisions more efficient and meaningful and to accord greater finality to such decisions.

TRANSITION AND SAVINGS PROVISIONS

SEC. 4. (a) There are transferred to the administrative law judges of the Administrative Law Judge Corps established by section 562 of title 5, United States Code (as added by section 2 of this Act), all functions performed on the day before the effective date of this Act by the administrative law judges appointed under section 3105 of such title before the effective date of this Act.

(b) With the consent of the agencies concerned, the Administrative Law Judge Corps of the United States may use the facilities and the services of officers, employees, and other personnel of agencies from which functions and duties are transferred to the Corps for so long as may be needed to facilitate the orderly transfer of those functions and duties under this Act.

(c) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions, offices, and agencies transferred by this Act, are, subject to section 1531 of title 31, United States Code, correspondingly transferred to the Corps for appropriate allocation.

(d) The transfer of personnel pursuant to subsection (b) of this section shall be without reduction in classification or compensation for one year after such transfer.

(e) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions, offices, agencies, or portions thereof, transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, agencies, or portions thereof, as may be necessary to carry out the provisions of this Act. The Director shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this Act, and for the termination of the offices and agencies specified in this Act.

(f) All orders, determinations, rules, regulations, certificates, licenses, and privileges which have been issued, made, granted, or allowed to become effective in the exercise of any duties, powers, or functions which are transferred under this Act and are in effect at the time this Act becomes effective shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Administrative Law Judge Corps of the United States or a judge thereof in the exercise of authority vested in the Corps or its members by this Act, by a court of competent jurisdiction, or by operation of law.

(g) Except as provided in subsections (d)(5) and (e) of section 565 of title 5, United States Code, this Act shall not affect

any proceeding before any department or agency or component thereof which is pending at the time this Act takes effect. Such a proceeding shall be continued before the Administrative Law Judge Corps of the United States or a judge thereof, or, to the extent the proceeding does not relate to functions so transferred, shall be continued before the agency in which it was pending on the effective date of this Act.

(h) No suit, action, or other proceeding commenced before the effective date of this Act shall abate by reason of the enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and subchapter III of title 5, United States Code (as added by section 2 of this Act).

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6. Title 5, United States Code, is amended as follows:

(1) Section 573(b) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and inserting a new paragraph (4) to read as follows:

"(4) the chief administrative law judge of the Administrative Law Judge Corps of the United States;".

(2) Section 3105 is amended to read as follows:

"§ 3105. Appointment of administrative law judges

"Administrative law judges shall be appointed by the Council of the Administrative Law Judge Corps pursuant to section 567 of this title.".

(3) Section 3344 and any references to such section are repealed.

(4) The table of sections for chapter 33 is amended by striking out the item relating to section 3344.

(5) The tables of contents of this title and of chapter 5 thereof each are amended by—

(A) redesignating subchapter III as subchapter IV; and

(B) inserting after the item relating to section 559 the following:

(6)(A) Subchapter III of chapter 75 of title 5, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 75 of title 5, United States Code, is amended—

(i) by striking out the items relating to subchapter III and section 7521;

(ii) by striking out "Subchapter IV" and inserting in lieu thereof "Subchapter III"; and

(iii) by striking out "Subchapter V" and inserting in lieu thereof "Subchapter IV".

(7) Section 5314 is amended by adding at the end thereof the following:

"Chief Administrative Law Judge of the Administrative Law Judge Corps".

(8) Section 5315 is amended by adding at the end thereof the following:

"Division Chief Judges of the Administrative Law Judge Corps".

(9) Section 5316 is amended by adding at the end thereof the following:

"Administrative Law Judges in the Administrative Law Judge Corps.".

(10)(A) Section 5372 is repealed.

(B) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 5372.

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGE CORPS

"Sec.

"561. Definitions.

"562. Establishment; membership.

"563. Chief administrative law judge.

"564. Divisions of the Corps; division chief judges.

"565. Council of the Corps.

"566. Judicial Nomination Commission.

"567. Appointment and transfer of administrative law judges.

"568. Jurisdiction.

"569. Removal and discipline.".

OPERATION OF THE CORPS

SEC. 7. Operation of the Corps shall commence on the date the first chief administrative law judge of the Corps takes office.

CONTRACT DISPUTES ACT

SEC. 8. Nothing in this Act or the amendments made by this Act shall be deemed to affect any agency board established pursuant to the Contract Disputes Act (41 U.S.C. 601), or any other person designated to resolve claims or disputes pursuant to such Act.

EFFECTIVE DATE

SEC. 9. Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.●

By Mr. MATHIAS (for himself, Mr. KENNEDY, Mr. HEINZ, Mr. SPECTER, Mr. LEAHY, Mr. STAFFORD, Mr. METZENBAUM, Mr. PACKWOOD, Mr. CRANSTON, Mr. CHAFEE, Mr. PROXMIRE, Mr. ANDREWS, Mr. CHILES, Mr. HATCH, Mr. RIEGLE, Mr. TRIBLE, Mr. SARBANES, Mr. GORTON, Mr. LEVIN, Mr. DURENBERGER, Mr. MATSUNAGA, Mr. BOSCHWITZ, Mr. DODD, Mr. ABDNOR, Mr. WILSON, Mr. DANFORTH, Mr. ZORINSKY, Mr. BRADLEY, Mr. MITCHELL, Mr. DECONCINI, and Mr. BURDICK):

S.J. Res. 79. Joint resolution to designate April 1985, as "Fair Housing Month"; to the Committee on the Judiciary.

FAIR HOUSING MONTH

● Mr. MATHIAS. Mr. President, April marks the 17th anniversary of the enactment of the Fair Housing Act—title VIII of the Civil Rights Act of 1968.

The Fair Housing Act represents a commitment by our Government to assure that all Americans have an opportunity to realize one of the most important American dreams—to live in a community without reference to race, color, religion, sex, or national origin.

Passed soon after the assassination of Dr. Martin Luther King, Jr., the act reflects a deep commitment to basic human rights. However, it is a tragic fact that it took a martyrdom and growing civil unrest to spur the Congress and the President to action.

Unfortunately, the Fair Housing Act is less than meets the eye. Despite broad statements outlawing housing discrimination, the act lacks a workable enforcement mechanism to provide swift justice for individual discrimination complaints. It is high time for the Congress to pierce the veil. We must ensure that housing discrimination in a business-as-usual manner is eradicated. The Fair Housing Amendments Act would accomplish this. I will soon reintroduce this legislation on behalf of a broad bipartisan cosponsorship. I look forward to support from the administration to move this bill through the legislative process in a concerted joint effort.

We cannot rely solely on the good intentions of the private marketplace, voluntarism, and public relations efforts to bring about true equal access to housing for all Americans. The Government has the responsibility to see that no American is treated unfairly in his quest for a decent home in a community of his choice.

We are entrusted with the duty to ensure that the law of the land—the Fair Housing Act—is enforced. The Government should be equipped with cease and desist authority to hold a housing unit in question off the market while conciliation efforts are made. The time period in which a person files a charge of housing discrimination and HUD or a certified State or local agency investigates the charge needs to be expanded. Penalties for violations of the fair housing law need to be strengthened. We need to ensure protection of handicapped persons and families with children. We need an enforcement process that is speedy, inexpensive, and fair to all parties and which does not further clog and burden our courts.

The elimination of housing discrimination ought to be a fact of life by now. But it is not. Will we only act as a result of a national tragedy? Will we pretend that the problem isn't serious and widespread or that it does not exist?

Mr. President, I now introduce a joint resolution to designate April 1985 as National Fair Housing Month. I request that text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 79

Whereas the year 1985 marks the 17th anniversary of the passage of Title VIII of the Civil Rights Act of 1968 as amended (commonly referred to as the "Federal Fair Housing Act"), declaring a national policy to provide for fair housing throughout the United States;

Whereas the Federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin;

Whereas fairness is the foundation of our way of life and reflects the best of our traditional American values;

Whereas invidious discriminatory housing practices undermine the strength and vitality of America and her people; and

Whereas in this 17th year since the passage of the Federal Fair Housing Act, we must work to strengthen enforcement of fair housing laws for all Americans so as to

make the ideal of fair housing a reality: Now, therefore, be it

Resolved by the Senate (the House of Representatives of the United States in Congress assembled concurring), That the month of April, 1985, is designated Fair Housing Month. The President is authorized and requested to issue a proclamation designating April as Fair Housing Month and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that month with appropriate ceremonies and activities.●

● Mr. HEINZ. Mr. President, Senator MATHIAS and I are pleased to introduce today a Senate joint resolution designating April 1985 as "Fair Housing Month."

For the past 50 years the Federal Government has played a significant role in expanding housing opportunities for low- and moderate-income families. The passage of the Fair Housing Act of 1968 was an important building block in the gradual evolution of an overall Federal housing policy. In essence, this act protected the rights of free choice in the housing market, and attempted to prevent overt discrimination and assure equal opportunities in housing for all people.

Although this principle is fundamental and had been protected by law for the past 17 years, there is little doubt that progress in some areas has been slow, and our ability to enforce many provisions of the law has been difficult. Subtle barriers to freedom of housing choice in such areas as mortgage or insurance redlining can be more difficult to identify and overcome. In addition, the market often does not meet the needs of those with special housing requirements and consequently deprives them of the range of choice available to others.

For an aggrieved individual, there are few avenues for redress. Despite congressional intent to prohibit the insidious indignity of the discrimination with regard to access to shelter, it is widespread and prevalent. While the law provides a substantive remedy in cases of fair housing violations, it provides the Secretary of HUD only conciliation authority to resolve individual complaints.

Mr. President, during the 98th Congress, I was proud to be one of the original cosponsors of the Fair Housing Amendments Act of 1983. Among other items, that bill would have provided for increased enforcement powers in the Office of the Attorney General. The resolution that we introduce today seeks to expand our awareness—and that of this Nation—for the need to strengthen the enforcement of America's fair housing laws.

The promise of decent shelter has been an enduring dream for all Americans, but the reality for too many citizens has been otherwise. Despite the commitment of this Nation to provide every American family a decent home and suitable living environment, many of our fellow citizens, particularly those who are female heads of family, handicapped, or minority, have encountered hatred rather than a decent shelter.

While Federal and State regulations, enforcement mechanisms, and disclosure requirements are necessary tools to eliminate unfair housing practices, only through our continued persistence and a concerted effort by the private sector can the promise of equal opportunity in housing be fulfilled.

Mr. President, this Nation needs to give more than lip service to its principles. Its very strength is in the promise of equal opportunity for all. I am proud to cosponsor this important resolution which reaffirms the commitments we made 17 years ago, and urge my colleagues to join in ensuring swift passage of this measure.●

By Mr. THURMOND (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. LAXALT, Mr. KENNEDY, Mr. LEAHY, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. CRANSTON, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HELMS, Mr. INOUYE, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MOYNIHAN, Mr. NUNN, Mr. STAFFORD, and Mr. STEVENS.

S.J. Res. 80. Joint resolution to authorize and request the President to designate the month of May 1985, as "National Physical Fitness and Sports Month"; to the Committee on the Judiciary.

NATIONAL PHYSICAL FITNESS AND SPORTS MONTH

Mr. THURMOND. Mr. President, again this year, I am pleased to introduce, along with 25 of my colleagues, including 6 distinguished members of the Committee on the Judiciary, a joint resolution designating the month of May as "National Physical Fitness and Sports Month."

We no longer view physical exercise as solely for entertainment purposes. In the past few decades, a large segment of the population of this country has become conscious of, and involved in the evergrowing fitness movement. Physical activity should be an important part of life each day for persons of all ages and abilities.

Interest in sports begins at an early age. Nearly 30 million boys and girls take part in age-grouped team sports and other organized out-of-school physical activity. More than 6 million teenagers and over 600,000 college students compete in interscholastic and intramural athletic programs.

One of every two adults in the United States engages regularly in some type of exercise and/or sports. A third of us swim; a fourth ride bicycles; and a fifth play one of the racket sports. More than 20 million people in this country run. The number of physically active women and men has doubled in 10 years and continues to grow rapidly.

Not only are fitness and sports programs a source of pleasure and personal satisfaction by which we refresh and strengthen ourselves, but they also are good preventive programs of health care. Therefore, it is essential that we publicize fitness programs, designed to improve the quality of our lives.

Last year during May, as part of the celebration of "National Physical Fitness and Sports Month," 1,139,902 persons participated in some form of physical activity, from 5-kilometer walks to track meets and superstars contests. This number is only a small part of the American population. We must make all Americans aware of the benefits offered with such programs increasingly available to everyone. Accordingly, I am introducing this joint resolution which requests President Reagan to declare May of 1985 as "National Physical Fitness and Sports Month."

Mr. President, I ask unanimous consent that a copy of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 80

Whereas one of every two adults in our country is a regular participant in exercise and sports;

Whereas the number of physically active men and women has doubled in ten years and continues to grow rapidly;

Whereas today we recognize that physical activity is an important part of daily life for people of both sexes and of all ages;

Whereas physical activity is vital to good health and is a rich source of pleasure and personal satisfaction;

Whereas our physical fitness and sports programs are one of the primary means by which we strengthen our bodies and refresh our spirits; and

Whereas it is essential that we make fitness and sports programs increasingly available so that all of our citizens will be able to experience the joys and benefits they offer: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of May, 1985, as "National Physical Fitness and Sports Month", and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

By Mr. GOLDWATER (for himself, Mr. GARN, and Mr. SASSER):

S.J. Res. 81. Joint resolution to provide for the appointment of Barnabas McHenry as a citizen regent of the

Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

APPOINTMENT OF BARNABAS MC HENRY

● Mr. GOLDWATER. Mr. President, today, along with Senators GARN and SASSER, I am introducing a joint resolution to appoint Mr. Barnabas McHenry of New York as a citizen regent of the Board of Regents of the Smithsonian Institution. I ask unanimous consent that biographical material on Mr. McHenry be inserted in the RECORD.

There being no objection, the biographical material was ordered to be printed in the RECORD, as follows:

BARNABAS MCHENRY

McHenry, Barnabas, publishing company executive, lawyer; born at Harrisburg, Pa., on October 30, 1929; son of William Cecil and Louise (Perkins) McHenry. Married Marie Bannon Jones, December 13, 1952; children: Thomas J. P.; W. H. Davis; John W. H. A.B., Princeton University, 1952; LL.B., Columbia University, 1957. Bar: New York, 1957. Associate at the firm of Lord, Day, & Lord, New York City, 1957–62; general counsel for The Reader's Digest Association, Inc., New York City, 1962–, also director; director, Palaceside Building Corporation, Tokyo. Member, visiting committee on Egyptian art, visiting committee on 20th century art, Metropolitan Museum of Art; member, boards of directors for the Presbyterian Hospital; Boscobel Restoration, Inc., Garrison, New York; High Winds Fund, Inc.; L.A.W. Fund, Inc.; DeWitt Wallace Fund, Inc.; Lakeview Fund, Inc.; Vivian Beaumont Theater; Center for Hudson River Valley; National Corporation Fund for Dance, Inc.; Children's Art Carnival; Reader's Digest Fund for the Blind; Reader's Digest Association, Inc.; trustee, Supreme Court Historical Society; Metropolitan Opera Association; Metropolitan Museum of Art; member, I Tatti Council; Commission for Cultural Affairs of the City of New York; Temporary State Commission on Restoration of the Capitol; trustee, New York Zoological Society; Central Park Conservancy; vice-chairman, Presidential Task Force on the Arts and Humanities; member, boards of directors, Hudson River Foundation for Science and Environmental Research; School of American Ballet. Served with the Army of the United States, 1952–54. Member, American and New York State bar associations; Association of the Bar of the City of New York; American Conservation Association (director); Academie des Beaux-Arts; Institut de France (correspondent). Clubs: Century, Sky, Racquet and Tennis (N.Y.C.). Home: 164 East 72nd Street, New York, New York 10021. Office: 34th Floor, 200 Park Avenue, New York, New York 10166.●

By Mr. DANFORTH (for himself, Mr. BAUCUS, Mr. BURDICK, Mr. DURENBERGER, Mr. LAXALT, Mr. NUNN, Mr. SYMMS, and Mr. KERRY):

S.J. Res. 82. Joint resolution to designate the week of March 17, 1985, through March 23, 1985, as "National Camp Fire Week"; to the Committee on the Judiciary.

NATIONAL CAMP FIRE WEEK

● Mr. DANFORTH. Mr. President, on March 17, 1985, Camp Fire, Inc., will celebrate 75 years of service to young people and communities throughout the Nation. In recognition of Camp Fire's 75 years of service, I am introducing a joint resolution to designate March 17, 1985, through March 23, 1985, as "National Camp Fire Week."

In 1910, Luther and Charlotte Gulick founded Camp Fire Girls to help girls and young women develop leadership skills. At that time, it was the only organization of its kind serving girls and young women. Today, the organization serves both girls and boys, and it has been renamed Camp Fire. Camp Fire's mission remains the same as it was 75 years ago—"to provide opportunities for youth to realize their potential and to function effectively as caring, self-directed individuals, responsible to themselves and others."

Camp Fire offers a variety of programs for children and youth, regardless of race, creed, religion, national origin, or gender. These programs range from a traditional club setting with a small group meeting weekly in a member's home, under the supervision of an adult leader, to specialized programs designed to meet emerging community needs. An example of such a program is "I Can Do It." This program is designed especially for second and third graders and helps them learn to handle responsibilities and possible emergencies at home. These youngsters gain an increased sense of security and self-esteem.

Camp Fire also seeks to improve societal conditions affecting youth by speaking out about such matters as day care, youth employment, nutrition, juvenile justice, and sexual abuse of children. Camp Fire has developed special programs for exceptional children, migrant children, and economically disadvantaged children.

Camp Fire can be very proud of its history of service to young people and communities throughout the Nation, and I am happy to introduce this resolution acknowledging its 75 years of service. I hope that my colleagues will support this joint resolution.●

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. HEINZ, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 11, a bill to amend the Steel Import Stabilization Act.

S. 12

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of S. 12, a bill to protect communications among Americans from interception by foreign governments, and for other purposes.

S. 58

At the request of Mr. DANFORTH, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 58, a bill to amend the Internal Revenue Code of 1954 to increase research activities, to foster university research and scientific training, and to encourage the contribution of scientific equipment to institutions of higher education.

S. 70

At the request of Mr. INOUYE, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 70, a bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer.

S. 207

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 207, a bill concerning vandalism of religious property.

S. 210

At the request of Mr. D'AMATO, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from North Carolina [Mr. HELMS], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 210, a bill to repeal the inclusion of tax-exempt interest from the calculation determining the taxation of Social Security benefits.

S. 232

At the request of Mr. PRYOR, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 232, a bill to amend the Internal Code of 1954 to add a new subsection dealing with exchanges and rentals of names from donor lists and membership lists.

S. 281

At the request of Mr. PRYOR, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Montana [Mr. MELCHER], the Senator from South Dakota [Mr. ABDNOR], the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 281, a bill to amend the Internal Revenue Code of 1954 to add a section dealing with public safety vehicles.

S. 341

At the request of Mr. GRASSLEY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 341, a bill to amend section 552(a)(4)(F) of title 5 of the United States Code, and for other purposes.

S. 440

At the request of Mr. TRIBLE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a co-

sponsor of S. 440, a bill to amend title 18, United States Code, to create an offense for the use, for fraudulent or other illegal purposes, of any computer owned or operated by certain financial institutions and entities affecting interstate commerce.

S. 467

At the request of Mr. ROTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 467, a bill to amend title 10, United States Code, to authorize the President to award prisoner of war medals in appropriate cases.

S. 472

At the request of Mr. DOLE, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 472, a bill to amend title V of the Social Security Act, and section 2192 of the Omnibus Budget Reconciliation Act of 1981, to modify the terminology relating to certain disabled children.

S. 484

At the request of Mr. HATCH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 484, a bill to amend the Saccharine Study and Labeling Act.

S. 487

At the request of Mr. MATHIAS, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Washington [Mr. EVANS] were added as cosponsors of S. 487, a bill to recognize the organization known as The Statue of Liberty-Ellis Island Foundation, Inc.

S. 515

At the request of Mr. D'AMATO, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 515, a bill directing the President to conduct a comprehensive review of United States policy toward Bulgaria.

S. 523

At the request of Mr. ARMSTRONG, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Nevada [Mr. HECHT], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 523, a bill to prohibit the payment of certain agricultural incentive payments to persons who produce certain agricultural commodities on highly erodible land.

S. 554

At the request of Mr. ROTH, the names of the Senator from Georgia [Mr. MATTINGLY] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 554, a bill to amend title 18, United States Code, to include the transportation of males under the Mann Act, to eliminate the lewd and commercial requirements in the prosecution of child pornography cases, and for other purposes.

S. 636

At the request of Mr. DOLE, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from California [Mr. WILSON], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 636, a bill to provide for the minting of gold coins.

SENATE JOINT RESOLUTION 22

At the request of Mr. BYRD, his name was added as a cosponsor of Senate Joint Resolution 22, a joint resolution designating March 1985 as "National Mental Retardation Awareness Month."

SENATE JOINT RESOLUTION 28

At the request of Mr. BOSCHWITZ, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 28, a joint resolution to designate the week of September 8–14, 1985, as "National Independent Retail Grocer Week."

SENATE JOINT RESOLUTION 34

At the request of Mr. QUAYLE, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. MCCONNELL], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. ANDREWS], the Senator from Alaska [Mr. STEVENS], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 34, a joint resolution to designate the week of October 6, 1985, through October 12, 1985, as "National Children's Week."

SENATE JOINT RESOLUTION 35

At the request of Mr. GORTON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Ohio [Mr. METZENBAUM], the Senator from Georgia [Mr. NUNN], the Senator from Alaska [Mr. STEVENS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 35, a joint resolution to authorize and request the President to issue a proclamation designating April 21 through April 27, 1985, as "National Organ Donation Awareness Week."

SENATE JOINT RESOLUTION 51

At the request of Mr. DENTON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 51, a joint resolution to designate the week beginning November 24, 1985, as "National Adoption Week."

SENATE JOINT RESOLUTION 58

At the request of Mr. CHILES, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Joint Resolution 58, a joint resolution to designate the week of April 21, 1985, through April 27, 1985, as "National Drug Abuse Education and Prevention Week."

SENATE JOINT RESOLUTION 59

At the request of Mr. HATCH, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Idaho [Mr. MCCLURE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. STAFFORD], and the Senator from South Carolina [Mr. THURMOND], were added as cosponsors of Senate Joint Resolution 59, a joint resolution to designate "National Science Week."

SENATE JOINT RESOLUTION 66

At the request of Mr. D'AMATO, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Virginia [Mr. TRIBLE], the Senator from Tennessee [Mr. GORE], and the Senator from Indiana [Mr. QUAYLE] were added as cosponsors of Senate Joint Resolution 66, a joint resolution designating June 14, 1985, as "Baltic Freedom Day."

SENATE JOINT RESOLUTION 67

At the request of Mr. QUAYLE, the names of the Senator from Utah [Mr. HATCH], the Senator from Indiana [Mr. LUGAR], the Senator from Alabama [Mr. DENTON], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from New Jersey [Mr. BRADLEY], the Senator from Iowa [Mr. GRASSLEY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Connecticut [Mr. WEICKER], the Senator from North Dakota [Mr. BURDICK], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. ABDNOR], the Senator from Maryland [Mr. SARBANES], the Senator from South Dakota [Mr. PRESSLER], the Senator from New Mexico [Mr. DOMENICI], the Senator from Michigan [Mr. RIEGLE], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Connecticut [Mr. DODD], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 67, a joint resolution to designate the week of October 6, 1985, through October 12, 1985, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 70

At the request of Mr. HELMS, the name of the Senator from Oregon [Mr. PACKWOOD] was withdrawn as a cosponsor of Senate Joint Resolution 70, a joint resolution to proclaim March 20, 1985, as "National Agriculture Day."

SENATE JOINT RESOLUTION 72

At the request of Mr. DANFORTH, the names of the Senator from Maine [Mr. COHEN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maryland [Mr. SARBANES], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. METZENBAUM], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 72, a joint resolution to designate October 16, 1985, as "World Food Day."

SENATE JOINT RESOLUTION 74

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 74, a joint resolution to provide for the designation of the month of February 1986, as "National Black (Afro-American) History Month."

SENATE JOINT RESOLUTION 76

At the request of Mr. NICKLES, the names of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 76, a joint resolution to proclaim March 22, 1985 as "National Energy Education Day."

SENATE CONCURRENT RESOLUTION 4

At the request of Mr. MOYNIHAN, the names of the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Concurrent Resolution 4, a concurrent resolution calling on the President to appoint a special envoy for northern Ireland.

SENATE CONCURRENT RESOLUTION 14

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 14, a concurrent resolution to express the sense of the Congress that Josef Mengele should be brought to justice.

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution expressing the sense of the Congress that March 17, 1985, be recognized and observed as "Irish Peace, Justice, Freedom and Unity Day."

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. D'AMATO, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution concerning Bulgaria's abuses of the Customs Convention of the International Transport of Goods under Cover of TIR Carnets in facilitating the transportation of illicit narcotics, smuggled arms, and terrorists.

SENATE CONCURRENT RESOLUTION 22

At the request of Mr. HATCH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. LEVIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. GORTON], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Concurrent Resolution 22, a concurrent resolution to express the sense of the Congress that sufficient appropriations should be made available for the Job Corps program in order to maintain it as a viable federal effort to assist economically disadvantaged youths in obtaining and holding employment and contributing to society.

SENATE RESOLUTION 96—RELATING TO THE CENTENNIAL OBSERVANCE OF THE UNIVERSITY OF ARIZONA

Mr. GOLDWATER (for himself and Mr. DECONCINI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 96

Whereas the Arizona Territory's thirteenth legislature established the University of Arizona at Tucson in 1885;

Whereas the early accomplishments of the University of Arizona in mining and agriculture led the development of the Arizona Territory;

Whereas the University of Arizona has made valuable contributions to the national defense;

Whereas the University of Arizona has continued and improved its excellent service to the people of Arizona;

Whereas the University of Arizona has grown to be one of the major academic and research universities in the world, upholding the highest standards of academic excellence, and achieving leadership in every field of research;

Whereas the University of Arizona is prepared to apply the pride and knowledge of its first century to challenges of the second; Now, therefore be it

Resolved, That the United States Senate hereby recognizes the achievements of the University of Arizona in honor of its centennial observance.

SENATE RESOLUTION 97—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered, and agreed to:

S. RES. 97

Whereas, in the case of *Pitney Bowes Inc.* v. *The United States of America, et al.*, filed in the United States District Court for the District of Columbia, the constitutionality of the procurement protest system established by the Competition in Contracting Act of 1984, Pub. L. No. 98-369, 98 Stat. 1175, 1199-1203, has been placed in issue;

Whereas, the Department of Justice has notified the Senate that the Department will assert in cases under the Competition in Contracting Act that the powers granted by that Act of Congress to the Comptroller General violate the constitutionally prescribed separation of powers;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a)(1982), the Senate may direct its Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Pitney Bowes Inc.* v. *The United States of America, et al.*

SENATE RESOLUTION 98—DIRECTING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to;

S. RES. 98

Whereas, in the case of *Ameron, Inc.* v. *U.S. Army Corps of Engineers, et al.*, filed in the United States District court for the District of New Jersey, the constitutionality of the procurement protest system established by the Competition in Contracting Act of 1984, Pub. L. No. 98-369, 98 Stat. 1175, 1199-1203, has been placed in issue;

Whereas, The Department of Justice has notified the Senate that the Department will assert in cases under the Competition in Contracting Act that the powers granted by the Act of Congress to the Comptroller General violate the constitutionally prescribed separation of powers;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288l(a)(1982), the Senate may direct its Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Ameron, Inc.* v. *U.S. Army Corps of Engineers, et al.*

SENATE RESOLUTION 99—RELATING TO EXPORT-IMPORT BANK AID TO FERTILIZER INDUSTRIES OWNED BY FOREIGN GOVERNMENTS

Mr. HELMS submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 99

Whereas the fertilizer industry in the United States makes a positive contribution to the economy of the United States through employment and a positive balance of trade;

Whereas the international fertilizer market is highly competitive with an increasing source of competition being state-owned and state-controlled fertilizer industries which enjoy an unfair competitive advantage over the United States industry;

Whereas the Export-Import Bank of the United States has received requests to grant financial assistance to or on behalf of state-

owned or controlled fortilizer industries and such assistance, if granted, would worsen the unfair competitive advantage such industries maintain over the fertilizer industry in the United States;

Whereas Congress has directed the Export-Import Bank of the United States to take into account any adverse effects on a domestic industry in the United States when considering requests for financial assistance; and

Whereas the fertilizer industry in the United States would be adversely affected by the granting of financial assistance by the Export-Import Bank of the United States to state-owned or controlled fertilizer industries: Now, therefore, be it

Resolved, That it is the sense of the Senate, that the Export-Import Bank of the United States should not approve any request for financial assistance that would benefit any foreign fertilizer entity that is state-controlled or state-owned.

● Mr. HELMS. Mr. President, I submit a resolution expressing the sense of the Senate that the Export-Import Bank of the United States should not grant financial assistance to or on behalf of fertilizer companies owned or controlled by foreign governments.

A primary objective of the Export-Import Bank of the United States, which is an independent U.S. Government agency, is to assist in the financing of exports and imports of the United States. The outlays of the Export-Import Bank are included in the Federal budget and, each year, Congress sets limits on the amount of direct loans, guarantees, and insurance that the Bank may issue, and on the amount of administrative expenses the Bank may incur.

In fulfilling its responsibility as a source of assistance for U.S. international trade, the Bank is directed to take into account the increasing severity of problems U.S. industry is facing from governmentally owned or controlled industries abroad. Such industries increasingly are competing with U.S. industries without regard to principles of the competitive marketplace or to fair trade.

The Bank is required by law to take into consideration any potential serious adverse effects of a loan or guarantee on U.S. employment as well as on the competitive position of the affected U.S. industry. The two cases outlined below involve assistance requested for the Moroccan Government in operating its wholly owned phosphate operation, Office Cherifien Des Phosphates [OCP].

In March 1984 the Export-Import Bank prudently denied an application by Morocco for assistance in connection with an approximately $30,000,000 loan for OCP. As part of its review of this application, the Bank received a number of submissions to the effect that the world phosphate industry is overbuilt with phosphate producers in the United States closing mines and suffering from low operating rates and unfavorable earnings. Members of Congress, including myself, several Government agencies, and industry joined in appealing to the Bank to deny the request for the operating facility. I applauded the decision by the Export-Import Bank to deny the request.

The Bank reversed this decision, however, in October by approving a guarantee of a commercial bank loan to enable OCP to purchase a dragline base for its phosphate mining operation. This is despite the fact that the world phosphate situation remained essentially the same in October as in early 1984. The phosphate rock produced by the Moroccans will be in direct competition with phosphate rock produced in the United States.

The significant point of this situation is that OCP is a governmentally owned enterprise that competes directly with private industry in the United States. Such governmentally owned, or controlled, operations do not operate by the disciplines of the competitive free market. Assistance to such operations by the Export-Import Bank has serious repercussions for those industries in the United States that operate according to those disciplines.

Three companies in my home State of North Carolina—Texas Gulf, Agrico Chemicals, and W.R. Grace—will be adversely impacted as a result of this government-aided competition.

Operations that are owned or controlled by a government should not be assisted by the Bank. Admittedly, some analyses might reflect short-term benefits accruing locally in Milwaukee where equipment is sold to OCP. However, any medium- or long-term evaluation would clearly illustrate serious adverse effects upon employment in the United States and upon the competitive position of the U.S. phosphate industry in the international market. For this reason, therefore, the resolution I am offering should be adopted.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON DEFENSE APPROPRIATIONS

Mr. DOLE. Mr. President, I submit the following notice on behalf of Mr. STEVENS:

Mr. STEVENS. Mr. President, I wish to announce the Defense Appropriations Subcommittee will hold hearings for non-Government witnesses this year on March 19. Outside witnesses will be heard on March 19 in room SD-192 at 10 a.m. in the Dirksen Senate Office Building.

I make this announcement at this time so that any interested members of the public will have time to contact the subcommittee if they desire to appear and testify on defense and military spending issues in the context of the President's fiscal year 1986 budget request. There are no plans to schedule any additional hearings for outside witnesses this session.

Anyone wishing to testify may write to me as chairman of Subcommittee on Defense, Committee on Appropriations, or telephone the subcommittee staff directly at 224-7255.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet to organize on Wednesday, March 20, 1985, at 10:30 a.m., in SR-301. At this meeting the committee plans to adopt its rules of procedure and to select members for the Joint Committee on Printing and the Joint Committee of Congress on the Library. The committee will also be considering legislative and administrative items currently pending on its agenda, including an original resolution authorizing expenditures by the Committee on Rules and Administration for fiscal year 1985.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on 224-0278.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nomination of John R. Norton, III of Arizona, to be Deputy Secretary of Agriculture.

The hearing is scheduled for Wednesday, March 20, 1985, at 2 p.m. in room 328-A, Russell Senate Office Building.

For further information on this hearing, please call the committee at 224-2035.

Mr. President, I wish to announce the hearing schedule of the Committee on Agriculture, Nutrition, and Forestry for 1985 farm legislation. All hearings will begin at 9:30 a.m. and will be held in room 328-A, Russell Senate Office Building.

The schedule is as follows:

Thursday, March 21, Livestock and poultry.
Friday, March 22, Dairy.
Monday, March 25, Feed grains.
Wednesday, March 27, Soybeans.
Thursday, March 28, Wheat.
Friday, March 29, Cotton.
Monday, April 1, Rice.
Tuesday, April 2, Sugar/Wool and honey.
Wednesday, April 3, Peanuts.
Thursday, April 4, Public Law 480/Exports.
Monday, April 15, Conservation.
Tuesday, April 16, Research and Extension.
Wednesday, April 17, Rural credit programs.
Thursday, April 18, Agribusiness.
Tuesday, April 23, Miscellaneous witnesses and topics.

Anyone wishing to present testimony on the above scheduled days should contact the committee clerk or the hearing clerk at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PREPAREDNESS

Mr. SYMMS. Mr. President, I ask unanimous consent that the Subcommittee on Preparedness of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 14 to hold an open hearing followed by closed session, to receive testimony on Navy and Marine Corps operations and maintenance, in review of the fiscal year 1986 DOD authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC AND THEATER NUCLEAR FORCES

Mr. SYMMS. Mr. President, I ask unanimous consent that the Subcommittee on Strategic and Theater Nuclear Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 14, in executive session to receive testimony on the Department of Energy fiscal year 1986 request.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SYMMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 14, in executive session, to hold a hearing on joint communications/electronic warfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERAL CHARTER TO VIETNAM VETERANS OF AMERICA, INC.

● Mrs. HAWKINS. Mr. President, I rise today to cosponsor S. 8, a bill to grant a Federal charter to the Vietnam Veterans of America, Inc.

Vietnam veterans in Florida began organizing early in the organizational history of veterans of the Southeast Asian conflict. The Vietnam Veterans of Florida, Inc. boasts an exceptionally large and active membership. Florida ranks third in Vietnam Veterans of American membership, and VVA members are included in the Florida coalition.

The VVA has had an identity crisis which reflects the ambiguities associated with the war in which the veterans served.

Earlier this year, Florida's veterans leaders, representing all of the major veterans organizations, met in Tampa, Florida to pursue common concerns. Speaking for all Vietnam veterans as a VVA member and the President of Vietnam Veterans of Florida, Charles E. Yonts, Jr. made a plea for understanding and acceptance of Vietnam veterans' organizations.

Mr. President, I would like to share a portion of Mr. Yonts' comments with my colleagues:

The philosophy of the organization is the belief that the nature of the Vietnam War, the manner in which it was fought, the political and social climate in the United States during the war years and the social attitudes and economic conditions of the post-war period were uniquely different from those experienced during other war eras.

Consequently, the Vietnam veteran himself is different. His attitudes, feelings and problems associated with his military service are different from those of veterans of other wars. We are not saying that the Vietnam veteran is special from other veterans, but that he has special needs that must be addressed by methods other than traditional solutions.

For the majority, Vietnam was an individualized event: He arrived on his own, felt separated from those who were rotating on a different schedule, felt no unit morale or cohesiveness, and left on his own. Even his return home was solitary because his family, his friends, and his society did not want to share his experiences.

The Vietnam veteran became a "loner", he felt out of place in a society that had changed drastically while he was away and at that time, the "traditional" veterans organizations offered him no companionship due to both age and plilosophical differences. The Vietnam veteran remained alone and apart from other veterans.

Only within the last few years, has the Vietnam veteran felt the need to belong, to share his experiences, to revive a feeling of camaraderie—to seek out other Vietnam veterans and join a veterans organization.

However, the effects of Vietnam had not fully dissipated and the Vietnam veteran felt comfortable only in association with other Vietnam veterans. To meet this need, Vietnam veterans began to form their own "grass roots" organizations throughout the state of Florida, meeting separately, functioning as small, individual entities, and often struggling for survival with no place to seek help and assistance . . .

. . . Vietnam veterans of Florida is primarily interested in solving the problems and alleviating the suffering of our own Vietnam veterans, but we also stand united with all veterans, both those who served before and those who will serve in the future, to adequately and fairly seek solutions to the problems all veterans face.

Mr. President, I have found the VVA in Florida to be an exceptionally dedicated, responsible, service oriented organization. The membership asks for understanding and acceptance and the chance to grow, mature, and take its place among other service organizations in this great democracy. It believes a Federal charter is essential to its ability to serve and to its viability.

For too long an atmosphere of confusion and doubt has surrounded those who in Vietnam sacrificed so much in service for our country in an armed stuggle which was less than popular. The controversy aroused by the Vietnam war should never have been allowed to cloud the dedication and performance of those who selflessly served in our Armed Forces.

Vietnam veterans served this Nation well and gave all that this great Nation could ask of them. I can do no less than support them in this effort to win recognition.

Past opposition to providing a Federal charter to the VVA has been an extension of the controversies which surrounded the war. Let us put an end to recriminations and give recognition to many who served heroically in Vietnam. I call on all of my colleagues to support the chartering of the Vietnam Veterans of America.●

TARGETING NUCLEAR WINTER

● Mr. QUAYLE. Mr. President, the Pentagon's recent report to Congress, "The Potential Effects of Nuclear War on the Climate," deserves praise for offering us yet another reason to avoid targeting cities and to reduce our arsenal's indiscriminate destructiveness.

There already were reasons enough for us to take these steps—fears that attacking Soviet cities with nuclear weapons would only prompt devastating counterattacks against our urban centers, our justified qualms about threatening innocents, the frustration of relying on weapons that are too inaccurate to be effective and too indiscriminate to credibly threaten using.

But, where these reasons may have previously prompted only partial action, the Pentagon's report could dramatically shape future policy. The reason why is the report's conclusion: Just one side's nuclear bombing of major cities could conceivably produce enough smoke to block the sun's rays and induce an even more disastrous climatic chill over large regions of the Earth.

The uncertainties, the Pentagon emphasizes, are quite large. Indeed, after more study nuclear winter may turn out to be much less of a threat than we currently fear. The uncertainties, however, will remain for some time. More important, what the threat of nuclear winter recommends now are actions that are sound and overdue on other grounds.

What steps are recommended? Besides deterring war and working toward agreements that might make arms reductions prudent, the Pentagon and nuclear winter theorists identify two.

The first is to do all we can to avoid targeting cities, especially with large nuclear weapons. The second is to make our weapons much more discriminate and accurate.

Of the two, the first should be easiest since avoiding cities would only further existing declared policy. After all, it never has been United States policy to target population per se. Indeed, such terror targeting never

made much military sense and now, with nuclear winter theories, such targeting could be climatically suicidal.

By simply avoiding the targeting of major cities, we can eliminate from our target set what the Pentagon pinpoints as the greatest likely cause of nuclear winter—soot-generating city fires. If the Soviets want to dedicate their forces to inducing a nuclear winter by targeting cities and forests or wheat fields (these too can burn and produce smoke), that's their business. Ours should be limited to deterring Soviet military forces, the most critical of which are based away from urban areas.

What of military-industrial targets that are near cities? First, we should again reconsider just how critical these targets are particularly in light of the possible risks nuclear winter and our long standing desire to avoid threatening populations. Second, whatever must be targeted near cities should be targeted with weapons precise enough either to be nonnuclear or so small in yield as not to significantly compound our winter fears.

This leads us, then, to the second point that the Pentagon report emphasized, that we should accelerate efforts to make our weapons more accurate and discriminate than they currently are.

Such an effort could bring significant megatonnage reductions. Indeed, if we could bring our missiles 10 times closer to their targets, we could reduce their explosive power 1,000-fold without reducing their military effectiveness. Certainly, if we make our offensive nuclear forces as precise as possible, the yields of our nuclear weapons need not be any more destructive than the Hiroshima bomb (a weapon one-twentieth the size of our planned warheads) and the yields could be made significantly smaller than this.

To be sure, there are qualifications. For ballistic and cruise missiles, years of testing may be required to achieve the accuracies desired. Further development of systems that can reliably update a missile's position in midflight and see or home in on the target would be necessary to complement existing guidance systems. Also, to target some very hard targets effectively, a number of relatively large warheads may have to be retained. Allowing for this, though, the United States should be able in time to reduce its weapons megatonnage dramatically.

Just as important, such accuracy improvements should help reduce the likelihood of war. Consider: To plan a successful preemptive attack against an adversary's offensive forces, you first must be confident that you can find them. With high accuracy, however, smaller, lighter warheads can be deployed and these, in turn, can be carried by missiles that are themselves small and light enough to be made mobile. Such missiles would be much more difficult to target than existing fixed, siloed missiles and would dramatically complicate and undermine the plans of Soviet first-strike strategists.

Also, improving the accuracies of our short range cruise and ballistic missiles could make reasonable the substitution of conventional munitions for many of the low-yield nuclear weapon systems we now have committed to the defense of Europe and our Pacific allies. Such substitutions would only push the prospect of war and nuclear winter further away.

What else might we do to reduce the treat of nuclear winter? Get the facts: Exactly what sort of nuclear attacks might prompt exactly how much nuclear winter effect? Also, we should seriously consider near and midterm deployment of defenses against both tactical and strategic ballistic missiles not just an aid to deterrence, but as insurance against megatonnage ever getting to the target.

The most immediate and relevant action we can take though, is to make both the avoidance of targeting cities and the acceleration of efforts to make our weapons more accurate and discriminate declared high policy. Congress and the executive branch should be unafraid of vigorously focusing resources to this task. Finally, the issue of nuclear winter should be worthy of our current negotiations. We should be willing to ask the Soviets to renounce city targeting and the continued possession of large-yield city-busting weapons.

Of course, one could argue that we do not need the threat of nuclear winter to see the merit of such efforts, that in targeting nuclear winter, we are simply taking aim against Armageddon. The important point, though, is that in either case similar action is called for now.●

THE 25TH ANNIVERSARY OF ST. RAYMOND HIGH SCHOOL FOR BOYS

● Mr. MOYNIHAN. Mr. President, 1985 marks the 25th anniversary of St. Raymond High School for Boys, located in the Bronx, NY. I would like to take this opportunity to congratulate all of the brothers who teach at the school, all of the students, and all of its alumni on this splendid occasion.

It was 25 years ago that this fine school opened in an unusual place: a building which had once served as a warehouse and garage for the Consolidated Edison Co. When the building was first purchased it was, as you can well imagine, ill suited for a school. Yet, a minor miracle was performed in changing the interior of the building into a fully functional, and rather complete, schoolhouse. Today there are 14 classrooms, three laboratories, a typing room, mechancal drawing room, administrative offices, a library, music room, darkroom, and, of course, a chapel. St. Raymond High School for Boys also boasts a computer and audiovisual rooms for its students. Even the garage has been put to good use. It has been transformed into a combination cafeteria and gymnasium.

Mr. President, I would like to congratulate everyone affiliated with the St. Raymond High School for Boys on the occasion of its 25th anniversary and wish the school the best of luck in the future.●

PRESERVING THE CONSTITUTION: THE AUTOBIOGRAPHY OF SENATOR SAM ERVIN

● Mr. CHILES. Mr. President, Senators make their mark in this body in a variety of ways. Some are experts on defense, some on agricultural policy, and yet others on economic matters. A recent and much missed colleague of ours made his mark as a defender and scholar of the U.S. Constitution. Senator Sam Ervin of North Carolina contributed much to this Nation and the Senate during his 20-year tenure. His stellar contribution, however, was in seeking and, in truth, demanding that this Nation follow the path laid out by the Constitution. During very difficult days it was his voice that reminded us that the Constitution made very clear our duty. All of us should be grateful Senator Ervin has written an autobiography that is less a narrative of a man's life and more a story of devotion to the document that make possible the world's most successful democracy. The Orlando Sentinel recently reviewed "Preserving the Constitution: The Autobiography of Senator Sam Ervin." I commend this review and Senator Ervin's book to the attention of my colleagues. I ask that the review be printed in the RECORD.

The review follows:

[From the Orlando Sentinel, Feb. 17, 1985]

A CONSTITUTIONAL LOVE AFFAIR: SAM ERVIN AUTOBIOGRAPHY AS MUCH ABOUT U.S. HISTORY AS THE POLITICIAN

("Preserving the Constitution: The Autobiography of Senator Sam Ervin," by Sam Ervin, Jr., reviewed by Craig Crawford)

Sam Ervin, Jr., worries about something few of us worry about—the U.S. Constitution. In fact, his fellow senators got used to letting him do their constitutional handwringing for them. Many believe his retirement left a void that remains unfilled.

He has written a textbook on the American Constitution, thinly disguised as an autobiography. This is good because maybe a few readers will get the book thinking they'll read about the famous chairman of the Senate Watergate Committee and wind up learning a few things about our Constitution.

That isn't to say you don't learn more about the man as well. For example, I hadn't known about his bizarre path into national politics. He was drafted into his

brother's seat in the U.S. Congress after his brother committed suicide, but only after he made it clear that no one would pressure him to seek re-election once he had finished his brother's term.

He finished that congressional term and went back to practicing law, until the governor asked him to serve in the North Carolina Supreme Court. He said no, but the governor kept after him until he accepted. The same thing happened when one of his state's U.S. senators died and everybody wanted Ervin appointed. After being talked into accepting, he began a career of 20 years in the Senate which ended after he declined to seek re-election in 1974.

But the Constitution, and this man's devotion to it, are the central themes of the book. The celebrated investigation of Richard Nixon, which made Ervin famous enough to do American Express commercials, wasn't the only time the Senate turned to him for a tricky job. When Sen. Joe McCarthy was tearing the country and the U.S. Senate apart with his anti-communist inquisitions, Ervin led the move to censure McCarthy.

It was Ervin's passionate belief in the rights of individuals against governmental oppression that motivated him to fight McCarthy. At the time, virtually no one in the Senate except Ervin was willing to challenge McCarthy for fear of being labeled a communist, McCarthy was at the height of his political power and popular appeal, but Ervin's persuasive speeches on the Senate floor finally gathered the Senate's momentum to end the ordeal.

It was this same belief in constitutional principles that motivated Ervin to oppose some liberal causes. He is difficult to label in liberal and conservative terms because the sanctity of the Constitution as he saw it landed him at points all over the ideological spectrum. His commitment to constitutional limitations on the power of the federal government meant his opposition to civil rights laws, compulsory unionism and the Equal Rights Amendment.

And yet, he was consistently one of the most vocal champions of civil liberties in the Senate. This book makes it clear how his belief in civil rights and his opposition to excessive federal government both spring from his reading of the Constitution. Whether you want to agree with him or not, he has written a persuasive case for his argument.

The bottom line on Ervin and his book is that this politician and his autobiography have a moral code, a reason other than expediency or ego satisfaction for existing. This code is the U.S. Constitution, an aging document that still makes sense if you take the time to study it.●

I'LL NEVER SAY I TOLD YOU SO (PART 2)

● Mr. JOHNSTON. Mr. President, with various so-called investor groups gradually disassembling Phillips Petroleum Co., there has arisen renewed focus on the question of mergers and takeovers in the oil industry. Last year, when I proposed legislation to temporarily put a halt to these mergers, I did so in an effort to assess their potential impacts on the economy and the national interest. One of my overriding concerns was the effect that these huge corporate mergers, and the literally billions of dollars in consequent debt, would have on the future exploration efforts of these oil companies.

I was repeatedly assured that my concerns were unfounded and that the new combined companies, leaner and more efficient than before, would continue their exploration and production efforts unabated. An article from Forbes magazine has just been brought to my attention which indicates that this is not necessarily so. This article indicates that because of the $12.8 billion in debt which Chevron incurred to buy Gulf Oil Co., it may be forced to leave undeveloped a major discovery in the Beaufort Sea.

For those of my colleagues who may be interested in this matter, I ask that that article be printed in the RECORD at the conclusion of my remarks. Just remember, you will never hear me say I told you so.

The article follows:

A MIXED BLESSING

(By Jack Willoughby)

When Gulf Canada Ltd. recently announced a promising oil well in the Canadian Arctic's Beaufort Sea, it was the answer to Canadian prayers.

If Gulf Canada's discovery, called Amauligak, leads to commercial development of the Beaufort, it will help justify $1.8 billion in exploration grants and incentives that the Canadian government has paid out.

And it will vindicate the judgment of Gulf Canada President John Stoik, who in 1981 convinced his company's then 60% owner, Gulf Oil Corp of Pittsburgh, to allow him to spend more than $500 million on driling equipment especially designed for the Beaufort's harsh environment. "The well reaffirms the faith we had in the Beaufort's geological potential," says Stoik, 64, an old-fashioned wildcatter who has successfully pushed Gulf Canada into frontier areas.

Indeed, if the 13,600-barrel-a-day Amauligak well, in which Gulf Canada owns a 49% interest, leads to a major field, it will give the Toronto-based company a stake in two of the most exciting oil finds in North America. It already owns a 25% interest in the billion-barrel Hibernia field, off Canada's east coast.

So, celebrations all round? Not quite. In the San Francisco headquarters of Chevron Corp., which took over 60% of Gulf Canada when it acquired Gulf Oil in June, reaction is restrained. Chevron Chairman George Keller calls Amauligak a "mixed blessing." While Keller, a 60-year-old chemical engineer with 36 years in the oil business, recognizes the Beaufort's long-term attractiveness, he says that "in the short term it is a very modest consideration."

Why? Because any Gulf Canada efforts to develop the Beaufort now would demand cash from Chevron not give cash to it. And Keller is forced these days to have other priorities. Chevron borrowed $12 billion to acquire Gulf Oil. Its debt is now a sky-high $12.8 billion, 47% of capital. To get that debt down, Keller's first thought postacquisition was to sell Chevron's stake in Gulf Canada and bring in a quick $2.5 billion. He put it up for sale at $18.75 ($25 Canadian) a share. But, despite rumors in Toronto that the Vancouver Belzbergs, the Toronto Reichmanns and even the Montreal Bronfmans are interested in buying, Keller says resignedly: "I'm not aware of any active offer for Gulf Canada's shares under consideration." Gulf Canada's stock continues to sell at around $13 a share on the American Stock Exchange; no takeover speculation there.

Buyer resistance is understandable. To develop Gulf Canada's stake in the Beaufort (to say nothing of its obligations in Hibernia), an estimated $4.5 billion would have to be spent on production equipment and a pipeline. Even if a buyer had deep pockets, the economics appear dicey at today's oil prices.

So Keller contemplates the spread between his dividends from Gulf Canada and the interest on the debt he holds to own it. Even for $3 billion (cash flow) Chevron, it's not inconsequential figure: "We are paying an enormous amount—$20 million a month—to hold on to those shares," says Keller.

He has appointed a task force to devise a disposition plan for Gulf Canada within a year. One idea under active consideration is that Chevron would sell its wholly owned Canadian affiliate, Chevron Canada Resources Ltd., to Gulf Canada and hang on to elements of both companies. The way Canadian oil observers see it, Chevron would be able to take out about $2 billion if it rolled Chevron Resources into Gulf Canada and reduced its interest in Gulf Canada to around 51% with an equity issue.

"Capital can be repatriated to the parent and more money can be obtained for drilling from an equity issue," says analyst Wilfred Gobert of Calgary-based Peters & Co. Ltd.

But to achieve even that result, Keller must tread carefully. For one thing, Chevron and Gulf are direct competitors in Canada, and Chevron owns a 16% interest in Hibernia (to Gulf's 25%). "We're going out of our way to avoid any possible conflicts of interest," says Keller.

And there are political considerations. The election rhetoric on the foreign investment and energy policy of Prime Minister Brian Mulroney's newly elected Conservative government could be tested. "The Canadian content issue is receiving a lot of attention up here," says Richard Hallisey of Toronto-based First Marathon Securities Ltd. "If Chevron attempted to take Gulf Canada private, eliminating the Canadian particippantion in, say, Hibernia, Mulroney would have no alternative but to react."

Gulf Canada's minority shareholding gives Canadians a chance to participate in their country's frontier exploration—an effort their government has supported with billions of their tax dollars.

So any disposition of Chevron's stake in Gulf Canada will not only bring the U.S. company less cash than would a direct sale but also leave Keller coping long term with a large minority shareholding. He regards that as more of a problem than a privilege. "It greatly reduces your ability to deploy capital in an operation year-to-year," he says.

The lesson in all this? Well, there is renewed speculation about oil company takeovers, which always sound simpler on paper than they prove in reality. Words like "creative restructuring" are used to describe the process of borrowing to buy a company and selling assets to pay down debt. But you can sell assets only if they are bought. And nobody speculates about a possible lack of buyers. So the next time you hear such takeover talk, reflect that it's not that simple. Ask George Keller.●

VIETNAM RULES OF ENGAGEMENT DECLASSIFIED—1966-69

● Mr. GOLDWATER. Mr. President, in August 1967 the Preparedness Investigating Subcommittee of the Armed Services Committee, then chaired by the Senator from Mississippi, Mr. STENNIS, conducted extensive hearings relative to the conduct of the air war against North Vietnam. The subcommittee heard the most knowledgeable and qualified witnesses, including both military leaders and their civilian managers. After gathering the basic and fundamental facts, the subcommittee issued a report on August 31, 1967, which was strongly critical of the rules of engagement restricting our aviation forces and preventing them from waging the air war in a manner best calculated to achieve results from a military standpoint.

The subcommittee concluded:

That the air campaign has not achieved its objectives to a greater extent cannot be attributed to inability or impotence of air power. It attests, rather, to the fragmentation of our airmight by overlying restrictive controls, limitations, and the doctrine of "gradualism" placed on our aviation forces which prevented them from waging the air campaign in the manner and according to the timetable which was best calculated to achieve maximum results.

The Preparedness Subcommittee found that Secretary of Defense McNamara and the Johnson administration had "discounted the professional judgment of our best military leaders and substituted civilian judgment in the details of target selection and the timing of strikes." In the judgment of the subcommittee, these civilian managers had "shackled the true potential of air power and permitted the buildup of what has become the world's most formidable antiaircraft defenses * * *." The subcommittee found the rules of enagagement were directly attributable for the fact that "during the entire year of 1966 less than 1 percent of the total sorties flown against North Vietnam were against fixed targets on the JCS target list."

Mr. President, until recently most of my colleagues and the American public had not had an opportunity to see the text of these detailed restrictions put on our Armed Forces during the Vietnam war. Only recently has the last of these rules been declassified. The concentration of the air war for so long well south of the vital Hanoi-Haiphong areas, leaving the important targets untouched, the existence of large sanctuaries, the failure to close the port of Haiphong, the prohibition against a coordinated aerial mining of coastal waterlanes of communication with a bombing attack continuously cutting rail and road lines to China, caused a piecemealing of air operations which allowed North Vietnam to adjust to the air campaign by importing war materials from Communist countries through routes immune from attack and then to disperse and store this material in assured sanctuaries. From these sanctuaries North Vietnam infiltrated the material to South Vietnam and Laos. By granting North Vietnam sanctuaries, the rules of engagement allowed the enemy to protect its forces and material, provided it with a military training and staging area free from attack, and permitted it to erect massed air defense weapons.

Mr. President, while the air war in Southeast Asia was going on the Air Force was making a contemporary historical examination of those operations. The reports compiled by the Air Force are among the top-secret documents declassified at my request early this year. Last Wednesday, March 6, I inserted such a report covering the years 1960-65.

Today I wish to place in the RECORD the second of these reports covering the years 1966-69. To use words similar to those which concluded the Preparedness Subcommittee Report of 1967, I do not derrogate the principle of civilian control of the military, but I think it should be recognized that once civilians decide on war, the result of placing military strategy and tactics under the day-to-day direction of unskilled amateurs may be greater sacrifice in blood and the denial of a military victory.

Mr. President, I ask that the Project Checo Report on Rules of Engagement from January 1, 1966, to November 1, 1969, be printed in the RECORD.

The material follows:

PROJECT CONTEMPORARY HISTORICAL EXAMINATION OF CURRENT OPERATIONS REPORT

(Rules of engagement (U) 1 January 1966-1 November 1969)

(31 August 1969, HQ PACAF, Directorate, Tactical Evaluation, CHECO Division)

(Prepared by Maj. John Schlight)

PROJECT CHECO REPORTS

The counterinsurgency and unconventional warfare environment of Southeast Asia has resulted in the employment of USAF airpower to meet a multitude of requirements. The varied applications of airpower have involved the full spectrum of USAF aerospace vehicles, support equipment, and manpower. As a result, there has been an accumulation of operational data and experiences that, as a priority, must be collected, documented, and analyzed as to current and future impact upon USAF policies, concepts, and doctrine.

Fortunately, the value of collecting and documenting our SEA experiences was recognized at an early date. In 1962, Hq USAF directed CINCPACAF to establish an activity that would be primarily responsive to Air Staff requirements and direction, and would provide timely and analytical studies of USAF combat operations in SEA.

Project CHECO, an acronym for Contemporary Historical Examination of Current Operations, was established to meet this Air Staff requirement. Managed by Hq PACAF, with elements at Hq 7AF and 7AF/13AF, Project CHECO provides a scholarly, "ongoing" historical examination, documentation, and reporting on USAF policies, concepts, and doctrine in PACOM. This CHECO report is part of the overall documentation and examination which is being accomplished. Along with the other CHECO publications, this is an authentic source for an assessment of the effectiveness of USAF airpower in PACOM.

MILTON B. ADAMS,
Major General, USAF,
Chief of Staff.

FOREWORD

During the period 1966-1969, there were three categories of rules which controlled the employment of airpower in the Southeast Asia (SEA) conflict. The Rules of Engagement (ROE) were promulgated by the Joint Chiefs of Staff and sent through channels to the operational commands. Covering all of SEA, these Rules of Engagement defined: geographical limits of SEA, territorial airspace, territorial seas, and international seas and airspace; definitions of friendly forces, hostile forces, hostile acts, hostile aircraft, immediate pursuit, and hostile vessels; rules governing what could be attacked by U.S. aircraft, under what conditions immediate pursuit could be conducted, how declarations of a "hostile" should be handled, and the conditions of self-defense.

The second set of rules was designated Operating Restrictions, which were contained in the CINCPAC Basic Operations Orders. These rules included prohibitions against striking locks, dams, hydropower plants, fishing boats, houseboats, and naval craft in certain areas; prohibitions against strikes in certain defined areas such as the Chinese Communist (ChiCom) buffer zone or the Hanoi/Haiphong restricted areas; conditions under which targets might be struck, such as validation requirements, when FACs were required, distances from motorable roads.

Finally, Operating Rules were issued the Seventh Air Force for Laos and Route Package I (RP I) since July 1967 when the Commander, United States Military Assistance Command, Vietnam (COMUSMACV), delegated most of the operating responsibility in these areas. Operating Rules that had been established, especially for Laos, concerned the use of Forward Air Controllers (FACs), the return of ground fire, the use of the AGM-45 (SHRIKE) missile, restrictions against mine-type munitions, and the requirements for navigational position determination.

Although, in theory, these three types of rules were distinct, in practice, they were almost always referred to collectively as "Rules of Engagement." This report retains this policy, since the formal distinctions were not always honored in message traffic and further, a report unifying the three types of limitations presents a compact picture of the restraints upon airpower that were in existence.

A detailed reconstruction of the many twists and turns of the rules in the period of 1966-1969 is at this point in time both impossible and undesirable. A general pattern of development can be seen and it is this evolution that gives unity to "Evolution of the Rules of Engagement." At few other points in the conduct of war are national policies and military operations focused as sharply as they appear in the Rules of Engagement. It is fair to say that the rules are national policy translated to the battlefield. Each change, or threat of change, to the U.S. political relationship with other na-

tions, whether Allies, enemies, or potential enemies, was reflected in a corresponding alteration of the Rules of Engagement for the Vietnam conflict. In addition, the rules were often modified in response to local tactical or strategic requirements. Finally, there were a number of cases during these years in which the attempt to improve the image of the war on the home front dictated change. This report attempts to highlight examples of these three sources of change in the Rules of Engagement which illustrate the continuing validity of the maxim that "war is an extension of national policy."

The ultimate story of the political background to changes in the rules must await a detailed investigation of the files at the highest level of government. This report traces their evolution primarily from an operational viewpoint, with only general attempts to link them to political decisions.

Unlike the earlier CHECO report entitled "The Evolution of the Rules of Engagement," this report employes a geographical, rather than a strictly chronological arrangement by treating separately the development of the rules in the three physical areas of U.S. military involvement in SEA: North Vietnam, Laos, and South Vietnam. This arrangement produces a more valuable historical picture for those interested in the restrictions affecting particular air campaigns. Yet, it must be borne in mind that developments in one area often affected the others, particularly in the border areas.

CHAPTER I—NORTH VIETNAM

The policy of gradualism which characterized the Rolling Thunder (RT) bombing campaign over North Vietnam (NVN) since its inception in 1965 continued until the bombing halt late in 1968. The first summer of Rolling Thunder operations over the north (1965) was followed by a bombing moratorium which lasted from 23 December 1965 through 30 January 1966. The bombing pause was designed as a backdrop to a major peace offensive on the part of the United States, but it failed to elicit adequate signals that Hanoi was willing to move the conflict from the battlefield to the conference table. Consequently on 31 January 1966, air attacks on the north were resumed.

It was recognized by military commanders that the limited nature of air operations in 1965, as reflected in restrictive Rules of Engagement, had not produced the desired result of leading Hanoi into negotiations. The bombing halt produced similarly negative results. At the Commanders Conference held in Honolulu between 17-31 January 1966, a stronger approach was suggested. Three tasks were proposed to accomplish the objectives of the forthcoming 1966 Rolling Thunder campaign:

Reduce, disrupt, and harass the external assistance being provided to NVN.

Destroy in depth those resources already in NVN which contributed most to the support of aggression. Destroy or deny use of all known permanent military facilities. Harass and disrupt dispersed military operations.

Harass, disrupt, and impede movement of men and materials through southern NVN into Laos and SVN.

Armed reconnaissance was authorized south and west of a line running due west from the coast at latitude 20° 31'N to longitude 105° 20'E, then due north to a point 30 NM from the ChiCom Border, then southwesterly to the Laotian Border. Air operations north and east of that line (RP VIA and VIB), which is in the area containing the three major water entry ports into NVN and one of the two major RR lines from China, were severely circumscribed. Armed reconnaissance by U.S. aircraft was authorized against naval craft along the NVN coast north of 20° 31'N only if fired upon first by recognized NVN naval craft which were within the 3-NM limit of the NVN coast or offshore islands. Aircraft were to avoid a 30-NM circle from the center of Hanoi and a 10-NM circle around Haiphong. Attacks were forbidden in a zone along the ChiCom Border 30-NM wide from the Laotian Border east to 106° E and 24-NM wide from there to the Gulf of Tonkin. Attacks on populated areas and on certain types of targets, such as hydropower plants, locks and dams, fishing boats, sampans, and military barracks were prohibited. The suppression of SAMS and gun-laying radar systems was prohibited in this area as were attacks on NVN air bases from which attacking aircraft might be operating. In military eyes, these restrictions had the effect of creating a haven in the northeast quadrant of NVN into which the enemy could with impunity import vital war materials, construct sanctuaries for his aircraft, and prop his AAA defenses around the cities of Hanoi and Haiphong.

In a 1967 interview in "U.S. News and World Report", a French journalist and editor, Rene Dabernat, said that Communist China had informed the United States in the spring of 1966 it would not become involved in the Vietnam war, if the U.S. refrained from invading China or North Vietnam, as well as bombing North Vietnam's Red River dikes. Dabernat said that statements by President Lyndon B. Johnson and other U.S. officials demonstrated they had "agreed to these conditions." The State Department replied with a "no comment" to this information, but officials acknowledged that the U.S. had received a number of messages from Communist China through a number of third parties. In the same month, a newspaper article written by Edgar Ansel Mowrer stated the U.S. had a promise from Red China not to intervene in Vietnam as long as the U.S. refrained from attacking Red China, blockading Haiphong, and invaiding North Vietnam. In a hearing before the Senate Subcommittee on Appropriations on 27 January 1967, Secretary McNamara was questioned about this newspaper article. He said, "There is no agreement, formal or informal, with Red China relating to the war in South Vietnam in any form whatsoever that I know of." In the same hearing, Gen. Earle G. Wheeler, Chairman of the Joint Chiefs of Staff, declared that he had "no other information" on the subject.

The fact that the Rules of Engagement for the Rolling Thunder operation were weighted in favor of the third task (interdiction), and against the other two (disruption of external assistance and destruction of resources), did not escape the attention of the military commanders. At the Honolulu Requirements Planning Conference in June 1966, CINCPAC noted that the two major elements of the January concept for an effective air campaign had not been authorized.

Even while this conference was in session, CINCPAC was recommending to the JCS that the highest priority be given to strikes against POL facilities in NVN. On 22 June 1966, JCS directed that airstrikes commence two days later against seven POL storage areas in NVN including those around Hanoi and Haiphong. The political sensitivity of this escalation was appreciated by the JCS and the Secretary of Defense and mirrored in the rules set down for the operation. Damage to merchant shipping was to be avoided. Ships in the Haiphong Harbor were to be attacked only in retaliation and only those that were clearly North Vietnamese. The piers which served the Haiphong POL storage areas were not to be attacked if a tanker were berthed off the end of the piers. Measures to be taken to minimize civilian casualties included the striking of targets only when weather conditions permitted visual identification and through maximum use of electronic countermeasure (ECM) support to hamper SAM and AAA fire control.

Marginal weather delayed the first POL strikes until 29 June. Follow-up strikes against the Hanoi/Haiphong complex were made on 30 June and 1 July 1966. It was estimated that two-thirds of North Vietnam's POL storage capability was destroyed in this three-day period.

The political value gained from strict adherence to the Rules of Engagement during these strikes was illustrated several days later in a letter sent by United Nations Ambassador Arthur J. Goldberg, to the President of the Security Council, in which he stated:

"In recent attacks on petroleum facilities every effort has been made to prevent harm to civilians and to avoid destruction of nonmilitary facilities. The petroleum facilities attacked were located away from the population centers of both Hanoi and Haiphong. The pilots were carefully instructed to take every precaution so that only military targets would be hit. Moreover, to assure accuracy, the attacks have been scheduled only under weather conditions permitting clear visual sighting."

On 5 July 1966, President Johnson told newsmen that every precaution had been taken to spare civilians during the raids. At a news conference on 20 July 1966, the President stated:

"The men who conducted the bombings on the military targets, the oil supplies of Hanoi and Haiphong, did a very careful but very perfect job. They hit about 90 percent of the total capacity of that storage, and almost 70 percent of it was destroyed. . . . We were very careful not to get out of the target area, in order not to affect civilian populations."

Throughout 1967, the Rolling Thunder program escalated not only in the skies above North Vietnam, but also as a political issue in the halls of national decision. The Basic Operations Order for RT, issued by CINCPAC on 8 April 1967, contained Rules of Engagement which closely resembled those of the preceding year. Armed recon was authorized from the Provisional Military Demarcation Line (PMDL) norm to the ChiCom Buffer Zone. Use of classified ordnance was not authorized. Locks, dams, fishing boats, houseboats, and sampans were not to be attacked. Coastal armed recon north of 20° 42'N was authorized only against ships that were clearly of NVN registry which were within 3 NM of the NVN coast and which fired first. The 30 NM restricted area and 10 NM prohibited area around Hanoi remained in effect. The restricted area around Haiphong was still a 10-NM circle around the city. Strikes within these restricted areas could be made only against targets specifically mentioned in the Operations Order or the succeeding Execute Orders for Rolling Thunder. When conducting strikes in the Haiphong area, extreme caution was to be taken to avoid endanger-

ing foreign shipping. No change was made to the boundaries of the ChiCom Buffer Zone. Aircraft engaged in immediate pursuit were authorized to pursue enemy aircraft into the Buffer Zone, but in no event closer than 12 NM of the ChiCom Border. However, when engaged in immediate pursuit of enemy aircraft, U.S. aircraft were not authorized to attack NVN air bases from which aircraft might be operating.

The RT Execute Orders during the first few months of 1967 brought about a gradual liberalization of rules and targets. RT 53-54 (Jan-Feb) authorized strikes against dispersed POL and SAM support areas within the Hanoi/Haiphong restricted areas. In April, RT 55 contained an expanded list of targets including the POL storage area, ammo depot, and cement plant in Haiphong, and the RR/Highway Bridge, RR repair shops, and transformer in Hanoi. It also authorized strikes against the Hoa Lac and Kep Airfields east and northwest of Hanoi, but limited these to small and random harassment strikes designed for attrition of aircraft and disruption of support facilities. A strike of about eight attack aircraft or less was considered small. For the first time, aircraft engaged in immediate pursuit of enemy aircraft were permitted to attack airfields, in this case, Hoa Lac and Kep.

These changes to the rules represented a gradual expansion of the bombing phase of the war. For some, however, the expansion was too gradual. In January 1967, CINCPACFLT, in a Targeting Concept Review, stated that the whole RT effort should not be expended on transient targets but that the closing of the Port of Haiphong should be first. During the same month, retired Gen. Curtis E. LeMay, in an interview in Washington, said that he would start the progressive destruction of NVN support and supply bases by closing the Port of Haiphong and other ports. The joint CINCPACFLT/CINCPACAF concept of operations, published in April 1967 for RP VI, noted that:

"The primary objective in denying external assistance to NVN is the closure of the Haiphong Port and, in conjunction with this, the objective of preventing the enemy from diverting his resupply effort to the NE and NW rail line and/or the Hon Gai and Cam Pha Ports. Until authority is received which will allow the closing of the ports, no meaningful military campaign can be launched which will achieve the objective of denying external assistance."

The Secretary of Defense, however, did not share this enthusiasm for denying external assistance to North Vietnam. In his opinion, the limited bombing approach was successful when weighed against its stated objectives. During testimony before Congress in August 1967, the effectiveness of the bombing policy and Rules of Engagement came under discussion:

"Senator Margaret Chase Smith: If you (Secretary McNamara) had read the testimony of the witnesses who have appeared so far in these hearings, you would have noted that they were virtually unanimous in concluding that if the restrictions and prohibitions against certain targets had not been in effect these past two years, the air campaign against the north would not only have been more efficient and effective but more importantly, would most probably have reduced our casualties in the south. Would we in effect have experienced fewer casualties in the south had these restrictions and prohibitions not been imposed against the bombing of the north?

"Secretary McNamara: Senator Smith, it is my very firm opinion that regardless of what other merit there might have been for following a different practice of air activity against the north in the past, it would not have reduced our casualties in the south."

Further, it was the Secretary's view that an intensive air campaign designed to interdict completely war-supporting materials might result in a direct confrontation with the Soviet Union. Bombing of the port facilities, he said, or mining of the harbors would seriously threaten Soviet shipping. Mining the harbors would be an act of war requiring advance notice to third parties, who would be justified in regarding this as notice of the existence of a state or war in the sense of international law.

There was justification for sensitivity on this point and for strict adherence to the Rules of Engagement. Two months earlier, on 2 June 1967, an F-105 had strafed the Russian ship "Turkestan" along the NVN coast 40 NM northeast of Haiphong. The subsequent investigation noted that the Rules of Engagement for attacking coastal shipping northeast of Haiphong did not permit attacks on any commercial vessels coming into or moving out of Haiphong Harbor, even though they were within the 3-NM limit. The only exception to this was in case the vessel fired first on U.S. aircraft. In that event, return fire was authorized. The pilot testified that he had received fire from a nearby flak site and thought he was also fired upon by the vessel. He stated there were no identifying marks on the vessel and that he saw no flags.

As a result of this incident, the Commander, Seventh Air Force, in a personal message to each commander, reminded them that airstrikes were not authorized within a 10-NM radius of the Port of Haiphong and that the area within a 4-NM radius of Haiphong was now established as a prohibited area. No strikes were to be conducted, he added, in port areas where incidents involving foreign shipping might occur. In the course of his congressional testimony, the Secretary of Defense made use of the incident to buttress his argument against intensification of the air campaign and the mining of NVN harbors.

With the publication of the Execute Order for RT 57 in July 1967, a major change in targeting took place, for the first time, attacks were authorized against targets in the ChiCom Buffer Zone and within the Hanoi/Haiphong circles. Nineteen targets were identified in the Buffer Zone; 21 within the 30-NM Hanoi circle; and 9 within the 10-NM Haiphong restricted area. Authority to strike additional targets within these areas was added in August 1967, with the guidance that in the interest of obviating charges of escalation, either from foreign or domestic sources, it was desired that these additional authorities be exercised in a neasured manner. The rules for these strikes called for the commanders to exercise every feasible precaution in conducting airstrikes in the ChiCom Buffer Zone to preclude penetration of the ChiCom Border and avoid engagements with ChiCom MIGs except in self-defense over NVN territory. Commanders were also to utilize experienced pilots, provide adequate electronic capability and targets were to be attacked only when the weather conditions enabled positive identification of the target. The most active bombing of the year—and of the war—occurred during August 1967.

The ROE contained in the Rolling Thunder Operations Order for 1968, published in December 1967, indicated the forthcoming bombing campaign would remain as limited as it had been in the past, and that the weight of effort would continue to be placed on interdiction of LOCs into RVN from the north. Although armed reconnaissance was once again authorized from the PMDL to the ChiCom Buffer Zone, its implementation was modified by the earlier restrictions against striking populated areas, locks, dams, hydropower plants, watercraft, sampans, and houseboats. Prohibitions were repeated against attacking naval craft north of 20°42′ N and outside of the 3-NM limit of the NVN coast or offshore islands unless fired upon. Authorization was still withheld for aircraft engaged in immediate pursuit to attack NVN bases from which the pursued aircraft might have been operating. The mining of waterways and deep draft harbors north of 20°00′ N was forbidden. Prohibited areas remained unchanged: 10 NM around Hanoi, 4 NM around Haiphong, and the ChiCom Buffer Zone.

No ordnance was to be expended in these prohibited areas unless specifically directed in the frag orders. Strike and recon aircraft were authorized transit and immediate pursuit into the Haiphong and Hanoi prohibited areas if operational requirements dictated. In the ChiCom Buffer Zone, flight paths of strike aircraft were not allowed to approach closer than 20 NM of the ChiCom Border east of 106°E and no closer than 30 NM west of that meridian. The flight paths of reconnaissance (Blue Tree) aircraft were not to approach closer than 20 NM to the ChiCom Border. Aircraft engaged in immediate pursuit were authorized to penetrate the Buffer Zone but not the ChiCom Border. SAR and RESCAP aircraft were not permitted to operate closer than 3 NM of the ChiCom Border, except when the risk of engagement was small and there were clear prospects of successful recovery.

The 30-NM and 10-NM restricted areas around Hanoi and Haiphong, respectively, remained in effect. Strikes were authorized in these areas against NVN craft or NVN units which fired upon U.S. aircraft en route to or from missions, Extreme caution was to be exercised in the Haiphong area to avoid endangering foreign shipping. Transit of these areas was authorized as necessary to conduct air operations. Immediate pursuit into the restricted areas was also permitted.

Two control areas existed on the NVN/Laotion Border: (1) a Radar Control Zone (RCZ) encompassing the area within NVN immediately adjacent to the Laotian Border and extending 10 NM into NVN and running from the DMZ northward to 19°30′ N and (2) the Laotian Buffer Zone of the same width as the RCZ extending northward from 19°30′ N to 22°00′ N. The Rules of Engagement for the RCZ prohibited U.S. forces from striking targets unless under positive radar control. In conducting these strikes, aircraft had to be vectored to target coordinates, or to the initial coordinates of an armed recon route and released for mission accomplishment. Conventional aircraft, which were performing as strike/FAC aircraft, were permitted to strike in the RCZ without radar control, if it were not available. Missions flown elsewhere in the NVN, outside the DMZ and RCZ, had to be radar vectored, until the aircraft was positively established as being outside these areas prior to being released for mission accomplishment.

This rigidity of the Rules of Engagement for the coming campaign was the subject of

a message sent on 28 March 1968, from CINCPACAF to the 7AF commander. Current restrictions within which U.S. forces must operate in North Vietnam, stated CINCPACAF, collectively represent an impressive picture of the limitations on the effectiveness of forces now in place in Southeast Asia. The present restrictions, disadvantageous to Allied forces operating in an extremely difficult air defense environment, were serving enemy aircraft to advantage. The total impact of these various self-imposed restrictions was providing the enemy a sanctuary situation which he was using to great advantage in Hanoi, Haiphong, and throughout the LOC structure in North Vietnam. It was inconsistent from a military point of view to build up and reinforce U.S. forces in SVN without major relaxation of existing restrictions on the U.S. air and naval offensive against NVN.

This annual plea for more bombing latitude and for a relaxation of the Rules of Engagement was smothered by a presidential decision three days later. On the evening of 31 March 1968, President Johnson made the twin surprise announcements that he would not be available for the presidential nomination that summer, and that "he had ordered our aircraft and surface vessels to make no attacks on North Vietnam except in the area north of the DMZ where the continuing enemy buildup directly threatens Allied forward positions." The Chief Executive had placed outside the reach of American airpower precisely that area which military judgment considered to be the most essential to strike. On 1 April, airstrikes north of 20° N were discontinued and two days later the line was moved one degree southward. Limited aerial reconnaissance to NVN and the Gulf of Tonkin continued to be authorized. But aircraft operating over the Tonkin Gulf had to remain over international waters at all times. Immediate pursuit of enemy aircraft over NVN territory or territorial waters was not permitted. Maximum care was to be taken not to overfly ChiCom territory.

A JCS message declared that effective at 1300Z (2100H Saigon time) on 1 November 1968, all offensive operations against NVN and the DMZ and within the claimed 12-NM territorial waters would be terminated. The ROE for the post-bombing period were established and permitted immediate pursuit into NVN territorial seas or airspace in response to hostile acts and in pursuit of any vessel or aircraft whose actions indicated with reasonable certainty that it was operating in support of the VC/NVN insurgency in SVN. U.S. naval and air forces engaged in immediate pursuit of the NVN naval and air elements were not authorized to attack other unfriendly forces or installations encountered, except in response to an attack by them and then only to the extent necessary for self-defense. A second JCS message, also date 1 November 1968, authorized the destruction of SAM and AAA weapons, installations, and supporting facilities in NVN south of 19° N which fired at Allied aircraft from across or from within the DMZ. In a clarification of this rule later in the month, permission to destroy aggressive SAM and AAA sites and facilities in NVN was extended to those which fired at Allied aircraft over Laos.

Thus ended the Rolling Thunder campaign. In early 1968, just prior to the 1 April 1968 bombing halt, many officials believed the campaign of graduated pressure through the use of U.S. airpower had reached a point which appeared just short of allowing maximum application. Authority had been extended to allow airstrikes to within 10 NM of Hanoi and within 4 NM of Haiphong. All major industrial production had been halted, nearly all of the major bridges had been laid in the water, all airfields except Gra Lam had been attacked, and there was open discussion in the U.S. through the news media to close the Port of Haiphong. In short, NVN was facing another summer season of good weather conditions and increased U.S. airstrike activity. The 1 April bombing halt, and even more so the complete cessation of bombing on 1 November 1968, cut short this development.

Summary of ROE for Rolling Thunder

The Rules of Engagement for Rolling Thunder from beginning to end faithfully mirrored the political aims and limited military objectives of this air campaign. In the strictly military sphere, the ROE established sanctuaries/restricted areas within which airstrikes could not be conducted. Havens were provided within enemy territory which were used to cache, import, replenish, launch attacks, and to use for political propaganda whenever the sanctuary was inadvertently violated. Interrelated target systems were never authorized. The overriding consideration for avoidance of population centers precluded attacks on military targets in important citites such as Nam Dinh and Thanh Hoa. The agricultural sector of the NVN economy was protected. Anti-dike and anti-crop campaigns were not undertaken. Third country shipping was protected to an extent that prohibited attacks or mining activities against NVN's three major ports. Taken collectively these restrictions, while reducing potential effectiveness of airpower, contributed to the national policy as determined by the Commander-in-Chief.

CHAPTER II—LAOS

After the November bombing halt in NVN, the focus of air operations centered more than ever on Laos. The basic American policy toward this country had been set in 1961 by President John F. Kennedy's decision to attempt to neutralize Laos through political agreement, while retaining enough strength among pro-Western and friendly military forces in the Mekong River Valley to protect the flanks of Thailand. The major U.S. military effort was to be concentrated against the North Vietnamese in South Vietnam. This decision to attempt the neutralization of Laos was based largely on the assumption that the USSR and the U.S. shared a common interest in keeping Laos neutral and outside the ChiCom sphere of influence.

By 1966, the conflict in Laos had, in effect, become two wars, each with a somewhat different objective and different Rules of Engagement. In the northern war, the USSR had failed to restrain the NVN. The conflict in the northeastern provinces along the border of NVN was bound up with the traditional Tonkinese interest in that area. During the earlier French colonial period, two of these provinces were actually administered from Hanoi rather than from Vientiane. It was not until 1942 that they were turned over to Vientiane and the Laotian entity. The NVN insurgents in these provinces operated through a front, the Pathet Lao (PL), which was controlled from Hanoi. This northern war was one of position and maneuver. The US/Royal Laotian Government (RLG) objective was to take and hold terrain, and in so doing to expand the influence of the RLG throughout northern Laos. By so doing, it was hoped the RLG would be in a position of strength if, and when, it participated at the conference table. U.S. air operations in northern Laos supported this objective.

The other Laotian war, in the Southern panhandle, initially had different objectives. It was directly associated with the NVN support of its operations in SVN and was a war of attrition, infiltration, and interdiction along the Ho Chi Minh Trail. The few tribal inhabitants of this eastern mountain area did not front for the NVN—it was completely an NVN operation. NVN soldiers guarded the trail structure; NVN engineers did the road building; NVN coolies carried the supplies down the trail. Whereas the objective of U.S. air operations in the north was the preservation of the flank of Thailand, in the panhandle, it was the interdiction of supplies which passed from NVN to SVN.

The dual nature of the conflict was reflected by the division of the country for the purpose of air operations into two sectors, the northern Barrel Roll (BR) area and the southern Steel Tiger (SL) region. The line separating these operating areas ran from the Nape Pass (18° 27′ N/105° 06′ E) on the NVN/Laotian Border, westward to 18° 20′ N/103° 57′ E on the Thai/Laotian Border. The ROE for both BR and SL were established by CINCPAC and the American Embassy (AmEmb), Vientiane. MACV coordinated with and obtained approval from AmEmb, Vientiane, for the conduct of air operations by PACOM forces and kept the American Embassy in Bangkok fully informed of the use of Thai-based aircraft. Seventh Air Force was the operating agency for airstrikes in Laos and the rules established by the commander were designated as "Operating Rules." By presidential directive, the U.S. Ambassador to Laos was responsible for all U.S. activities in support of the RLG. The key role played by the American Embassy, Vientiane, in determining the Rules of Engagement, helps to explain the nature of the rules during this period.

The BR/SL Rules of Engagement for 1966 and the first two months of 1967 were relatively simple. Seven armed recon areas were created along the NVN/Laotian Border. They were lettered A through G running north to south. Within these areas, U.S. aircraft could strike without further permission any targets of opportunity that were outside villages and within 200 yards of a motorable trail or road. Targets farther than 200 yards from a motorable road could be struck only with permission and under FAC control, or when gunfire was first received from the target. Outside these armed recon zones, fixed targets and targets of opportunity could be struck only if they were validated RLAF "A" or "B" targets (APP. I), approval had been obtained from the Air Attache, Vientinane, the Assistant AIRA, Savannakhet, or an authorized FAC with a Lao observer on board who possessed validation authority, or if gunfire had been received from the target.

FACs were required under a variety of situations, notably on close air support missions, when called for by the AmEmb, Vientiane, when striking within five KM of the Cambodian Border, and on all night strikes against fixed targets unless they were controlled by ground radar (MSQ). Aircraft without FAC or MSO assistance had to confirm their position by radar or tactical air navigation (TACAN). Prior to entering or exiting SL armed recon areas, aircraft had to establish radio/radar contact with the

appropriate ground-controlled intercept (GCI) site. Classified ordnance was prohibited. Napalm could be employed in BR/SL under FAC control, along infiltration routes within the SL area, against validated RLAF numbered targets and against motorized vehicles, but not against truck parks or other targets of opportunity.

The political situation in the north led to restrictions against air attacks on certain areas. Under no circumstances was ordnance to be expended on the villages of Sam Neua, Khang Khai, or Xieng Khouangville even in response to hostile fire. Camp fires and civilian habitations were not to be attacked. Populated areas were to be avoided to the maximum extent possible. Vientiane and Luang Prabang were to be skirted by at least 25 NM; restricted areas with a radii of 10 NM and heights of 15,000 feet were created around the friendly villages of Savannakhet, Attopeu, Thakhet, Saravanne, and Pakse.

Within the restricted Attopeu circle ran Route 110, a major avenue of infiltration. In a meeting held at Tan Son Nhut AB in November 1966 among MACV, 7AF, and AIRA representatives to clarify the Rules of Engagement for Laos, the Air Attache representative said that he had intended no restriction to armed recon along Route 110 within this 10-NM circle. The Basic Operations Order was subsequently changed to allow armed recon within this portion of the restricted area.

During the third week in February 1967, further restrictions were placed on air attacks within the BR area. Nearly all of these restrictions were temporary and were motivated primarily by political considerations. After Soviet questions concerning strikes on Khan Khay had arisen, the rule for that village was strengthened to create a six-NM restricted area around the town. A temporary restricted area was also placed around Xieng Khounagville, because the International Control Commission (ICC) had been invited to the village to discuss USAF bombing in Laos. No armed recon was authorized on the south side of the Nam Ou River because friendly forces were operating in the area.

In March 1967, a major change of zones and Rules of Engagement for the SL area resulted from a series of highly publicized Short Round incidents near the Laotian/SVN/NVN Borders. On 12 February, the friendly Laotian village of Muong Phalane was inadvertently attacked by three F-105 aircraft. The intended target was a highway bridge 24 NM northeast of Muong Phalane. Three Laotian civilians were killed and nine injured. Eleven houses were destroyed and thirty damaged. The incident was an apparent case of target misidentification. Muong Phalane is on the 130° radial of the Nakhon Phanom (NKP) TACAN at 68 NM; it has a bridge in the center of the village. The bridge against which the F-105 flight was fragged was on the 113° radial of the NKP TACAN at 69 NM. The final report of investigation stated that apparently the pilot inadvertently tracked outbound on a heading of approximately 130° and sighted a target which by sheer coincidence was the same distance form NKP as his intended target. The mission was under no outside control such as FAC or Combat Skispot.

Another Short Round incident occurred on 2 March when the RVN village of Lang Vei was struck by two F-4C aircraft. The flight leader's intended target was a group of trucks believed parked alongside a road under the trees. The flight had been released by an airborne FAC to conduct armed recon in the TIGER HOUND area of Laos, along the RVN Border. Six 500-lb. bombs, four LAU-3A rocket pods, and CBU-2 bomblets were expended on the village of Lang Vei which was obscured by the forest canopy. Eighty-three RVN civilians were killed, 170 were wounded, and the village was 60-70 percent destroyed. The attack was made under conditions of reduced visibility caused by haze and the approaching sunset. But the primary cause was navigational error. The flight leader's TACAN was inoperative. A reading taken from the wingman's instrument was misinterpreted. The flight believed itself to be 24 NM from Lang Vei and over Laos rather than over RVN.

In an attempt to reduce the number of these incidents, the SL area was rezoned early in March 1967. (Fig. 3.) The armed recon line was rescinded and four north-south zones were created, each with its own Rules of Engagement. The former TIGER HOUND Special Operating Area along the Laos/NVN/SVN Border was redesignated as Zone I and remained a free fire area with the same Rules of Engagement as before. The AmEmb, Vientiane, authorized armed recon in this zone without FAC control on all roads, trails, paths, and rivers; airstrikes were allowed against all forms of enemy activity outside 500 meters of active villages. Seventh Air Force, however, insisted on the use of a FAC in Zone I, even though the AmEmb, Vientiane, did not, because "to the guy in the air the line on the map means nothing. He could never be sure there wasn't going to be a violation." This decision was proof of one of the main drawbacks of the new division—its complexity.

Any validated RLAF "A" or "B" targets, as well as any area from which ground fire was received, could be attacked. Prior to conducting strikes with out FAC control, the pilot had to confirm his position by radar or TACAN as being within Zone I. Aircraft unable to establish a positive fix by use of available navigational aids prior to entering this zone had to abort unless FAC directed. Normally, strikes were not to be made within 1 KM of the known location of friendly teams or units.

ARC LIGHT strikes within Zone I required prior validation by Vientiane based on photo coverage and normal intelligence justification. Mine-type munitions (MK-36, M-28, and Gravel) could be delivered only on selected targets as approved by Vientiane and directed by 7AF; or under FAC control on RLAF validated targets; or against motorized vehicles; or against an area from which ground fire was being received, unless this area were an active village. No airstrikes could be conducted closer than five KM of the Cambodian/Laotian Border.

Immediately west of this free fire area was Zone II, which stretched from 17° 40′ N, south to the Cambodian Border. This corridor was entered from NVN by two of the three major doorways to the Ho Chi Minh Trail—Mu Gia and Ban Karai passes. Since it was more populous than Zone I, the ROE for Zone II were slightly more restrictive. Targets of opportunity could be attacked day or night, as long as they were within 200 yards of a motorable trail or road and outside of villages. Outside of this 200-yard limit targets could be struck only if they were validated RLAF priority "A" or "B" targets. With the exception of active villages, any area from which ground fire was received could be struck without FAC/MSO control. Searchlights could also be attacked, if it were positively determined they were of the high intensity antiaircraft type and were located in proximity to authorized strike areas. Wide-beam boats and barges which were engaged in military activities could be struck under FAC control.

The next area to the west, Zone III, extended from the point on the NVN/Laotian Border where the northern limit of RP II joined the northern boundary of SL down to 16° 00′ N. The entrance from NVN into Zone III was Nape Pass, the third major starting point of the Ho Chi Minh Trail. The Rules of Engagement for this zone were even more restrictive than those for Zones I and II. Targets, regardless of their location, could not be struck without FAC or MSQ control. The only allowable exceptions to this rule were areas from which ground fire was received and where high-intensity antiaircraft searchlights were located in proximity to authorized strike areas. Targets outside villages could be struck, if they were within 200 yards of a motorable road or trail. Farther than 200 yards, targets could not be attacked, unless they were either validated RLAF "A" or "B" targets, approved by one of the AIRAs, or approved by a Lao observer aboard a FAC or Airborne Battlefield Command and Control (ABCCC) aircraft. The remaining rules were the same as those for Zones I and II.

In the funnel-shaped, northern end of Zone III, a special area was set aside for the training of Road Watch Teams (RWT). No strikes were permitted in this area unless the pilot was in positive radio contract with one of the ground RWTs through a FAC or the ABCCC.

The remaining area was designated as Zone IV. This was the region that contained the bulk of the native population of southern Laos. While the spine of the Annam Mountain Range ran through the first three zones, the fourth zone was largely an area of plains, bounded on the west principally by the Mekong River Valley. The major towns of the Laotian panhandle were located in this region—Savannakhet, Saravane, Thakhek, Attopeu, and Pakse. Since the NVN objective in the panhandle was the creation and maintenance of LOCs running down the mountain range from NVN into Cambodia and RVN, and the U.S. objective was its interdiction, Zone IV was largely ignored by these countries. Consequently, the Rules of Engagement for airpower 10 Zone IV were the most restrictive of any in SEA. All strikes within this zone had to have the double safeguard of AIRA approval and FAC control. Strikes could be directed only by Raven or Nail FACs. There were two exceptions to this rule: (1) two English-speaking, Lao ground Forward Air Guides (FAGs) in the immediate area of Attopeu were authorized to request and direct U.S. airstrikes without prior AIRA validation; and (2) helicopters or escort aircraft actively engaged in Search and Rescue (SAR) missions could return ground fire, but not outside 1,000 meters in all directions from the exact location in which the SAR operations were being conducted.

Twenty-one miles northwest of Saravane, Route 23, a major link of the Ho Chi Minh Trail, left Zone III and entered Zone IV. The Zone III Rules of Engagement followed it into Zone IV, until it disappeared into the 10 NM restricted circle around Saravane.

Restricted areas remained in effect around the five villages already designated in Zone IV, and to them was added a sixth—Muong Phalane. Aircraft could not approach within 10 NM or 15,000 feet of these towns. A small special operating area called

Cricket West (CW) was marked off within Zone IV, twenty miles east of NKP along the Zone III/Zone IV boundary. Within CW, each target had to be validated prior to a strike, either by an airborne Lao FAC or by radio request to the Assistant AIRA, Savanakhet. All strikes had to be under FAC control except when ground fire was received.

Far to the south near the Cambodian Border, Route 110 crossed Zone IV from west to east and then entered Zone I. Although two-thirds of this road was in Zone IV, the Zone I rules applied to all of it.

In the northern war, the three armed recon zones along the Lao/NVN Border, designated A, B, and C, remained unchanged. The Rules of Engagement for these areas were identical to those of SL Zone II. In the rest of BR, outside these armed recon sectors all targets had to be validated and strikes had to be FAC controlled.

Prohibited areas defined by a circle with a 25-NM radius remained in effect around Vientiane, the political capital, and Luang Prabang, the royal capital. No ordnance could be expended within a 6-NM radius from the center of Khang Khay nor on the town of Sam Neua.

No free zone existed in Laos for jettisoning live ordnance. In case of emergency, all ordnance except napalm could be dropped under visible conditions on any motorable trail, road, ford, or bridge within the BR armed recon areas and Zones I and II in Steel Tiger. Napalm could be jettisoned on certain specified road segments in Laos under radar control.

The total effect of these 1967 changes to the Rules of Engagement was to make them more complex and possibily more restrictive. In usage, some of the rules proved impractical. An example of the restrictiveness of the ROE may be seen in the rule requiring validation of targets. Three major ROE hampered ARC LIGHT operations in central and southern Laos. Strikes could not be made on targets that were within three KM of friendly forces such as RWTs or suspected PW camps. In addition, no ARC LIGHT strikes could be executed within five KM of the Cambodian Border. Finally, there could be no shrines, temples, national monuments, places of worship or active huts and villages within the target area. It was this final rule that created most of the problems for obtaining validation for lucrative ARC LIGHT targets. According to Seventh Air Force records, the average time consumed between identification of an area and the clearance to strike was 15.5 days. A large portion of this time (6.8 days) was used for administrative processing, transmission of the validation request, and awaiting Vientiane's response. Since success of these missions required timely strikes in response to the most recent intelligence available, the existing administrative processes and Rules of Engagement combined to reduce the timeliness and effectiveness of B-52 bombing.

The problem of validation time was thoroughly discussed at a conference at Udorn RTAFB in September 1968. The 7AF figures indicating that it took Vientiane from three to five days to process nominations for strikes, and eight to ten days for renominations, were refuted by the AmEmb representative. Embassy records indicated its response in most cases was within one or two days, except when extensive analysis of friendly personnel or RWT activity necessitated longer periods of time. As a result of these discussions, a decision was made to streamline the validation procedures. The 7AF representative proposed the creation of Special ARC Light Operating Areas (SALOAs), each of which would contain several target boxes capable of being validated en masse. The Vientiane American Embassy representative reluctantly agreed to this proposal. Although validation time rose to 25.5 days (7.0 days at Vientiane) after the creation of the SALOAs, this was partially explained by the fact that larger numbers of targets were validated at once. Validation time continued to be a problem, with tactical as well as strategic airstrikes.

In October 1968, The Air Attache in Vientiane issued a list of rules and restrictions pertaining to the BR area. This list highlighted the complexity which had crept into the Rules of Engagement. JCS-imposed restrictions included those against operating in BR areas Alpha, Bravo, and Charlie within 10 NM of the NVN Border, armed reconnaissance on certain designated routes, College Eye, Hot Pursuit, air operations adjacent to the ChiCom Border, and ARC Light. The AmEmb, Vientiane, controlled ordnance, target validations, PW camp restrictions, defoliation, and ground and Raven FAC operations. Seventh Air Force imposed tactical AF release altitude restrictions for high threat areas, and command and control procedures governing Laos strikes.

The profusion of areas in Laos, the narrowness of the zones, and the lack of outstanding geographical/navigational features created problems with the new arrangement. In July 1968, the Commander, 7AF, proposed simplification of the rules, so that the ROE for Zone I would be extended to Zones II and III; the Zone III rules would be put into effect in Zone IV and Cricket West. Although these proposals were not acted upon, the problems of complexity and restrictiveness came up at a meeting at Udorn RTAFB two months later. The purpose of the meeting was to iron out the ground rules for the forthcoming COMMANDO HUNT campaign in SL Zone II. Discussions among the Ambassadors to Laos and Thailand the the Commanders of 7AF and 7AF/13AF ranged across the entire spectrum of existing ROE and the problems created by them.

The continuing problem of validation time came up for discussion. Referring to ARC Light strikes, the DCS/Intel, 7AF, commented:

"It took on the average of 5-8 days to get the first ARC Light box validated. However, one ARC Light box for 12 B-52s against the average of 35 truck parks will only give you about a 30% probability of hitting the trucks. So you need 3 boxes for B-52s. And in order to get validation for restrike another 5-8 days are entailed. As as a consequence of the whole administrative problem, the need to build these targets and get them off to SAC, we were able to get only a fraction of the effort we wanted. . . . , I would hope that in our future discussions we could iron out some procedures that would help us in our next campaign."

The Deputy Chief of Staff, Intelligence, also stated much time has been lost in Zone II, due to the inability to get validation for Combat Skyspot. The Ambassador to Laos replied that he was unaware of any problems with the validation system and knew that AIRA had validated targets as quickly as six minutes after acquisition. It was his opinion that the existing machinery for validation was good—it was a question of proper usage, and briefing of personnel required to use it.

A major factor hurting the truck kill ratio, in the opinion of 7AF, was the requirement for FAC verification and clearance for strikes against visual sightings. The element of surprise, essential when dealing with perishable targets, was lost due to the overt nature of the FAC mission, which gave the enemy ample warning to evade by driving off the road. The FAC requirement for identification of trucks was unnecessary because "the only ones running around are NVN." The Ambassador replied that some of the Rules of Engagement were not too well understood. In Zones I and II the FAC requirement was not too important and, except for several specific areas of suspected PW camps, could be removed. Two factors made it necessary to continue the requirement for FACs in Zone III. One was the presence there of RWTs and Commando units. The other was the friendly population of the area which provided logistical support to the RWTs.

On the question of munitions, 7AF requested relaxation of some of the restrictions:

Yet, its use was not authorized anywhere in Laos. The Ambassador agreed to refer the question of using the CS agent to higher authority at Washington but, knowing the feeling in the State Department about it, he was sure they would not buy it. Further, given the propaganda aspects of the weapon, he knew that Souvanna Phouma would not be too eager about it.

In Zones II and III, only targets of opportunity within 200 yards of a motorable road could be struck. The Ambassador interpreted the 200-yard limitation this way:

"Many of your [7AF] people have interpreted that to mean that if there's a truck park over 200 yards away from a known road, it's excluded. This is not so. If the truck got from the road to the truck park, it is ipso facto a motorable road or trail. So anyplace that you find a vehicle, you can assume that it got there on something that is fair game. . . . If you find a truck you can assume it motored there, it didn't drop there."

No change in the Rules of Engagement for the Commando Hunt campaign resulted from these discussions.

Cessation of bombing over NVN or 1 November 1968 brought about a change in the rules for the Laotian/NVN Border area. Immediately after the halt, a positive control area 10 NM wide was created inside Laos, along the border, to protect against inadvertent penetration of the NVN airspace. Several days later, the JCS authorized U.S. aircraft "to destroy SAM or AAA weapons, installations, and immediate supporting facilities in NVN south of 19° which fire at our aircraft over Laos."

In December 1968, the requirement for FAC or MSQ control of AC-47 gunships in Laos was waived to permit the accomplishment of the AC-47 mission. During the same month, mine-type munitions, such as the MK-36, BLUs, and Gravel were approved for use in Laos, but only on targets validated by the American Embassy. The importance of Zone II, through which wound a major portion of the Ho Chi Minh Trail, was highlighted by a change in the rules pertaining to the use of napalm. Whereas in Zone I, napalm could not be used against gun emplacements unless ground fire was received, in Zone II it could be used against gun emplacements even though ground fire was not received.

A major consolidation of the Rules of Engagement for Laos was achieved in 1969. At

an April meeting at Vientiane, representatives of AmEmb, Vientiane, MACV, and 7AF agreed to reduce the four SL zones to two, separated by a line running north-south down the center of the Laotian panhandle. The new division became effective on 11 May. East of this line was a new area designated Steel Tiger East which comprised areas formerly known as Zones I, II, and part of III, and the Special Operating Area along Route 110. The Rules of Engagement for SL/East were essentially the same as those for the former Zone II. Armed recon without FAC control was authorized within 200 meters of all routes when fragged by 7AF or cleared by ABCCC. Targets of opportunity more than 200 meters from a motorable road could be struck only when controlled by FACs and when validated by the American Embassy, Vientiane. Radar bombing was authorized against any targets having prior embassy approval. Ordnance, except napalm and mine-type munitions, could be dropped armed or safe under visual conditions on any road, trail, ford, or bridge.

With the exception of vehicles, it could not be used against targets of opportunity. Mine-type munitions and area denial weapons were authorized as validated and directed by 7AF. No gas weapons could be used in Laos except for use in SAR missions.

Active villages were to be avoided by 500 meters when conducting airstrikes unless fired upon or when high-intensity AA searchlight illumination was received. Ground fire could be returned from any area, except within 500 meters of a confirmed PW camp. F-105 aircraft were authorized to carry antiradiation.

The area west of this line was designated Steel Tiger West and the Rules of Engagement were essentially those of the former Zone IV. Armed recon was not authorized. All strikes required a FAC or Forward Air Guide. No radar bombing or napalm would be used unless specifically authorized by the AmEmb, Vientiane. Ground fire could be returned only by aircraft actively engaged in Air Force SAR operations. This authorization was limited to an area 1,000 meters in all directions from the exact location in which these operations were being conducted.

The April conference was less successful in changing the Rules of Engagement for the BR area. The Alpha, Bravo, and Charlie areas remained armed recon zones, with the same ROE as in the newly designated Steel Tiger East. In the Alpha area, Route 19 was authorized to be struck. All LOCs in Bravo were approved for armed recon. In Charlie, Routes 6, 61, and 7 could be struck. A Special Operating Area (SOA) northwest of Khang Khai was designated a Free Strike Zone. When fragged or cleared into this Free Strike Zone by ABCCC, aircraft could attack all forms of military activity outside of 500 meters of an active village without FAC control.

The presence of Chinese road construction crews in the northern and northwestern regions of Laos led to the creation of yet another restricted area. Following the 1962 agreement of Laos, the Chinese offered to assist the Laotian Prime Minister, General Phoumi Nosavan, by building roads for him leading from China into Laos. The Prime Minister agreed. For more than five years, no construction took place but, in 1968, the ChiComs began to fulfill their promise and Souvanna Phouma was helpless to stop them. They built a major highway which ran east-west slightly above the 21st parallel from the Dien Bien Phu area in NVN across the top of Laos to the Chinese Border near Ban Botene. This in effect separated the northern province of Phong Saly from the rest of Laos. Early in 1969, they were engaged in constructing a road southward toward Pak Beng. To avoid international incidents in this area, U.S. aircraft were prohibited from conducting airstrikes or low level photo reconnaissance missions without special approval of the American Embassy, Vientiane, north of a line along the 21st parallel from the ChiCom Border to the western edge of the armed recon area Alpha.

The Buffer Zone along the Laos/NVN Border remained in effect with the same Rules of Engagement as before. No strike could be conducted within 10 NM of the NVN Border or east of 104° 15′ E, between 19° N and 21° 15′ E unless authorized by Cincpac and directed by 7AF. Even with this authorization, strikes had to be made under the electronic surveillance of College Eye and under FAC control. Further, College Eye monitor was required for all strikes in Barrel Roll.

A surge of NVN/Pathet Lao (PL) activity in Barrel Roll during the summer of 1969, which was climaxed by the enemy capture on 27 June 1969 of Muong Soui, 90 miles north of Vientiane, brought about a modification of the role of airpower in northern Laos. Prior to this summer offensive, USAF aircraft had been used in Barrel Roll almost solely for close air support of troops in contact. With the fall of Muong Soui and the resultant threat to Luang Prabang and Vientiane, airpower took on the additional role of interdiction; the war in Barrel Roll assumed certain aspects of the war to the south in Steel Tiger.

Two main avenues of supply snaked into Barrel Roll from North Vietnam. Route 7 entered Laos from North Vietnam through Barthelemyh Pass and ran westward through the Plaine des Jarres and on to Muong Soui. Farther north, Route 6 and its tributaries connected North Vietnam with Sam Neua, the Pl headquarters in this northern province, and from there ran south to a juncture with Route 7. In addition to these main arteries, numerous trails and bypasses were being developed to supply the NVN/PL troops in Laos.

At a conference at Vientiane in August 1969, proposals were made for changes to the Rules of Engagement to bring them in line with the fuild situation. For two months, recommendations and comments followed. In September, the new rules were approved by JCS, and put into effect by Cincpac on 27 September 1969. The areas were realigned so as to be more consistent with cultural and geographical features (Fig. 6). At the same time, the new areas and rules provided for sufficient clearance between friendly forward positions and armed reconnaissance areas.

Barrel Roll was divided into three areas: North, East, and West (Fig. 6). Of the three Barrel Roll North contained the most restrictive rules. No airstrikes nor Yankee Team (tactical reconnaissance) operations were permitted, unless the American Embassy at Vientiane requested them and Cincpac and JCS approved. In Barrel Roll West, all targets had to be validated and controlled either by a FAC or a FAG, or employing all-weather bombing. No ordnance could be dropped on Khang Khai or Phuong Savan. Embassy authorization was required before napalm could be used. The 24-NM prohibited circle around Vientiane was extended to cover the Nam Gum Dam construction project. The circle around Luang Prabang was reduced to 10 NM.

The main NVN LOCs were in Barrel Roll East and the greatest changes in the Rules of Engagement occurred there. The A, B, and C armed reconnaissance areas were replaced with a solid zone to within 10 NM of the NVN Border in which armed reconnaissance without FAC control was authorized within 200 meters of all LOCs. Outside the 200-meter limit, strikes had to be validated and controlled by a FAC/FAG. Ground fire could be returned anywhere in Barrel Roll East except into the town of Sam Neua. The total effect of these changes was to simplify the areas and rules and to provide more flexibility to the interdiction effort.

The line separating SL East and SL West was adjusted slightly westward. The rules for these sectors were essentially the same as those established for BR East and BR West, respectively.

The covert nature of U.S. air operations in Laos kept such operations out of the limelight of U.S. public opinion. Accordingly, the Rules of Engagement were shaped less by the need to create a favorable impression at home than by the restrictions laid down by the 1962 agreement and the necessity of avoiding damage to the image of Souvanna Phouma among his people. For these reasons, the U.S. Ambassador to Laos became the focal point in ROE determination.

Between 1966 and 1969, the ROE for Laos shifted from the relatively simple rules in existence before 1967, to more complex ones between 1967 and mid-1969, and back again to simpler arrangements by the end of 1969. The rule that appeared to have created the greatest consternation was the need to obtain validation of the targets from Vientiane and the time required for this validation.

CHAPTER III—SOUTH VIETNAM

The Rules of Engagement for air operations in RVN remained relatively constant throughout the period 1966–1969. These rules were conditioned by the fact that in-country air activity was directed toward close air support (CAS) of ground forces and by the frequency of combined ground operations involving U.S., Free World Military Assistance Forces (FWMAF), the Army of Republic of Vietnam (ARVN), and the Vietnamese Air Force (VNAF). During this three-year period, there was one shift of emphasis worthy of note. As a result of the mounting number of Short Round incidents, particularly during the 1968 TET offensive, the rules issued late in 1968 contained "additional provisions to enhance Short Round prevention."

The agency responsible for the Rules of Engagement pertaining to RVN was MACV, whose directive (525–13) contained the rules for the use of artillery, tanks, mortars, naval gunfire, riverine forces and air and armed helicopter support. The rules governing air support were further specified by 7AF's Regulation 55–49. which laid down the rules for the control of airstrikes and the duties of the FAC and pilots of strike and recon aircraft.

The basic requirement was the approval of the province chief or a higher RVN authority for strikes by U.S. aircraft. This was often tempered by the pilot's judgment at the time of the strike. In Specified Strike Zones—areas designed by MACV—where no friendly forces or populace existed, airstrikes did not require further RVN clearance. Targets could be attacked on the initiative of the US/FWMAF commanders. U.S.

strike aircraft had to be controlled, in order of preference, by either a U.S. FAC, a VNAF FAC, or Combat Skyspot. When control by FAC or Combat Skyspot was impossible, targets could be designated by the commander of a ground unit or by the US/FWMAF pilot of an aircraft supporting the ground unit. In addition, targets could be designated by the US/FWMAF/RVNAF pilot of a MedEvac or supply aircraft which was required to operate in the vicinity of a hostile village or hamlet.

One set of rules governed air attacks on villages and hamlets, another controlled strikes within urban areas. Fixed-wing aircraft CAS missions that involved strikes on hamlets and villages had always to be controlled by a FAC and had to receive US/RVN/RVNAF clearance before the attack could be conducted. If the airstrike were not conducted in conjunction with an immediate ground operation, the inhabitants or the village were to be warned of the impending attack either by leaflets or a loudspeaker. Sufficient time was to be provided for the inhabitants to evacuate the village. When the attack was carried out in conjunction with a ground operation, no warning was necessary if the ground commander judged that such a warning would jeopardize his mission.

The ROE for attacks on known or suspected VC/NVA targets in urban areas were necessarily hedged in by greater restrictions to avoid unnecessary destruction of civilian property. In addition to the requirement for FAC control, approval had to be obtained from either the Corps Commander or the U.S. Field Force Commander. This also held true for U.S. airstrikes in support of RVNAF. In all cases of air attacks on urban areas, leaflets and loudspeakers were to be employed to warn the civilian population and to attempt to secure the cooperation and support. The use of incendiary-type munitions was prohibited unless destruction of the area was unavoidable and friendly survival was at stake. AC-47 gunships could be employed without a FAC to fire on targets designated by the ground commander responsible for the tactical situation.

Since the mission of U.S. aircraft operating in-country was largely close air support, detailed rules were in force to prevent Short Rounds. The FAC had to be acquainted with the exact location of all friendly forces near the target. To do this, he had to have a thorough knowledge of the ground scheme of maneuver and receive the appropriate ground commander's clearance prior to clearing strike aircraft. Friendly forces on the ground were responsible for marking their position for each flight of strike aircraft and for remarking them as often as it was required. The FAC was responsible for marking the target and the ground commander for confirming the accuracy of the target-mark. If in the opinion of either the ground commander, the FAC, or the strike pilot, the target was inaccurately or poorly marked, the FAC was to remark it before the strike aircraft could be cleared to expend ordnance. If the position of friendlies could not be marked due to lack of marking material or for tactical reasons, the FAC was to ask the ground commander to accept responsibility in the event of a Short Round.

The success of a mission depended heavily upon reliable communication and complete understanding among the FAC, ground commander, and strike pilot. The FAC communicated with the ground commander to coordinate marking, receive ground clearance prior to clearing strike aircraft, advise the ground commander of all pertinent aspects of ordnance delivery, and to advise the ground commander when all ground elements were to take protective cover. FAC radio contact with the strike pilot was needed to insure that the strike pilot was given a thorough briefing on all aspects of the mission. The FAC had to supply the strike pilot with prominent ground references from which he could ascertain surface distances, friendly locations in relation to the target, characteristics of the target area, local weather conditions, final clearance for the strike, or discontinuance of the mission.

When an airstrike was conducted in support of an ARVN unit the rules called for the FAC to be assisted by a VNAF FAC or VNAF observer to aid him in directing the airstrike. In the event the VNAF FAC had language difficulty, the U.S. FAC was to assume control of the strike. When requested by the VNAF FAC, the airstrike was to be stopped.

The strike pilot was enjoined by the Rules of Engagement to always be under control of the FAC or other designated control agency. He had to have visual contact with the target or target marker and be positive of the position of friendly troops. Strike pilots were authorized to defend themselves against ground fire when the source of the fire could be visually identified when the strike could be positively oriented against the source, and when the fire was of such intensity that counteraction was necessary.

Pilots of strike aircraft were to avoid flying over friendly populated areas when armed. When conditions made overflight of friendly positions necessary, the ground commander was to be notified so that he could determine the risk versus the desired results. All armament switches were to remain in the "safe" position until entrance into the target area.

Helicopters could attack urban areas only when directly by the responsible ground commander. Only specific buildings (point targets) which were positively identified by the pilot could be struck. The engagement of target areas in urban areas was prohibited. Door gunners could fire only when authorized by the aircraft commander. Pilots of helicopters could defend themselves against ground fire when the source of fire could be visually identified, when the attack could be positively oriented against the source, and when the fire was of such intensity that counteraction was necessary.

The rules of jettisoning munitions were very specific. Munitions could be jettisoned "safe" only in designated areas except during inflight emergencies. During night or Instrument Flight Rule (IFR) conditions, aircraft had to be under positive radar control while jettisoning. During day Visual Flight Rules (VFR), drops were to be monitored by radar whenever possible. During an inflight emergency, munitions could be jettisoned "safe" in other than designated jettison areas, when there was an immediate threat of injury to the crew or damage to the aircraft. Every effort was to be made to insure that jettisoned munitions did not impact into or near inhabited areas. CBU dispensers and expendable rocket launchers were to be jettisoned in the immediate vicinity of the target after expenditure of munitions. Water areas within or adjacent to the target area were to be utilized whenever possible to deny the enemy access to the dispenser tubes or unexpended ordnance.

When air operations involved religious monuments or public buildings in RVN, special Rules of Engagement applied:

"The enemy has shown by his actions that he takes advantage of areas or places normally considered as nonmilitary target areas. These areas are typified by those of religious background or historical value to the Vietnamese. Where it is found that the enemy has sheltered himself in places of worship such as churches and pagodas or has installed defensive positions in public buildings and dwellings, the responsible senior brigade or higher commander in the area may order an air attack to insure prompt destruction of the enemy. The responsible commander must identify positive enemy hostile areas either in preparation or execution. Weapons and forces used will be those which will insure prompt defeat of enemy forces with minimum damage to structures in the area."

Since 1966, COMUSMACV published a quarterly consolidation of the Rules of Engagement applicable to the borders of the RVN and the DMZ. Specific restrictions fluctuated with changes in air operations in neighboring countries. In the DMZ, before the bombing halt, authority was granted to conduct airstrikes within the zone against clearly defined military activity. After the halt, aircraft were prohibited from crossing the DMZ. In the event that SAMs or AAA were fired at friendly aircraft over RVN, friendly forces could destroy the enemy's weapons, installations, and immediate supporting facilities. Immediate pursuit was authorized into NVN territorial sea or airspace in response to hostile acts and in pursuit of any vessel or aircraft that was operating in support of the VC/NVA insurgency. U.S. naval and air forces engaged in immediate pursuit of NVN naval and air elements were not authorized to attack other unfriendly forces or installations, except in response to an attack by them, and then only to the extent necessary for self-defense. Aeromedical evacuations in support of any authorized ground operations in the DMZ were permitted.

To the west, aircraft were prohibited from crossing the Cambodian Border without specific authorization from COMUSMACV. Strike aircraft could not operate within five KM of the Cambodian Border without FAC or MSQ control. All FACs operating in the vicinity of the border had to determine their position from charts of a scale of 1:50,000 or larger. All organizations responsible for planning or execution of missions within five KM of the border had to have posted in Operations a 1:250,000 or larger scale chart on which the Cambodian Border was distinctly marked, on the RVN side, to the depth of five KM. Aircraft supporting border outposts were permitted to operate as necessary in the outpost area, but could neither fire nor fly across the border. All aircraft on missions within five KM of the Cambodian Border had to be tracked by radar, which could advise them of their position relative to the border and of any impending penetration.

Along the RVN/Laotian Border, aircraft were not permitted to cross the border into Laos without prior approval of COMUSMACV. All operations planned near the border had to be reported in advance to COMUSMACV. In an emergency, U.S. forces could take appropriate countermeasures, including airstrikes against enemy forces firing from the Laotian side of the border.

EPILOGUE

The Rules of Engagement for American airpower between 1966 and 1969 reflected the political situation in each of the three major areas of military conflict in SEA. The political decision to avoid adverse public opinion and to avoid the possibility of direct confrontation with Communist China and Russia dictated a less than total bombing campaign against North Vietnam. Accordingly, the Rules of Engagement prohibited the bombing of certain areas and the use of certain ordnance. The covert nature of operations in Laos, coupled with the need to avoid political embarrassment to Premier Souvanna Phouma required strict control of the air effort in Laos. This control was exercised through the American Ambassador to Vientiane, who played a major role in formulating the Rules of Engagement. The status of American airpower as an instrument of RVN policy placed limits on its exercise in South Vietnam.

Despite differences of opinion regarding the wisdom of American policy in these three areas, it seems clear that the Rules of Engagement allowed airpower to serve that policy well, while at the same time depriving airpower of a true test of what it could accomplish.

APPENDIX I

TERMS OF REFERENCE

Fixed targets: Caves, truck parks, open storage buildings, ferries, cantonment/barracks, trenches, and bunkers.

Immediate pursuit: [Pursuit initiated in response to actions or attacks by hostile aircraft or vessels as defined in the Rules of Engagement. The pursuit must be continuous and uninterrupted and may be extended as necessary and feasible over territorial/international airspace/seas as prescribed.]

PMDL: Provisional Military Demarcation Line.

RLAF target category: Either:

"A"—An RLAF target on the Active Target List which has been approved by AmEmb, Vientiane, and can be struck without further approval.

"B"—Same as "A" except the target is considered inactive. If there are signs of activity, it can be struck without further approval.

"C"—Listed on the Active Target List in "hold" status for political reasons. Must obtain specific AmEmb, Vientiane, approval for strikes.

SALOA: Special ARC LIGHT Operating Area.

Target of opportunity: Target of a military nature such as vehicles, troops, active AA/AW, bridges, fords, etc. not specifically designated in the frag orders.

Territorial seas: A belt of sea adjacent to a coastal state three miles in breadth measured from the low water mark along the coast. However, in the stages claiming over three miles, that distance shall be observed for the Rules of Engagement, as if it were the width of their territorial seas. The following are the states' claims with regard to their territorial seas:

(1) Thailand, 6 miles presumed.
(2) Cambodia, 5 miles.
(3) South Vietnam, 3 miles presumed.
(4) North Vietnam, 12 miles presumed.
(5) Communist China, 12 miles.

GLOSSARY

AAA—Antiaircraft Artillery.
AA/AW—Aircraft Artillery/Automatic Weapons.
ABCCC—Airborne Battlefield Command and Control Center.
AIRA—Air Attache.
AmEmb—American Embassy.
ARVN—Army of Republic of Vietnam.
BR—BARREL ROLL.
BZ—Buffer Zone.
CAS—Close Air Support.
CBU—Cluster Bomb Unit.
ChiCom—Chinese Communist.
CINCPAC—Commander-in-Chief, Pacific Command.
CINCPACAF—Commander-in-Chief, Pacific Air Forces.
CINCPACFLT—Commander-in-Chief, Pacific Fleet.
COMUSMACV—Commander, U.S. Military Assistance Command, Vietnam.
CW—CRICKET WEST.
DMZ—Demilitarized Zone.
DOD—Department of Defense.
ECM—Electronic Countermeasure.
FAC—Forward Air Controller.
FWMAF—Free World Military Assistance Forces.
GCI—Ground-Controlled Intercept.
ICC—International Control Commission.
IFR—Instrument Flight Rule.
JCS—Joint Chiefs of Staff.
KM—Kilometer.
LOC—Line of Communications.
MACV—Military Assistance Command, Vietnam.
MedEvac—Medical Evacuation.
NE—Northeast.
NKP—Nakhon Phanom.
NM—Nautical Mile.
NVA—North Vietnamese Army.
NVN—North Vietnam.
NW—Northwest.
PL—Pathet Lao.
PMDL—Provisional Military Demarcation Line.
POL—Petroleum, Oil, and Lubricants.
PW—Prisoner of War.
RCZ—Radar Control Zone.
RESCAP—Rescue Combat Air Patrol.
RLAF—Royal Laotian Air Force.
RLG—Royal Laotian Government.
ROE—Rules of Engagement.
RP—Route Package.
RR—Railroad.
RT—ROLLING THUNDER.
RTAFB—Royal Thai Air Force Base.
RVN—Republic of Vietnam.
RVNAF—Republic of Vietnam Air Force; Republic of Vietnam Armed Forces.
RWT—Road Watch Team.
SAC—Strategic Air Command.
SALOA—Special ARC LIGHT Operating Area.
SAM—Surface-to-Air Missile.
SAR—Search and Rescue.
SL—STEEL TIGER.
SOA—Special Operating Area.
SSZ—Special Strike Zone.
SVN—South Vietnam.
TACAN—Tactical Air Navigation.
USSR—Union of Soviet Socialist Republics.
VC—Viet Cong.
VFR—Visual Flight Rule.
VNAF—Vietnamese Air Force.●

MIRACLE AT BEECH GROVE

● Mr. QUAYLE. Mr. President, with all our discussion of budgetary constraints and fiscal irresponsibility, I am pleased to bring to the attention of my colleagues a success story worth noting: Amtrak's maintenance and repair facility in Beech Grove, IN.

Recently, Railway Age focused on Beech Grove's success and its contribution to Amtrak's overall growth. When Amtrak purchased the Beech Grove plant in 1975, management and employees were challenged to bring their operations to a readiness that would meet Amtrak's needs as well as provide speciality services for other overhaul conversions for locomotives and cars. Amtrak committed more than $23 million for improvements and by the end of this fiscal year, the Beech Grove shop is predicted to turn out 499 cars and 40 locomotives for Amtrak, as well as assemble 107 subway cars for the local Metro system here in Washington.

To quote Railway Age, "The budget for current Amtrak-related work is considerably less than if the work was performed by railroad and contract repair shops * * *. Around Amtrak headquarters, Beech Grove is the cause for pride in what Amtrak personnel accomplished in the renovation of an aging plant as well as in what they now accomplish in renovating the fleet."

I am pleased to bring this excellent article to the attention of my colleagues. And may I also remind them that the next time they ride Washington's Metro system, they be reminded of Beech Grove, where pride in workmanship still exists and is exemplified in the finished product.

I ask that the article from Railway Age entitled "Miracle at Beech Grove," be printed in the RECORD.

The article follows:

MIRACLE AT BEECH GROVE

The Beech Grove heavy repair facility near Indianapolis shows how Amtrak, given half a chance, can move toward self-sufficiency and cost-effectiveness.

Half a chance, however, seemed like less than Beech Grove personnel were being given after Amtrak bought the complex from Penn Central in 1975. Under tough restraints on cost and time, they were charged with modernizing a decrepit facility to meet system-wide needs.

By the time Beech Grove's modernization is completed later this year, Amtrak will have spent about $23.5 million for improvement—or less than 25% of the sum that a consulting firm said was needed.

In return, Amtrak has gained a facility that can meet anticipated as well as present needs in heavy-overhaul conversion and specialty work for locomotives and cars. The shops also can rehabilitate car components for the system while providing component warehousing and distribution services.

Working at full capacity, Beech Grove in fiscal 1985 (starting October 1984) will turn out 499 cars and 40 locomotives for Amtrak, and 107 transit cars for the Washington, D.C. Metro system. In the first full year of Amtrak ownership, output totaled just 273 cars and no locomotives.

Lower cost, better quality control. The budget for current Amtrak-related work is considerably less than if the work was performed by railroad and contract repair shops.

What's more, there's better opportunity for quality control. At Beech Grove, Tom Harmon, manager-quality control, leads a seven-man team of experts in electricity, pipefitting, refrigeration, and wheels and axles. Harmon's responsibility is crucial to train-equipment performance: Only he can authorize release of a unit for service. He also conducts inspections at other wheel-service locations and in the plants of component suppliers.

"These are the most qualified people in the shop," says Walter A. Barrick, general manager, who established the local quality control group when he took charge of Beech Grove in 1975.

"I knew that if quality control reported elsewhere, we wouldn't have the authority we needed right here.

"I can tell production to do whatever quality control says must be done. If there's a problem between them, I can sit down with them and work it out, but we've never had to do that. Everybody knows what has to be done and the right way to do it.

The quality team devotes most of its time to cars but has final say on locomotives, too. The diesels are subject to previous inspection by an inspector and technicians who must certify their work before release.

No shop, however, is an island. Barrick reports to J.S. Crawford, Jr., Amtrak chief mechanical officer in Washington. Around headquarters, Beech Grove is cause for pride in what Amtrak personnel accomplished in the renovation of an aging plant as well as in what they now accomplish in renovating the fleet. Virtually obsolete when Amtrak took it over, the 62-acre, 11-building facility is near the end of a transformation that owes much to the skills of improvisation.

Notable among Amtrak-generated improvements are:

A custom-made transfer table built for $79,000, after a supplier quoted more than $200,000. This is a diesel-hydraulic model, with a coupler-equipped tractor to move cars on and off.

A renovation of the heating system to eliminate need for one of two boilers (one is kept in reserve) and cut coal consumption by 50%. In this effort, workers installed new roofs. steam lines, two-inch insulated low windows, and plexiglass high windows.

Installation of a storage-rack system to free half of the space in the locomotive shop for overhaul and airbrake work.

Construction of a training center, additional sanitary facilities, an administration office building, a paved service road, and a new run-through track.

Rearrangement of the flow of work through the coach, wheel, forge, trim, airbrake, and locomotive shops.

STILL TOOLING UP

Help from the outside came in such items as a $600,000, 600-ton Chambersburg wheel press, a Bahco pollution-control system, a new three-pit de-trucking re-trucking shop, and a Magnaflux machine for detecting axle flaws. The latter, a wet horizontal magnetic particle tester, went into service in December.

The fiscal 1985 capital budget of $1.1 million includes a new vertical wheel-boring machine. In addition, Beech Grove personnel are installing a concrete floor in the forge shop and rehabilitating two cranes.

Employee industriousness carried over into major rolling stock projects, too, primarily the overhaul of older steam-heated cars known as the Heritage fleet. Featuring conversion to electric power, this program adds 10 years life to the equipment. Known as the head-end-power program (HEP) because locomotives generate the electricity, it has transformed 574 cars of all types since 1976.

The cost of conversion ranges from $250,000 to $400,000 per car depending on type, compared with more than $1 million per unit for purchase of a new car. However, the Heritage fleet presented a big components challenge because Amtrak had inherited various car types from different railroads. Types and specifications of components varied and were not always interchangeable. Suppliers of components had virtually disappeared because of the decline of the railroad passenger business.

Amtrak set out to standardize components, many of which now originate in the Beech Grove machine shop. "We try to standardize them in form, fit and function according to series of cars," says Barrick. That's true especially of electrical systems, piping, refrigeration, and air conditioning. Standardization reduces the potential for maintenance problems, while it expedites the conversion process.

The current HEP program includes seven buffet lounges, six high-level diners, three full-dome lounges, three ex-Southern lounges, three buffet/diners, and two low-level diners. Also this year, Beech Grove will perform a six-year overhaul of 70 others.

Other fiscal 1985 work includes 75 Superliner retrofits, 100 Amfleet overhauls, 40 passenger-car wreck repairs, six turbo overhauls, 24 passenger-car minor repairs, and 40 locomotive overhauls.

What's more, Beech Grove personnel will assemble two low-level sleepers and a low-level diner—prototypes of a new generation of passenger cars that will eventually replace the Heritage equipment. Delivery of carbodies by the Budd Co. is expected to be completed by early March.

Further evidence of Beech Grove's dexterity is the assembly of transit cars being supplied by BREDA of Italy for expansion of the Washington Metro system. Through December, Amtrak personnel had completed 160 units. The fiscal 1985 schedule calls for completion of 107 additional units. The Washington Area Metropolitan Transportation Authority seems to like Beech Grove's work: A second contract for 68 units is being negotiated.●

SALUTE TO JOHN GAMMON

● Mr. PRYOR. Mr. President, on Friday, March 15, 1985, the John Gammon Foundation will sponsor a dinner in West Memphis, AR, to support a college scholarship program designed to aid deserving students of all races from eastern Arkansas to continue their education. This dinner has become a very popular annual affair in West Memphis, drawing as many as 1,000 persons from all over Arkansas and parts of western Tennessee.

Serving only wild game harvested from Mr. Gammon's land, this dinner is the largest event of its kind held in Arkansas. The work of the John Gammon Foundation, with its spirit of voluntarism, epitomized by the hundreds of young people who prepare and serve the dinner, is the dream come true of John Gammon. His desire to see young people succeed, and to have opportunities that he never enjoyed, represents the apex of the American dream. The attitude of this man, who has been tremendously successful in his own life, toward helping others is something this Nation could use in large quantities. The end results are productive and successful graduates who make a contribution to our society, and a sense of fulfillment for the volunteers who make it possible.

I want to take this opportunity to salute John Gammon. His work and the work of his foundation have been very beneficial to many, many Arkansans.●

AMERICA'S LIBERAL BIGOTS

● Mr. GOLDWATER. Mr. President, every evening on my way home, I pass a large group of people parading in front of the South African Embassy objecting to apartheid. Let there be no mistake, no one in this country objects to it more than I do. In fact, on a number of occasions during my visits to South Africa, I have spoken, personally, to the leaders about it.

Nevertheless, the trouble with the people who are parading in front of the Embassy is they do not really understand the whole problem in South Africa. Nor do they understand the impossibility of solving it their way overnight. I believe the solution will come, but it is not going to come without a lot of give and take on all sides.

When these same people loudly beg and demand that American businesses leave South Africa, I ask them one simple question, "Where do they think the black people are going to get jobs if it is not from outside corporations?" And, on top of that, South Africa is a valuable ally, one of the best in the world. To lose their support with hardly any justification at all would be tantamount to one of the greatest setbacks we could have in a number of areas.

Recently, an editorial appeared in the Arizona Republic which, I think, very succinctly touches on this problem. I ask that it be printed in the RECORD.

The editorial follows:

AMERICA'S LIBERAL BIGOTS

South Africa's consul general, Leslie Labuschange, thinks it's about time for some straight talk from American liberals about the black republics on his continent.

The inveterate bashers of South Africa—the Rev. Jesse Jackson and Randall Robinson of TransAfrica—utter nary a grunt about the repression of blacks by blacks in most of the 40 African nations.

Somehow it is all rights for blacks to slaughter and starve other blacks, but it is repugnant when blacks are denied the right to vote by whites.

The double standard, held with so much haughty moral superiority by American liberals, is almost too evident.

What has 30 years of post-colonial experience brought black Africa? The continent is a disaster. Black Africans are among the least educated and most underfed people on Earth.

The pre-independence institutions of a free press, independent judiciary, political opposition and private enterprise have been replaced with one-party regimes and state-controlled economies. Some have distinguished themselves by their unparalleled brutality.

Why is it, Labuschange wonders, that American liberals are so reluctant to challenge virtually any of the black African republics on their records?

Especially when it is demonstrably true that South Africa's blacks have steadily outstripped majority black nations in every category from education to employment.

When will the self-appointed guardians of morality begin to speak out with equal energy against the miserable human rights records of the black republics and the inhumane political and social conditions under which the majority of Africans live?

In all likelihood not any time soon. It would take a modicum of courage for black American politicians to speak to against the abuses of black Africans, a courage apparently wanting.

The silence of liberals raises the question of just how much they really care about the people of Africa. Or is that anti-South Africa rhetoric is just that, designed to enhance politicians' domestic images as courageous crusaders for moral principle?

Their demagoguery, usually served up for constituent consumption, serves political agendas more than the interests of black people in Africa.

What is wrong, is wrong. It matters not to the victims if injustice comes at the hands of whites or blacks. It is a subtle form of racism that refuses to hold blacks accountable to the same standard of justice that is demanded of white South Africa.●

AMERICAN CHURCHES ON SOUTH AFRICA

● Mr. SIMON. Mr. President, I saw a small item regarding investment and disinvestment in South Africa in a publication called Christianity and Crisis. It is a small item written by Randy Nunnellee, which indicates that the churches and synagogs of the United States have not yet come aboard on the question of racism in South Africa, as they did on the civil rights issue in the United States in the early sixties.

I hope such leadership will come. Just as the Government should be doing more to express our concern to the leadership in South Africa, so the churches and other voluntary groups should be doing more.

The article follows:

BURIED TALENTS?

"Be careful" seems to be the response of U.S. churches to the repression of their brothers and sisters in South Africa. The churches have been much slower than some universities, cities, and state governments to take definitive action against apartheid and U.S. support for South African racism. Bishop Desmond Tutu has on numerous occasions called on the world Christian community and the governments of the West to employ every means available to pressure for change in South Africa, whether political or economic. In his own words, peaceful change "doesn't have a snowball's chance in hell" in the absence of such pressure. "This is our last peaceful chance," he concludes.

To date, 5 states, 14 cities, and many universities have decided to divest from banks and corporations doing business with South Africa. Yet, of the seven major Protestant denominations who have taken a position on divestment, only two—the American Lutheran Church and the Lutheran Church in America—have mandated divestment; even they have not completed the process of withdrawal.●

AMTRAK

● Mr. SARBANES. Mr. President, I am deeply troubled by the administration's proposals regarding the National Rail Passenger Corporation [Amtrak]. As each of us is aware, the President's budget request for the coming fiscal year projects the termination of our commitment to provide for a balanced and responsive rail passenger system in the Nation in return for the supposed goal of saving $684 million. What the budget request did not consider or project are the consequences of the proposal. It is almost certain that Amtrak, a Federal corporation, would quickly approach insolvency and would not only be required to terminate its operations, but the employment of over 25,000 workers in 44 States. As a direct result of any shutdown of Amtrak, provisions from the National Rail Passenger Act of 1970 will trigger liability payments from the Corporation and the Federal Government of some $2.3 billion over 6 years.

In addition to the employment and budgetary impact of this proposal, the dissolution of Amtrak will present an enormous hardship to those who regularly use this system for passenger and freight transportation. Amtrak currently operates over 24,000 miles of track and serves over 500 communities. I am convinced that it would be a serious miscalculation to assume that either a new source of funding will appear to shoulder the Federal commitment to this system or that we in the United States can afford to be the only industrialized Nation to be without a comprehensive rail network. The lack of foresight in this proposal is incomprehensible.

Mr. President, Amtrak has become a modern, efficient and reliable method of transportation. As those of us in this body realize, the revenue-to-cost ratio has improved from 48 percent in 1971 to 60 percent expected in fiscal year 1986. This improvement not only reflects aggressive marketing strategies and an increase in fare-related revenues, but takes account of the decreasing Federal subsidy. Last year's appropriation of $684 million has been the lowest in recent years, providing benefits far greater than such a level of support would indicate.

I am certain that the members of this body will carefully weigh each of the considerations involved in a decision of this magnitude and reject this proposal. I commend a recent editorial from the Washington Post to the attention of my colleagues and ask that it be printed in the RECORD.

The editorial follows:

[From the Washington Post, Feb. 28, 1985]

DON'T STRANGLE AMTRAK

Though Federal subsidies have long supported almost every form of transportation in this country, from jogging to jetting, the Reagan administration is now seeking to eliminate all federal assistance to Amtrak. This move would surely kill intercity passenger rail service, squander a huge investment that is just beginning to pay off and create new transportation pressures all up and down the Northeast Corridor. One would like to believe that rational members of Congress will resist this penny-wise and inconsistent transportation proposal. But the administration is pushing hard for a cutoff.

The administration contends that Amtrak services an insignificant 2 percent of intercity passenger trips nationally and that private rail companies will swoop right in and pick up Amtrak's busiest routes, such as the one between Washington and New York. What if they don't? How much would taxpayers wind up underwriting in the way of road money and federal support for additional airline service?

Another administration argument is that Amtrak's Northeast Corridor service is serving mostly higher-income people: about 55 percent of the riders are paid more than $300,000 annually. Does this mean that people with incomes under this level don't depend on Amtrak and that they all can and do stick to bus service? That's hard to believe—and hard to confirm.

But as long as people are tossing about all sorts of numbers, Amtrak officials have some too. They argue that if all federal support for such services as air traffic control were totaled, subsidies for air travel would be much higher than what Amtrak is receiving. They note that capital investments totaling $5.2 billion are just beginning to pay off in better service and economy. And dismantling the system, if it came to that, would cost the government billions over the next six years.

On a local note that is nevertheless near and incredibly dear to the pockets of taxpayers from coast to coast, the federal government does happen to be financing plans to redo Union Station. What for? "Maybe you should have alternative plans for Union Station," says Rep. Silvio Conte of Massachusetts, who opposes the proposal to eliminate Amtrak's subsidies. "Put in some stalls and hay racks."●

SUBCOMMITTEE ASSIGNMENTS, JURISDICTIONS AND RULES, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. STAFFORD. Mr. President, I am pleased to announce the selections for membership of the subcommittees of the Senate Committee on Environment and Public Works for the 99th

Congress. I do so pursuant to our committee rule 11, after consultation with the Members on our side and Senator BENTSEN, our ranking minority member.

The number and character of our subcommittees will not have changed from the 98th Congress. Each subcommittee chairman has agreed to continue to serve in that capacity, and in most cases the membership of the subcommittees is very similar to the last Congress, so that we can expect continuity of purpose and action.

Mr. President, I ask that a list showing subcommittee assignments of the Committee on Environment and Public Works be included in the RECORD at this point.

The list follows:

99TH CONGRESS—15 MEMBERS

Robert T. Stafford, Chariman; John H. Chafee; Alan K. Simpson; James Abdnor; Steve Symms; Gordon J. Humphrey; Pete V. Domenici; Dave Durenberger.

Lloyd Bentsen, Quentin N. Burdick, Gary Hart, Daniel Patrick Moynihan, George J. Mitchell, Max Baucus, Frank R. Lautenberg.

SUBCOMMITTEES

Environmental Pollution—9

John H. Chafee, Chairman; Alan K. Simpson; Steve Symms; Dave Durenberger; Gordon J. Humphrey.

George J. Mitchell, Gary Hart, Daniel Patrick Moynihan, Frank R. Lautenberg.

Nuclear Regulation—5

Alan K. Simpson, Chairman; Pete V. Domenici; Steve Symms.

Gary Hart, Daniel Patrick Moynihan.

Water Resources—5

James Abdnor, Chairman; Pete V. Domenici; Dave Durenberger.

Daniel Patrick Moynihan, Max Baucus.

Transportation—7

Steve Symms, Chairman; John H. Chafee; James Abdnor; Robert T. Stafford.

Quentin N. Burdick, George J. Mitchell, Lloyd Bentsen.

Regional and Community Development—5

Gordon J. Humphrey, Chairman; Pete V. Domenici; John H. Chafee.

Frank R. Lautenberg, Quentin N. Burdick.

Toxic Substances and Environmental Oversight—7

Dave Durenberger, Chairman; Alan K. Simpson; James Abdnor; Gordon J. Humphrey.

Max Baucus, Quentin N. Burdick, Gary Hart.

The responsibilities or juridsictions of the subcommittees also have not been changed, and remain as shown on the second attachment—which I ask also be included in the RECORD.

The attachment follows:

99TH CONGRESS, U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SUBCOMMITTEE RESPONSIBILITIES

Environmental pollution

Water pollution (including oil pollution).
Ocean dumping.
OCS lands (environmental aspects).
Solid waste disposal and resource recovery.
Fisheries and wildlife (including refuges).

Nuclear regulation

Environmental regulation and control of nuclear energy.

Water resources

Water resource development policy.
Flood control.
River basin policy.
Inland waterways construction and operation.
Small watersheds.

Transportation

Construction and maintenance of highways.

Regional and community development

Economic development programs.
Appalachian Regional Commission.
Tennessee Valley Authority.
Disaster relief.

Toxic substances and environmental oversight

Toxic substances.
National Environmental Policy Act.
Environmental research and development.
Noise pollution.
Drinking water quality regulation.

Full committee

"Superfund" for hazardous substances.
Air pollution.
Nominations.
Public buildings and grounds.

Mr. President, each year the rules of the Committee on Environment and Public Works are included in the RECORD after committee organization, and I ask that our rules as adopted by the committee on January 29 be printed in the RECORD at this point.

The material follows:

RULES OF PROCEDURE OF THE COMMITTEE

Rule 1. *Regular Meeting Days.*—The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 A.M., except that if there be no business before the Committee, the regular meeting shall be omitted.

Rule 2. *Committee Meetings.*—Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman, after consultation with the ranking Minority Member. Subcommittee meetings shall be called by the Chairman of the respective subcommittee, after consultation with the ranking Minority Member. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

Rule 3. *Open Committee Meetings and Legislative Mark-up Sessions.*—Meetings of the Committee, including hearings and legislative mark-ups, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the Committee determines by record vote of a majority of the members of the Committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds of closure under paragraph 7(b) of rule XXV of the Standing Rules of the Senate (as amended by Senate Resolution 9, 94th Congress).

Rule 4. *Presiding Officer.*—(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside.

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside.

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

Rule 5. QUORUMS.—(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsections (a) and (b) has been established for the conduct of business, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in subsection (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

Rule 6. *Proxy Voting.*—(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the Ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy may have their positions recorded on any vote on the same business day so long as the vote will not change the outcome.

Rule 7. *Public Announcement of Vote.*—Whenever the Committee, by rollcall vote, reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

Rule 8. *Announcement of Hearing.*—The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time, and subject matter of any hearings to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence

of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

Rule 9. *Statements of Witnesses at Hearings.*—(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal Government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness confine his oral presentation to a summary of his statement.

Rule 10. *Regularly Established Subcommittees.*—The Committee shall have six regularly established Subcommittees as follows:

Subcommittee on Environmental Pollution

Subcommittee on Nuclear Regulation

Subcommittee on Water Resources

Subcommittee on Transportation

Subcommittee on Toxic Substances and Environmental Oversight

Subcommittee on Regional and Community Development

Rule 11. *Subcommittee Membership.*—Following consultation with the Majority Members and the Ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rule 10.

Rule 12. *Environmental Impact Statements.*—No project or legislation proposed by the Administration shall be approved or other action taken on such project or legislation unless the Committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule does not intend to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

Rule 13. Whenever the Committee authorizes a project, under Public Law 89-298, Rivers and Harbors Act of 1965, Public Law 83-566, Watershed Protection and Flood Prevention Act, or Public Law 86-249, Public Buildings Act of 1959, as amended, the Chairman shall submit for printing in the Congressional Record, and the Committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

Rule 14. *Naming of Public Facilities.*—No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents or former Vice Presidents of the United States, or former Members of Congress over 70 years of age.

Rule 15. (a) The Committee shall act on all prospectuses for construction (including construction of buildings for lease by the Government), alteration and repair, or acquisition submitted by the General Services Administration in accordance with section 7(a) of the Public Buildings Act of 1959, as amended, and such action shall be completed by the date of May 15 during the same session in which such prospectuses are submitted to Congress. The Committee may consider prospectuses submitted for alterations or repairs necessitated by emergency building conditions at any time during the same session of the Congress in which they are submitted. Prospectuses rejected by majority vote of the Committee or not contained in any bill reported to the Senate shall be returned to the GSA and must then be resubmitted in order to be considered for action by the Committee during the next session of the Congress.

(b) Reports of building project surveys submitted by the General Services Administration to the Committee under section 11(b) of the Public Buildings Act of 1959, as amended, shall not be considered by the Committee as being prospectuses subject to approval by committee resolution in accordance with section 7(a) of that Act. Projects described in such survey reports shall be considered for Committee action only if they are submitted as prospectuses in accordance with section 7(a) and they shall be subject to the provisions of subsection (a) of this rule.

(c) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

Rule 16. *Broadcasting of Hearings.*—Public hearings of the Committee, or any Subcommittee thereof, may be televised or broadcast, or recorded for television or broadcast, upon notification in advance to the Chairman through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

Rule 17. *Amendment of Rules.*—The rules may be added to, modified, amended, or suspended by a majority of the Committee Membership.●

WATER RESOURCES DEVELOPMENT ACT

● Mr. ABDNOR. Mr. President, I believe it would be appropriate for me at this time to provide my colleagues with an overview of the status of and prospects for S. 366, the Water Resources Development Act of 1985.

Mr. President, 23 of my colleagues joined me in cosponsoring S. 366. I think that this is clear evidence of the broad based support for passage of a water resources development act, something which Congress has failed its responsibility to do now for 9 years.

Further evidence that the time is ripe for water legislation can be found in the fact that the administration has proposed its own water resources legislation. Mr. President, never before has an administration of either party proposed such comprehensive legislation to Congress, and while I personally have very serious problems with some of the administration's proposals, I welcome them back to the negotiating table.

These are two of the signs which point to the potential for success for water resource legislation in the 99th Congress.

In addition to these two encouraging signs, I would welcome any parallel action by the Finance Committee. We need to work together, and any action taken by the Finance Committee on user fees for inland and deep draft navigation projects will complement action on S. 366 by the Committee on Environment and Public Works.

Mr. President, I want my colleagues to know that I intend to move forward on S. 366, the Water Resources Development Act, and I hope we can advance this legislation with the cooperation of the Finance Committee.●

HONORABLE CHAN GURNEY

● Mr. ABDNOR. Mr. President, it is my sad duty to report to the Senate the death of a distinguished former member of this body who served in the seat I now hold from January 3, 1939, until January 2, 1951.

John Chandler "Chan" Gurney died on March 9 in Yankton, SD, the city in which he was born nearly 89 years ago.

Chan Gurney was a stalwart champion of this Nation's security, as a chairman of the Senate Armed Services Committee and a member of the Senate Appropriations Military Affairs Subcommittee. He knew well that our Nation's best means of preserving the peace was a strong defense.

The Gurney name in South Dakota is most closely identified with the Gurney Seed and Nursery Co. of Yankton. Young Chan worked for many years in this business founded by his family. Leaving the nursery business, he became familiar to radio listeners of the midwest as the friendly voice on Station WNAX which he convinced his family to acquire.

As the owner and manager of the Chan Gurney Oil Co. and WNAX Fair Price gasoline stations, he was decades ahead of his time in pioneering auto fuels made from grain.

As South Dakota's Senator he was known as one of the most accessible members and received consistent high marks for the quality of his constituent service.

As the Yankton Daily Press and Dakotan editorialized this week:

"Possibly the best eulogy for Gurney would be words to this effect: If there were more like him alive today—living in Yankton, working in South Dakota and serving in Washington DC—our times would be brighter and our futures would be more secure."

Mr. President, I know our colleagues join me in exteding heartfelt sympathy to his wife, Evelyn, and his children.

Mr. President, I request to have included in the RECORD articles from the Yankton Press and Dakotan reporting the death of our former colleague.

The articles follow:

GURNEY ACTIVE THROUGHOUT LIFE

(By Cindy Stenstrom)

From his days as an announcer in the pioneering days of Radio Station WNAX in Yankton through his terms as a United States senator on Capitol Hill, John Chandler "Chan" Gurney influenced the people around him and gained a distinction few have attained.

Gurney, who died Saturday at Sister James Nursing Home in Yankton at the age of 88, is most remembered as a young and talented announcer on a new radio station in 1925 called WNAX, and for his service as a congressman.

It was through his son, Chan's, urging that D.B. Gurney purchased the station in 1927, starting an era of the Gurney Seed and Nursery Co.-WNAX partnership that reached thousands of listeners throughout the years.

In the early 1930s, Gurney left the seed and nursery business to start the WNAX Fair Price gas stations, which sold a mixture of grain alcohol and gasoline—probably the beginnings of today's gasohol. The stations also sold WNAX Fair Price tires and motor oils.

He served as a Republican senator from South Dakota from 1939 through 1950. Although losing the first time, he later defeated former Gov. Tom Berry for the Senate and was re-elected in 1944.

But in 1951, Gurney's days in the Senate came to an end with a defeat by fellow Republican, U.S. Rep. Francis Case. Voters chose Case as their nominee in the 1950 primary and Gurney left the Senate on Jan. 3, 1951.

Gurney served two terms, a total of 12 years, as the state's U.S. senator. He was a member of congressional committees that worked on the Pick-Sloan Plan for building dams on the Missouri River to prevent flooding each spring.

Gurney was a member of many committees during his terms as senator. He was chairman of the Senate Armed Services Committee, and was a member of the Military Affairs and Appropriations committees.

The Civil Aeronautics Board was the next step for the Yankton native. President Harry Truman appointed him to the board for a six-year term. Following his first stint on the CAB, Gurney was reappointed for another six-year term by President Dwight Eisenhower. He was chairman of the CAB from 1954 to 1957 and was vice chairman until his retirement in 1965.

He returned to Yankton where he became active in garnering support for the Yankton airport, which was eventually named after him. Gurney served on the board of directors of North Central Airlines, which later became Republic Airlines. Gurney served on the board also of Sister James Nursing Home in Yankton.

During his term as senator, Gurney in 1945 presented an ancient Indian peace pipe to Truman in tribute to "his greatness as a leader in war and peace." The pipe was smoked by Chief Crazy Horse when he consented to return to the ranks of peaceful Indians on the South Dakota reservation after the battle with George Armstrong Custer battle in 1876, and was presented on the behalf of Chief Henry Standing Bear and Chief Frank Goodlance of the Sioux tribe.

Many in Yankton remember Gurney as a friend.

Howard "Hod" Nielsen, Press & Dakotan sports editor, grew up in the same neighborhood with Gurney's daughter, Elaine (Gurney) Smith and remembers idolizing him as the first basketball broadcaster in Yankton. Nielsen himself later became a sports announcer for KYNT Radio in Yankton.

"I knew him all my life. He was a really good friend. I always admired him for being himself. He was a big wheel, but he never lost his common touch," said Nielsen.

Gurney was also a close friend of the Levinger family. Charles Levinger recalled this morning that his father, Harold, and Gurney visited frequently when Gurney was a senator, and the family followed his career quite closely when he was a member of the CAB.

"He was a close friend of the family and he will certainly be missed," Levinger noted.

John Chandler "Chan" Gurney, 88, former U.S. senator from South Dakota and Civil Aeronautics Board chairman, died in Sister James Nursing Home here Saturday (March 9, 1985).

Funeral services will be 2 p.m. Tuesday in the United Church of Christ (Congregational) at Yankton, with burial at the Yankton Cemetery and military honors by Ernest Bowyer Veterans of Foreign Wars Post 791.

Visitations will be this afternoon from 3 to 9 at Ray Funeral Chapel, with Masonic rites conducted at 8 p.m. by St. John's Lodge No. 1 AF&AM.

Memorials are being directed to the Yankton Territorial Museum and to the Sister James Nursing Home.

Mr. Gurney was born May 21, 1896, in Yankton to Charles Walter and Eliza Butler Gurney. He attended Yankton public schools, graduating from high school in 1915. He married Evelyn Bordeno July 4, 1917, in Kansas City, Kan., and in fall of that year enlisted in the U.S. Army. He was stricken with meningitis, and received a medical discharge. He fought for about a year in Europe during World War I.

He returned to Yankton in 1919 and he was employed by the Gurney Seed and Nursery Co. as a salesman and later was promoted to secretary. He was the founder of Radio Station WNAX, and personally made its first broadcasts from the Gurney home at Fifth and Pine streets. He left the seed company to become owner and manager of Chan Gurney Oil Co. in Sioux Falls from 1933 to 1938.

Gurney lost the first time he ran for the Senate in 1936. In 1938, he defeated former Gov. Tom Berry for the Senate and was re-elected in 1944.

Voters chose Case as their nominee in the 1950 primary and Mr. Gurney left the Senate on Jan. 3, 1951.

He served in the Senate from 1939 through 1950, and after his second term was appointed to the CAB, where he became chairman until his retirement in 1965.

He returned to Yankton but continued his ties to aviation, serving as a director for North Central Airlines, which became Republic Airlines.

In 1940 and 1941, Mr. Gurney worked to promote Rapid City as the site of one of seven major new air bases throughout the nation. Yankton's Chan Gurney Municipal Airport was named in his honor.

Mr. Gurney was a member of the United Church of Christ, St. Johns Masonic Lodge, AF&AM. He was a 33rd degree Mason, a member of the Yankton Consistory and El Riad Shrine Temple in Sioux Falls, the Lewis and Clark Shrine Club of Yankton, the American Legion, the Veterans of Foreign Wars, the Elks Club, the Dakota Lodge and the International Order of Odd Fellows.

Survivors include his wife; one daughter, Mrs. Elaine Smith of Yankton; two sons, John of Dallas, Ore., and Deloss of Hinsdale, Ill; eight grandchildren and nine great-grandchildren.

[Yankton Press & Dakotan, March 12, 1985]

CHAN GURNEY: BUSINESSMAN, SENATOR, CIVIC LEADER

The news story and the obituary carried all the words: John Chandler "Chan" Gurney, 88, former Republican United States senator from South Dakota and Civil Aeronautics Board chairman, died in Sister James Nursing Home in Yankton on Saturday.

Gurney—Yankton born and bred—attended city public schools, served in the U.S. Army, returned to Yankton and was employed by the Gurney Seed and Nursery Co.

He was founder of Radio Station WNAX. He left the seed company to become owner and manager of Chan Gurney Oil Co. and the WNAX Fair Price gasoline stations, which sold a mixture of grain alcohol and gasoline—probably the beginnings of the gasohol industry of today.

He was elected to the U.S. Senate in 1938 and re-elected in 1944. He served in the Senate from 1939 through 1950. He was chairman of the Senate Armed Services Committee during the critical years of World War II, and was a member of the Military Affairs and Appropriations committees, as well.

The CAB was the next step for Gurney. President Harry Truman appointed him to the board for a six-year term. Gurney was reappointed for another six-year term by President Dwight Eisenhower. He was chairman of the CAB from 1954 to 1957, and was vice chairman until his retirement in 1965.

He returned to Yankton and continued his ties to aviation, serving as a director for North Central Airlines, which became Republic Airlines. Chan Gurney Municipal Airport in Yankton was named in recognition of his contribution to aviation and to Yankton.

Gurney was so active in the community, in the state, on the national level, that the list of his activities belongs in the "who's who" among Americans of the 20th Century.

Funeral services were held today at 2 p.m. in the United Church of Christ (Congregational) at Yankton, with burial at the Yankton Cemetery and military honors by members of the Ernest Bowyer Veterans of Foreign Wars Post 791.

Memorials are being directed to the Yankton Territorial Museum and to the Sister James Nursing Home, where Gurney was once a director and, in his later years, a resident.

Those were the words.

They do not adequately convey the feeling of Gurney the man nor the relevance of his life to Yankton, to South Dakota, to the nation.

His friends and family perhaps are the only ones who truly can know Gurney the man—but, all that any resident of Yankton has to do to understand the significance of his life is to read those words with a measure of thought: Businessman, senator, civic leader, aeronautical pioneer—and, so much more.

There are few who can match that record—few who even would dare make the attempt.

Possibly the best eulogy for Gurney would be words to this effect: If there were more like him alive today—living in Yankton, working in South Dakota, serving in Washington, D.C.—our times would be brighter and our futures would be more secure.

John Chandler "Chan" Gurney was one in a million.●

COSPONSORING SENATE RESOLUTION 66

● Mr. D'AMATO. Mr. President, I am pleased to join my colleagues as a cosponsor of Senate Resolution 66. For over three decades, the ANZUS Alliance has served well the interests of the United States, Australia, and New Zealand. It has also been a natural manifestation of the close political, security, and economic ties that bind our three nations together. This trilateral agreement is the alliance upon which our mutual security in the South Pacific has been based in the post-World War II period.

New Zealand's current policy, however, threatens this security and undermines our common defense. Restricting U.S. nuclear-powered or nuclear-armed ships' access to New Zealand's ports would require the United States to reverse its long standing policy of refusing to confirm or deny the presence or location of nuclear weapons or to cease calling at New Zealand's ports. We have chosen to end port visits until this restrictive policy is reversed. The immediate consequence of New Zealand's policy is the cancellation of the Sea Eagle exercise hosted by Australia.

As a member of the ANZUS Alliance and of the free world, New Zealand is responsible for sharing equally the burdens of the alliance in the defense of freedom. They cannot expect to choose the burdens they will bear and, at the same time, enjoy all the benefits provided by the alliance and by our collective freedom. The fight to maintain the relative peace that now exists requires a unified effort by all nations of the free world. New Zealand's unilateral action weakens this effort and increases the risk of armed conflict.

The threat of nuclear war is not diminished by New Zealand Prime Minister Lange's ill-considered policy. Indeed, his policy has undermined the unity of the ANZUS Alliance. No rational person can question the devastating effects of a nuclear war. Therefore, we must avoid at all costs the adoption of policies that serve only to increase the threat of such a war. Peace and freedom today are maintained through strength and unity, not weakness and quixotic gestures of the sort New Zealand is making.

Only behind the security shield of such alliances as ANZUS can the free world enjoy the economic benefits of international trade and the social, cultural, and political benefits of freedom. Regrettably, Prime Minister Lange's actions have jeopardized this security shield, calling into question our mutual international trade relationship. We are thus forced to reconsider the costs and benefits of this relationship.

We are taking this action today not because we wish to break our alliance with New Zealand, but because we want to see that alliance reaffirmed and strengthened. We wish to maintain our collective security arrangements and foster the international relationships made possible by this defensive shield.

To this end, it is my hope that New Zealand will come to understand the shortsightedness of their actions and decide to return to the healthy United States-New Zealand relations that existed only a few months ago. We must make unmistakably clear our disappointment over their actions and our continued firm opposition to their new policy.

I commend Senator COHEN for proposing a resolution that does just that, and I hope that our allies abroad who feel as we do will join in our resolve by undertaking similar efforts to pursuade New Zealand to reverse its policy.

I urge my colleagues to join with me in support of this expression of the will of the Senate on this important security issue.

Thank you, Mr. President.●

THE CONRAIL SALE

● Mr. HEINZ. Mr. President, on February 28, 1985, I testified before the Commerce Committee at a hearing on the proposed sale of Conrail. I ask that the text of my testimony be printed in the RECORD at this time.

The text follows:

STATEMENT OF THE HONORABLE JOHN HEINZ

Senator HEINZ. Mr. Chairman, first I want to thank you for these hearings and inviting Senator Specter and myself to testify.

I would like to first summarize my point of view and then briefly detail why I take the particular point of view I do. Basically the proposal by the Department of Transportation is going to create a mega-merger of two huge rail systems, that the shippers are against because it will eliminate competition at 5,557 service points, that labor is against because it will eliminate at least 2,300 jobs—that is what Norfolk Southern says—and that is a give-away of a $7 billion investment of the taxpayers' money for a mere $1.2 billion, which is just about exactly the amount of surplus cash that Conrail has in its treasury and pension fund combined.

I obviously strongly oppose the Department of Transportation proposal. Let me deal with the fact that it is grossly anti-competitive. The Department itself has said it wants to preserve service and competition.

Based on the available evidence, the merger of Conrail with Norfolk Southern would leave 5,557 individual shipping points in at least twelve markets bereft of access to competing lines. The antitrust remedy proposed by the Department of Justice will solve only a portion of these problems.

Because of that serious deterioration of competitive rail service, the proposal is going to drastically undermine the economy of the Northeast-Midwest region. It will not only cost Conrail workers at least 2,300 jobs—and that is the Norfolk Southern's promise—but it will cost tens of thousands of jobs on the premises of those manufacturers and shippers who depend on Conrail services and the competition from other rail lines currently accessible, because those shippers will either be bereft of any service or the cost of their transportation will rise dramatically because they will be captive shipping-points.

I also must say, Mr. Chairman, that the proposal that is before you from the Department of Transportation is not going to go anywhere and achieve the intended objective of the Northeast Rail Service Improvement Act, and I do not think it is going to go anyplace for three reasons:

The first is the tax elements of this proposal. Now, it just so happens that the Finance Committee, on which the chairman and I both serve, has jurisdiction and should have jurisdiction over the tax aspects of this proposal.

This proposal has some of the most intricate, precedent setting tax provisions that I have ever seen. And I will name one that should be of great concern to every member of the Finance Committee and every Member of the House and Senate. As I understand the proposal, we would be presented with legislation which would eliminate the investment tax credit that has accumulated over the years to Conrail, in return for which the same legislation proposes to write up the depreciable base of the assets in this corporation.

Mr. Chairman, until we go over it and it is found by the experts on the Finance Committee to be something else, that looks like one of the great hidden tax give-aways to the special interests in this century. And we should be examining it in the committee of jurisdiction, and certainly I intend to insist on referrals to the Finance Committee, on which you serve, so that we can properly examine it.

Second the antitrust questions are significant and serious. How can they not be significant when 17,000 miles of Norfork Southern track, as Senator Specter has mentioned, are being merged with 13,000 or 14,000 miles of Conrail lines to create the largest railroad in the history of the United States.

What about the competitive effects of those 5,557 service points? I do believe that the Senate Judiciary Committee must, indeed is obligated to, demand referral and to evaluate the antitrust components of this sale. Having a little report from the Justice Department that says all is well here in Mudville is simply not good enough.

Let me give you the third reason, Mr. Chairman, why I do not think this proposal to privatize Conrail is going to go anyplace. There is a rumor that this sale is going to go someplace because it is going to be included in budget reconciliation.

Now, we all know what difficulty we are having putting together a budget reconciliation package, we all know that, if we're going to reduce spending by $50 billion, we are going to have in that budget reconciliation proposal about $200 worth of pain for

every man, woman and child in the United States of America.

That is what those budget cuts would amount to, and that legislation, if it passes, is not going to pass by a very large margin. And I do not think that including a controversial Conrail sale proposal that affects the economic lifeblood of the Northeast and Midwest is exactly going to help that budget proposal along.

And if you want me to be plainer, if you want me to answer your unasked question, Senator, does that mean that I would vote against reconciliation if we put the Department's proposal in there as it stands, the answer is probably a very strong yes.

Now, let me address another point, Mr. Chairman. I am not opposed to the privatization of Conrail. Indeed, I support the Secretary's goal of privatizing Conrail. I would like to see it happen, if we can do it the right way, sooner as opposed to later. Sooner is more advantageous for a variety of reasons that we all know about.

But I do not think that having privatization just for its own sake is the answer, particularly when there is at least one alternative to the anticompetitive, antijobs, economically catastrophic-for-the-region megamerger. That alternative is a public offering.

There are many kinds of public offerings: some are good and some are bad. A public offering that contemplates $500 million in equity is not a good public offering. $500 million in equity is the same as selling Conrail to the Marriott Corporation, which is going to put up $500 million, and that means that the other $700 million is going to come out of Conrail.

It is going to come out of Conrail's cash, Conrail's $849 million reserve. If it is not cash, it is going to come out of hypothecated assets of Conrail, which at some point has to be paid off with cash generated later. That is not in the best interest of Conrail.

It is not in the best interest of Conrail because Conrail may need, if and when we go into another economic downturn, the cushion of its cash. It is going to need the ability to borrow, perhaps, to get through the economic cycle.

There are better public offerings, however. A public offering that results in substantially all of the revenue of $1.2 billion being generated through the sale of common stock, equity, is a good public offering, because it results in no utilization of Conrail's cash, and because it results in no significant hypothecation of Conrail's assets, and gives Conrail the strongest possible means of moving ahead.

What I am here to urge you to consider is a particular kind of public offering, and that is a public offering where the public has a chance to vote with their wallets and determine the future of Conrail. If the public chooses not to invest in Conrail, if the public offering fails, we go to plan B, which is whatever plan you, Mr. Chairman, and the Congress together with you decide.

What I am saying is that I urge you to write, for all the reasons aforementioned, a single piece of legislation that requires that the Secretary use her best efforts to bring about a public offering. If after a 60 or 90 day period of marketing that public offering (the costs of which would be borne by an underwriter or group of underwriters) $1.2 billion worth of common stock had not been subscribed (an amount equal to or greater than that offered by Norfork Southern), then we would go, because it is in the same piece of legislation, to plan B, which is whatever Congress shall prescribe.

It seems to me, Mr. Chairman, that this is an option that the committee ought to seriously consider. I am aware that there is some concern about the efficacy of a public offering, but I would note that yesterday, when you asked Secretary Dole's investment banker, Ken Brody, to comment on my proposal for a contingent public offering, he carefully did not say anything about it, and addressed something else. I do not know what. I was not here. But he certainly did not, as an examination of the hearing record will show, respond to your question in that regard.

The efficacy of a public offering generally has been questioned because no one has been able to identify as yet an underwriter who would do the typical kind of public offering. The typical kind of public offering is where an underwriter says we will on such and such a date deliver to you $1.2 billion, and if we do not get all the stock sold, it comes out of us, the underwriter.

That is the typical kind of public offering. I am proposing a different kind of public offering where, if the $1.2 billion is not delivered on a specific date, you go to plan B. I would suspect, Mr. Chairman, that there are two ways you can test the efficacy of my proposal.

Test number one is to examine the asset structure of Conrail, as Senator Specter has proposed. Now, we are at a disadvantage. We cannot get the list of all the assets of Conrail, but we do have a list of the cash in Conrail, and the cash in Conrail is $849 million plus whatever money Conrail has made over the past two months, which is probably several more million dollars, plus $200 million surplus in the pension fund, plus whatever the net asset value is of the $3 to $4 to $5 billion worth of rolling stock, rail, scrap value, and everything else that makes up the railroad. I do not know what that is, but it is certainly worth several billions of dollars, I would think.

It seems inconceivable to me that any underwriter worth his salt could not sell $1.1 billion of cash plus $2 or $3 billion worth of net assets for a measly $1.2 billion, and I suggest you ask them whether they can do it or not on the basis I have described.

Test number two is to get some underwriters in here to tell you whether or not, based on the formulation I have given you, they would singly or in combination be willing to risk the marketing costs of this kind of contingent public offering, which marketing costs are substantial, at least as they measure it.

From what I understand, it would cost between $5 and $10 million to market the contingent public offering that I have proposed. Now, in Washington D.C., Mr. Chairman, $5 to $10 million is kind of laughed at. We do not even count it in the budget process. We just put a little asterisk beside it and say it is all right.

The Budget Committee does not even oppose amendments as long as they are under $50 billion in the budget. However, for a real flesh and blood business firm in this country, $5 to $10 million is a substantial amount of money.

So, if you get an underwriter that says, we are willing to risk $5 or $10 million to market this, you have somebody who is willing to put his reputation and his neck on the line here, and I hope you will bear that in mind.

Mr. Chairman, I want to conclude by simply saying that I think you have a tough job. What makes it so tough is that there is a lot that you are being asked to do that is not typically in the jurisdiction of this committee.

The antitrust questions clearly need the expertise of the Judiciary Committee. They are raised specifically by the merger with Norfolk Southern. The tax questions, which are raised by the sale to any private entity, are clearly in the jurisdiction of the Finance Committee.

For the most part, those questions would not arise through a public offering. Indeed, a public offering would be not unlike what exists now with respect to Conrail, except we would no longer have a nationalized railroad competing against free enterprise, other railroads, shippers, bargers, and air freighters, as indeed now is the case.

So, I hope, Mr. Chairman, that you will look into the issues that I have outlined for you. I hope that the committee will rise to the challenge of framing a different kind of legislative proposal.

Otherwise, I fear the committee will frustrate the very intent of NERSA, which is to find an intelligent way, not any old way, of returning Conrail where it ultimately belongs, namely, in the private sector.

I thank you, Mr. Chairman.●

RULES AND SUBCOMMITTEE ASSIGNMENTS FOR THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

● Mr. DANFORTH. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I hereby submit for printing in the CONGRESSIONAL RECORD the procedural rules of the Committee on Commerce, Science, and Transportation in accordance with the requirement of Senate Rule XXVI. These are the rules adopted by the committee in its first executive session on March 8, 1985, and are identical to the rules adopted by the committee for the last Congress.

Mr. President, I also submit for printing in the CONGRESSIONAL RECORD the subcommittee assignments for the Committee on Commerce, Science, and Transportation for the 99th Congress.

The material follows:

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee, or any subcommittee, when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the committee or any subcommittee shall file with the committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the chairman of the committee or subcommittee prescribes.

4. Field hearings of the full committee, and any subcommittee thereof, shall be scheduled only when authorized by the chairman and ranking minority member of the full committee.

II. QUORUMS

1. Nine members shall constitute a quorum for official action of the committee when reporting a bill or nomination; provided that proxies shall not be counted in making a quorum.

2. Six members shall constitute a quorum for the transaction of all business as may be considered by the committee, except for the reporting of a bill or nomination; provided that proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the committee and each subcommitte thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full committee, or any subcommitte thereof, shall be televised or broadcast only when authorized by the chairman and the ranking minority member of the full committee.

V. SUBCOMMITTEES

1. Any member of the committee may sit with any subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the subcommittee unless he is a member of such subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular subcommittee shall not necessarily apply.

99TH CONGRESS: COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

STANDING SUBCOMMITTEES

AVIATION

Nancy Landon Kassebaum, Kans., Chairman.
Barry Goldwater, Arizona.
Ted Stevens, Alaska.
Paul S. Trible, Virginia.
J. James Exon, Nebraska.
Daniel K. Inouye, Hawaii.
Wendell H. Ford, Kentucky.

BUSINESS, TRADE, AND TOURISM

Larry Pressler, S. Dak., Chairman.
Bob Packwood, Oregon.
Albert Gore, Jr., Tennessee.

COMMUNICATIONS

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Larry Pressler, South Dakota.
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Slade Gorton, Washington,
Ernest F. Hollings, S. Carolina.
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CONSUMER

Bob Kasten, Wis., Chairman.
John C. Danforth, Iissouri.
Wendell H. Ford, Kentucky.

MERCHANT MARINE

Ted Stevens, Alaska, Chairman.
Slade Gorton, Washington.
Bob Kasten, Wiscknsin.
Paul S. Tribe, Virginia.
Daniel K. Inouye, Hawaii.
Russell B. Long, Louisiana.
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SCIENCE TECHNOLOGY, AND SPACE

Slade Gorton, Wash., Chairman.
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Nancy Landon Kassebaum, Kansas.
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SURFACE TRANSPORTATION

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Bob Kasten, Wisconsin.
John C. Danforth, Missouri.
Russell B. Long, Louisiana.
Donald W. Riegle, Jr., Mich.
J. James Exon, Nebraska.
John D. Rockefeller IV, W. Va.

NATIONAL OCEAN POLICY STUDY

John C. Danforth, Mo., Chairman.
Ted Stevens, Alaska, Vice Chairman.
Bob Packwood, Oregon.
Slade Gorton, Washington.
Bob Kasten, Wisconsin.

Paul S. Trible, Jr., Virginia.
Ernest B. Hollings, S. Carolina.
Russell B. Long, Louisiana.
Daniel K. Inouye, Hawaii.●

NATIONAL EMPLOY THE OLDER WORKER WEEK

● Mr. ABDNOR. Mr. President, the week of March 10–16 marks the 26th year that the American Legion, National Council of Aging, the American Association of Retired Persons, the Senior Community Service Employment Program, and others have sponsored "National Employ the Older Worker Week."

I was pleased to join in sponsoring Senate Joint Resolution 38 proclaiming this week in recognition of the efforts of these organizations and others to bring greater public attention to the benefits of employing older Americans.

Never before in the history of our Nation have we had as many senior citizens involved in work programs as we have now. This is a record to be proud of.

In my own State of South Dakota, I point with pride to the Green Thumb Program and the great benefits which it has brought to rural Americans in my State and others. Currently, the South Dakota Green Thumb Program, under the sponsorship of the National Farmers Union, employs over 300 older South Dakotans in a variety of positions from small factory workers to assisting in elderly health care programs.

Under the expert direction of Mr. Gerry Eisenbraun and others, the South Dakota Green Thumb Program has provided a living demonstration of the viability of hiring older workers since 1968. Without these employment opportunities, hundreds of older South Dakotans would lead lives less full and less rewarding.

I was pleased to join with Senator JOHN HEINZ, Senator JOHN GLENN, and others in cosponsoring this legislation to promote greater public recognition of the employment skills of older Americans. Having a number of senior citizens on my own Senate staff, I am well aware of the wealth of experience and wisdom such older Americans bring to the workplace.●

SENATOR CARL CURTIS CELEBRATES 80TH BIRTHDAY

● Mr. DOLE. Mr. President, I want to extend my heartfelt good wishes to Senator Carl Curtis who is celebrating his 80th birthday on March 15.

Senator Curtis and I served on the Senate Finance Committee together. And during those years, he was a good personal friend and a knowledgeable and helpful colleague.

Although Senator Curtis has retired from the Senate, he remains an active

member of the community—both here in Washington and in Nebraska.

I know those Members who served with Senator Curtis over the years, and others that know him, will want to join with me in sending him our congratulations and best wishes for continued good health and many more birthdays.●

RUSSELL L. STECKER

● Mr. WEICKER. Mr. President, I rise to call my colleagues' attention to the recent recognition very justly accorded a constituent of mine who has, through his profession, contributed substantially to improving the quality of life of persons with disabilities.

Russell L. Stecker, a senior partner in the Hartford-based architecture firm of Stecker, LaBau & Arneill, has served as a member of Connecticut's General Assembly and was deeply involved in establishing the Nation's first uniform State building code requiring access for persons with disabilities.

For his efforts he was presented the first Jane Sokolov Award by the Hartford Easter Seal Rehabilitation Center, a recognition which itself is named for another pioneering professional who dedicated her life's work to firmly establishing comprehensive outpatient medical and vocational rehabilitation services in the Greater Hartford area.

Russ Stecker richly deserves to be the first Sokolov Award recipient. Through both his public and professional lives he is removing the barriers that society places in the paths to independence and fulfillment for disabled people. And while this Congress and its predecessors can be proud of our efforts to insist on full integraton of disabled people in our society, it nonetheless remains for caring, capable individual citizens to insist and assist in getting the job done.

Russ Stecker, through his efforts on behalf of disabled people, has set an example for all of us to follow.●

DOD INTERSERVICE COOPERATION IN ARKANSAS

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. BUMPERS. Mr. President, at a time when the Department of Defense is criticized from all directions for the size of the defense budget, we should not overlook those in the Reserve Establishment who work for no pay and contribute a great deal.

On a recent visit to Arkansas, I had the pleasure of learning first hand about an interservice program between members of the Marine Corps Reserve and the National Guard. We in Arkansas are very proud that the National Guard's Professional Education Center for the United States is located at North Little Rock, AR. Members of a Marine Reserve Mobilization Training Unit located in Little Rock developed a subcourse on amphibious operations and doctrine when it was learned that no such course was in the National Guard curriculum.

The course is taught by volunteer Marine reservists who receive no pay and is added to the National Guard curriculum without any direct cost to the Government. Two of my constituents, Lt. Col. John Gill of the Marine Reserve and Col. Jim Daniel of the National Guard, have displayed the inguenuity to bring the program about. This is the type of interservice cooperation which makes us stronger at the same time that it reduces the cost of the Nation's defense.

The DOD earns high marks and appreciation for encouraging this type of effort.●

TOWARD JUSTICE IN NORTHERN IRELAND

● Mr. PELL. Mr. President, as a charter member of the Friends of Ireland, I am pleased to associate myself with the group's annual St. Patrick's Day statement. But two aspects of the current Irish situation, in my judgment, warrant special emphasis and concern.

The first is the continued operation in Northern Ireland of the Ulster Defense Association. Much condemnation has been directed—and quite rightly—at the immoral and antidemocratic violence perpetrated by the Irish Republican Army, supposedly on behalf of Northern Ireland's Catholic minority. Far less attention has been focused on its Protestant counterpart, the Ulster Defense Association, which is not only the largest paramilitary unit in Northern Ireland but has also shown itself to be a terrorist organization responsible for the murder of innocent civilians, bombings in the Irish Republic, and the illegal importation and stockpiling of arms. Over a period of time, the Government of the United Kingdom has jailed over 400 UDA members, discovering that some were also members of the Ulster Defense Regiment, an integral part of the security forces of Northern Ireland. Yet regrettably, despite its criminal propensities, the UDA is still allowed to operate openly in Northern Ireland, recruiting members and raising funds. Consequently, I have joined with Senators DODD, MOYNIHAN, and KENNEDY in sponsoring Senate Concurrent Resolution 27, calling upon the Government of the United Kingdom to outlaw the Ulster Defense Association, its membership, activities, and any like terrorist organization.

A second matter deserving emphasis today is the need for British statesmanship if the Irish question is to be resolved. Two years ago, the Republic of Ireland's farsighted leader, Garret FitzGerald, convened the New Ireland Forum, composed of the predominantly Catholic political parties of the Irish Republic and Northern Ireland. Its goal was to devise a path away from the current stalemate and slaughter in Ulster and toward an era of reconciliation in which the legitimate interests of both Catholic and Protestant would be protected. One year ago, the forum issued a landmark report, advocating some form of "joint sovereignty" in which Dublin and London would share authority in Northern Ireland. Under this formula, citizens of the north would be free to choose their own nationality. Meanwhile, security and stability would be enhanced as Irish Republican authorities assumed responsibility for those intensely nationalistic areas of Northern Ireland where the British Army and the Royal Ulster Constabulary must now operate essentially as an occupying force.

Implementation of any such concept will, of course, require British cooperation. Traditionally, Ulster Unionists have summarily rejected any change in the status quo, and Prime Minister Thatcher has taken their lead. But Mr. FitzGerald and his fellow Irish moderates have hoped through patient negotiation to induce a change in Westminster. With her staunchly patriotic credentials and demonstrated courage, Mrs. Thatcher is uniquely equipped to exercise leadership on this issue if she chooses. Indeed, given her cooperation and backing, the proposals of the New Ireland Forum could move swiftly from the world of dreams into the practical world of reality.

Thus it was that last November, when Prime Minister FitzGerald met in Dublin with a visiting delegation consisting of myself and several other Senators, he viewed with considerable expectation his imminent meeting with Mrs. Thatcher. Northern Irish leaders, whom we met in Belfast, voiced similar hope. Unfortunately, when the summit came, Mrs. Thatcher rejected the forum proposals, offering little sign that she was ready to entertain the profound—but eminently reasonable—structural changes which the forum had recommended and which the Irish situation so clearly requires.

Mr. President, I applaud the statesmanship of Prime Minister FitzGerald. And I urge that his voice be heard—in America, when he urges a halt to support for violence, and at No. 10 Downing Street, from which visionary leadership must come if there is to be an end to the reasons for that violence and a new beginning toward the just and peaceful Irish future so long denied.●

51-059 O-86-32 (Pt. 4)

ORDER FOR THE RECORD TO REMAIN OPEN TODAY UNTIL 5 P.M.

Mr. DOLE. Madam President, I ask unanimous consent that the RECORD remain open today until the hour of 5:00 p.m., for the introduction of bills, resolutions, and the submission of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MARCH 18, 1985

RECESS UNTIL 12 NOON

Mr. DOLE. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon on Monday, March 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. Madam President, I further ask unanimous consent that, following the recognition of the two leaders under the standing order, there be a special order in favor of the Senator from Wisconsin [Mr. PROXMIRE], for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. DOLE. Madam President, I also ask unanimous consent that, following the Proxmire special order, there be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Madam President, I indicate to my colleagues that following the conclusion of morning business, it will be the intention of the leadership to turn to any Legislative or Executive Calendar items cleared for action, and possibly begin consideration of Senate Joint Resolution 71, MX authorization, if available from Armed Services Committee.

Madam President, the last statement was simply for the edification and notification of Members. That would be the program on Monday, March 18, as I understand it.

Mr. BYRD. Madam President, will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. Madam President, it is my understanding that the distinguished majority leader was simply stating for the information of the Senate that it would be his intention to call up possibly Senate Joint Resolution 71, the MX authorization and/or anything else that might be cleared for action, but he was not asking unanimous consent that that be locked in at the moment.

The PRESIDING OFFICER. The minority leader is correct.

Mr. BYRD. All right. I thank the Chair and I thank the majority leader.

RECESS UNTIL MONDAY, MARCH 18, 1985

Mr. DOLE. Madam President, there being no further business, I move that the Senate stand in recess until 12 noon on Monday, March 18, 1985.

The motion was agreed to; and, at 1:54 p.m., the Senate recessed until Monday, March 18, 1985, at 12 noon.

NOMINATIONS

Executive nominations received by the Secretary of the Senate March 8, 1985, under authority of the order of the Senate of January 3, 1985:

OFFICE OF PERSONNEL MANAGEMENT

Donald J. Devine, of Maryland, to be Director of the Office of Personnel Management for a term of 4 years (reappointment).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Jacob Neusner, of Rhode Island, to be a member of the National Council on the Arts for a term expiring September 3, 1990, vice Jessie A. Woods, term expired.

THE JUDICIARY

Mark L. Wolf, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice a new position created by Public Law 98-353, approved July 10, 1984.

William G. Young, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice a new position created by Public Law 98-353, approved July 10, 1984.

Executive nominations received by the Secretary of the Senate March 12, 1985, under authority of the order of the Senate of January 3, 1985:

NATIONAL LABOR RELATIONS BOARD

Marshall B. Babson, of Connecticut, to be a member of the National Labor Relations Board for a term expiring December 16, 1989, vice Don Alan Zimmerman, term expired.

Wilford W. Johansen, of California, to be a member of the National Labor Relations Board for a term expiring expiring August 27, 1988, vice Howard Jenkins, Jr., resigned.

Executive nominations received by the Secretary of the Senate March 13, 1985, under authority of the order of the Senate of January 3, 1985:

DEPARTMENT OF THE TREASURY

John F. W. Rogers, of New York, to be an Assistant Secretary of the Treasury (new position—Public Law 98-594 of October 30, 1984).

THE JUDICIARY

Ann C. Willians, of Illinois, to be U.S. district judge for the northern district of Illinois, vice a new position created by Public Law 98-353, approved July 10, 1984.