willing to die cannot be sustained and cannot be allowed to spread deeper into the Clinton administration, which too docilely accepted Akashi's veto on retaliation.

Americans will not long support humanitarianism based on self-serving bureaucratic cynicism and fear. For better or worse, American participation in the arms embargo will soon come to an end and NATO member troops will come out. The war is going to get bloodier. And the bureaucrats of the United Nations, who now pursue policies that profoundly offend a common sense of justice and decency, will not be blameless for this happening.

RELATIONS WITH VIETNAM

Mr. DOLE. Mr. President, news reports indicate that President Clinton is on the verge of making a decision about normalizing relations with Vietnam. I understand an announcement may come as soon as tomorrow. Secretary of State Warren Christopher has recommended normalization. Many Vietnam veterans support normalization—including a bipartisan group of veterans in the Senate, led by the senior Senator from Arizona, JOHN MCCAIN. Many oppose normalization as well. Just as the Vietnam war divided Americans in the 1960's and 1970's, the issue of how to finalize peace with Vietnam divides Americans today.

At the outset, let me observe that there are men and women of good will on both sides of this issue. No one should question the motives of advocates or opponents of normalization. We share similar goals: Obtaining the fullest possible accounting for American prisoners of war and missing in action; continuing the healing process in the aftermath of our most divisive war; fostering respect for human rights and political liberty in Vietnam.

I can recall in, I think, 1969 attending the first family gathering of POW's and MIA's. Only about 100 people showed up. I think I may have been the only Senator there. And I promised that group that within 3 months we would have a meeting at Constitution Hall, which seats 2,000 people, and we would fill it up. And we did. And I remember wearing the John McCain bracelet for a couple of years back in those days when JOHN MCCAIN was still a POW.

So I have had a long and I think consistent interest in the fate of POW's and MIA's starting way back when nobody knew the difference, when bracelets were not ordinary, nobody knew what a POW/MIA was for certain. And so it is something that I have had an interest in for a long, long time.

The debate over normalization is about our differences with the Government of Vietnam, not with the Vietnamese people. The people of Vietnam have suffered decades of war and brutal dictatorship. We hope for a better future for the people of Vietnam—a future of democracy and freedom, not repression and despair.

The debate over normalization is not a debate over the ends of American policy; it is a debate over the means. The most fundamental question is whether normalizing relations with Vietnam will further the goals we share. In my view, now is not the time to normalize relations with Vietnam. The historical record shows that Vietnam cooperates on POW/MIA issues only when pressured by the United States; in the absence of sustained pressure, there is little progress on POW/MIA concerns, or on any other issue.

The facts are clear. Vietnam is still a one party Marxist dictatorship. Preserving their rule is the No. 1 priority of Vietnam's Communist Government. Many credible sources suggest Vietnam is not providing all the information it can on POW/MIA issues. In some cases, increased access has only confirmed how much more Vietnam could be doing. This is not simply my view, it is a view shared by two Asia experts—Steve Solarz, former chairman of the House Subcommittee on Asia and Pacific Affairs, and Richard Childress, National Security Council Vietnam expert from 1981 to 1989. Earlier this year, they wrote:

> Vietnam could easily account for hundreds of Americans by a combination of unilateral repatriation of remains, opening its archives, and full cooperation on U.S. servicemen missing in Laos.

Again, not my quote but a quote by the two gentlemen mentioned. They conclude that,

> Whatever the reasons or combination of reasons, Vietnam, in the current environment, has made a conscious decision to keep the POW/MIA issue alive by not resolving it.

This is a view shared by the National League of POW/MIA families which has worked tirelessly to resolve the issue for many years. It is also a view shared by major veterans groups, including the American Legion, the largest veterans group. The media have reported that the Veterans of Foreign Wars, the second largest group is supportive of normalization. Let me quote from VFW's official position adopted at its 1994 convention:

> At some point in time but only after significant results have been achieved through Vietnam/U.S. cooperative efforts, we should . . . move towards normalizing diplomatic relations.

A more recent VFW statement makes clear that normalization is not opposed by the VFW if it leads to a fuller accounting of POW/MIA cases.

If President Clinton intends to normalize diplomatic relations with Vietnam, he should do so only after he can clearly state that Vietnam has done everything it reasonably can to provide the fullest possible accounting. That is the central issue. The United States has diplomatic relations with many countries which violate human rights, and repress their own people. But the United States should not establish relations with a country which withholds information about the fate of American servicemen. As President-elect Clinton said on Veterans Day, 1992, ''I have sent a clear message that there will be no normalization of relations with any nation that is at all suspected of withholding any information'' on POW/MIA cases. Let me repeat: ''suspected of withholding any information.'' Let me repeat, ''suspected of withholding any information'' on POW/MIA cases. I hope the standard proposed by President-elect Clinton is the same standard used by President Clinton.

No doubt about it, the Vietnamese Government wants normalization very badly. Normalization is the strongest bargaining chip America has. As such, it should only be granted when we are convinced Vietnam has done all it can do. Vietnam has taken many steps—sites are being excavated, and some remains have been returned. But there are also signs that Vietnam may be willfully withholding information. Unless the President is absolutely convinced Vietnam has done all it can to resolve the POW/MIA issue—and is willing to say so publicly and unequivocally—it would be a strategic, diplomatic and moral mistake to grant Vietnam the stamp of approval from the United States.

I ask unanimous consent that the article from which I quoted earlier be printed in the RECORD.

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

[From the San Diego Union-Tribune, Mar. 19, 1995]

PRISONER ISSUE CONTINUES TO TAINT RELATIONS

(By Richard T. Childress and Stephen J. Solarz)

Although the U.S. trade embargo with Vietnam has been lifted and consular-level liaison offices have been opened, relations between the United States and Vietnam are far from normal. The major remaining bilateral obstacle, the POW/MIA issue, is still cited by the Clinton administration as the primary impediment to normalization.

Multiple intelligence studies from the war through today conclude that Vietnam could easily account for hundreds of Americans by a combination of unilateral repatriation of remains, opening of its archives and full cooperation on U.S. servicemen missing in Laos, 80 percent in Lao areas controlled by the Vietnamese during the war.

While joint Vietnamese-American efforts to excavate aircraft crash sites and otherwise ''clean up the battlefield'' will continue to provide some accountability, it will not be enough. What is needed is a decision by Vietnam's ruling politburo to resolve the core POW/MIA cases, including those Americans last known alive in the custody or immediate vicinity of Vietnamese forces. That decision has not been made.

Reasons offered for this have included a divided politburo, a desire to exploit the POW/MIA issue for future financial or political advantage, a continuing residue of hostility or hatred toward Americans in Hanoi's ministries of interior and defense, and a fear of embarrassment. Some also speculate that Vietnam's leadership fears the United States will ''walk away'' once the issue is resolved.

Whatever the reason or combination of reasons, Vietnam, in the current environment, has made a conscious decision to keep the POW/MIA issue alive by not resolving it.

This fundamental aspect of Vietnamese emphasis on the POW/MIA issue has been central from the Paris negotiations in 1968–

73 and through every administration since that time. Knowing it to be the most sensitive issue to Americans of all the other bilateral humanitarian concerns, Hanoi has consistently used it as the lodestar for leverage over American policy. Similarly, the compelling nature of the issue to Americans has caused it to be central in our dealings with Vietnam over the years.

This centrality to American policy-makers has, however, engendered different approaches. These have varied from concerted efforts to define the issue away and defuse it, to confronting the issue directly in order to resolve it. Even policy-makers who viewed the POW/MIA issue as a hindrance to healing or normalization demonstrated its centrality by expending much political capital in a failed attempt to prove the contrary.

Confronting the issue directly in negotiations has been the only demonstrable path to progress. It is, ironically, the path desired by the Vietnamese for reasons already outlined. When Reagan administration officials reopened the POW/MIA dialogue with Vietnam in 1981, the politburo was delighted. Referring to the 1978–81 freeze in U.S.-Vietnam talks, Hanoi's negotiators remarked that they ''didn't know we still cared.'' That was also a challenge.

While the Clinton administration has rejected linking human rights directly to questions to normalization, that, too, is a potential obstacle. Strong feelings for linkage exist in some human-rights organizations, the American-Vietnamese community, the labor movement and in Congress. Linkage may not be desired as a matter of executive branch policy, but initiatives are possible in the new Congress along with other domestic pressures.

In the mid-1980s, legislation was proposed to use Vietnam's blocked assets to pay private claims, and significant lobby pressure was put on the Reagan administration and Congress to liquidate the assets. This initiative was opposed by the administration and rejected by the Congress. The objection then was that it would interrupt humanitarian cooperation, that official claims of the United States government would become secondary, and that such transactions should be negotiated in the context of normalization discussions. Sufficient funds existed to cover the private claims, and the United States, as the custodian of the funds, was positioned to settle them from a position of strength and leverage.

Vietnam's near-term and long-term economic goals are central to its leadership. High on the leadership's bilateral list is most-favored-nation (MFN) status and eligibility for the so-called generalized system of preferences (GSP), an additional trade concession.

But Vietnam's primitive economy and rudimentary trade mechanisms hamper its accession to the General Agreement on Tariffs and Trade and, accordingly, limit American flexibility on commercial issues. In addition, various legal and regulatory obstacles stand in the way. Some of the relevant provisions can be waived through executive action; under certain conditions legislation may be required.

In any event, since it is Vietnam, the Clinton administration should be reluctant to take any significant steps without close consultation with Congress.

Despite a significant loss of American leverage after the trade embargo was lifted, one could argue that the United States is again positioned for progress. This plateau allows the Clinton administration some breathing room to hold firm; to insist on meaningful, unilateral action by Vietnam to meet the four POW/MIA criteria set forth by President Clinton and to advance a Washington-Hanoi dialogue on human rights in Vietnam.

In the interim, it is in both countries' interests that Vietnam proceed with internal economic reforms. This would assist Vietnam in further integrating into Asia generally and the Association of Southeast Asian Nations (ASEAN) specifically. This long-term objective was shared in some respects throughout each American administration since the end of the Vietnam conflict.

Such integration would also provide greater exposure of the Vietnamese leadership to international economic and political norms, perhaps reduce some Vietnamese paranoia and help convince the Vietnamese that the POW/MIA issue is a ''wasting asset'' for them that needs to be resolved. Integration would also mesh with Vietnam's desire for greater international acceptance. Finally, it would serve to lessen Vietnam's perceived isolation as a potentially threatened neighbor of an increasingly assertive China.

However, American policy-makers also need to view this from an internal Vietnamese perspective that would expect such integration and acceptance to relieve pressure for political reforms and improved human rights. Vietnam has boldly endorsed universal declarations on human rights and attempted to join the cultural argument between Asia and the West, as if its political system were even comparable to those advancing the argument in Asia.

For the foreseeable future, Vietnam will have three major objectives: continued political control under the Communist Party, economic development that does not threaten such control, and a sense of security in its relationship with China.

While political change is inevitable over time, it will be due to internal factors, and American leverage will be at the margins. Economic reforms have spawned divisions in Vietnam's communist party and government, as well as regional tensions between the North and the South. Recriminations are already evident between reformers and hardliners, and a significant American role in the Vietnamese economic future will be limited.

After listening to wishful speculation about a ''new tiger'' in Asia, spawned by young consultants, service industries and lobby organizations with a vested interest in lifting the embargo, American businesses are again looking at political and economic realities they tended to ignore for the past four years.

Press accounts of Vietnam's economic potential before and after the lifting of the trade embargo are strikingly different.

Overblown stories of ''the last frontier,'' ''the emerging tiger in Asia,'' and the loss of business to foreigners were common themes before. Now, the media is beginning to report about corruption, unenforceability of legal codes, currency problems, bureaucratic hurdles, arbitrary decision-making by government officials, the paucity of infrastructure and the reality that Vietnam, with few exceptions, is almost a decade away from real profitability on an American business scale.

Profits for American companies operating in Vietnam are not likely for several more years. A lot of money is being spent and very little is being made.

Most experienced observers of Asia's geopolitics recognize, as well, that Vietnam is not of real strategic relevance to the United States in the 1990s. Nonetheless, armchair strategists, military planners, and some in Congress continue to argue otherwise, and worry aloud accordingly.

Still, Vietnam is certainly looking for strategic solace. Its historic fear of China is underscored today by Chinese claims on island groups in the South China Sea, plus China's burgeoning economic and political clout. Although elements of Vietnam's current agenda are variously shared by ASEAN, American military power and political commitments are not designed to ameliorate arguments between China and Vietnam. The United States facilitated the end of the proxy war between China and Vietnam in Cambodia not by taking sides but by opposing both unworthy claimants in an international and regional context.

The reality of the economic and strategic conditions now and in the foreseeable future does not make Vietnam central to American policy. The Vietnamese desire for real normalization with the United States is recognized, but the gap is wide and will remain so despite the wishful, almost romantic thinking of some.

Vietnam and the United States do have a unique relationship forged through shared recent history. Both sides can regret missed opportunities. And while the history of bilateral negotiations is tortured, the significance of historic antagonisms can only be muted by a credible effort to resolve the POW/MIA issue, the only path to real healing and normalization.

In sum, fully normalized relations between the United States and Vietnam are not on the immediate horizon. Vietnam will remain, in an economic and strategic sense, of little importance to the United States. Relations could conceivably move forward in the absence of a real economic or strategic rationale with significant progress on POW/MIA accounting through unilateral Vietnamese action. The longer Vietnam delays in this regard, the more likely normalization could be linked to human rights concerns, as well. If this occurs, it would be supported by those who, heretofore, believed Vietnam would be able to forge a politburo consensus and finally end the uncertainty of America's POW/MIA families.

Normalized relations are quite logical in an ideal world. Full normalization with Vietnam is desirable, but as a practical matter is not possible or prudent as long as it can be credibly maintained that Vietnam can do more to account for missing Americans.

If the Clinton administration proceeds with the elements of normalization as an objective, rather than an instrument to resolve bilateral issues, domestic and congressional opposition is likely to increase. That, in turn, would further reduce executive branch flexibility, and create a renewed round of recriminations as well as a new gauntlet for future negotiators.

Mr. KENNEDY. Mr. President, I came over to address another issue. I listened to the majority leader's statement with regard to actions that may be taken by the President in the foreseeable future.

I want to commend what I thought was an excellent presentation by my friend and colleague, Senator KERRY, as well as Senator MCCAIN, on this issue on Sunday, as well as Senator SMITH from New Hampshire who was talking about this issue, I thought, in a very constructive, positive, bipartisan way.

I think for those who are looking to try to deal with an issue of this complexity, of this importance, Members would be wise to take a few minutes and review their presentations. I thought there were particularly convincing arguments to be made in favor of moving the process forward at this time, and I thought the statements

that were made by, as I mentioned, my colleagues Senator KERRY and Senator MCCAIN that support that change were very compelling. I thought the observations of Senator SMITH, which took a different view but, nonetheless, were related to the subject matter, were constructive as well.

The country will be addressing this issue in the next several days or weeks. I think our Members would be wise to review their comments because they are individuals who have spent a great deal of time on this issue and, obviously, have given it a great deal of thought. The fact that they come from different vantage points in terms of many other different issues, both in domestic and foreign policy, and still are as persuasive on this matter, I think really reflects some very, very constructive and positive thinking.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1491

Mr. GLENN. Mr. President, the pending legislation before us is an amendment by the Senator from Georgia, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. I particularly dislike having to oppose my good friend from Georgia, Senator NUNN. We worked together in the Governmental Affairs Committee on our bipartisan regulatory reform bill. We both supported the bill. I certainly have the very highest regard for him. He has always been a tireless champion of the interests of small business men and women in our country, and I certainly applaud him for that effort.

But I believe that while this amendment is very well-intentioned, I think there are two serious problems. I do not believe the amendment should be accepted. First, it revises the Regulatory Flexibility Act in a number of ways that I think do not fit with workable regulatory reform.

First, the amendment would require cost-benefit analysis of all reg flex rules. That is, rules that have a significant economic impact on a substantial number of small entities. This would be small businesses, local governments, and the like. Including these rules in the cost-benefit analysis process would increase the number of rules that have to go through that analysis by over 500 rules. That is not a figure grabbed out of thin air; that is the administration's estimate. It is based on actual Federal Register entries over the last year.

Now, OMB has estimated that if this passed this way, there could possibly be as many as 600 to 800 rules and regulations that would fall under this provision. That would raise the number of investigations and rulemaking procedures to something like three times our present number.

Now, agencies are going to be hard pressed with the budget cuts they are facing now just to do the analysis required if we just pass the Glenn-Chafee bill with its $100 million threshold. S. 343, which is before us now, would lower the threshold to an unreasonable $50 million. This amendment that we are considering now by the Senators from Georgia would have the potential of adding somewhere between 500 to the current rate, or up to as many as 800 more rules to that list. That just overloads the circuits.

To make the point even further, one estimate before our committee by one of the people testifying earlier this year was that each full-blown rule investigation costs somewhere around $700,000. If you take the 500 to 800 potential on this, that means we would be spending on investigations somewhere between $350 million for the 500 investigations, up to a potential of $560 million for the 800 investigations.

Let us say that is a pessimistic view of how much it costs, that $700,000. Even if you cut it in half, it means it is somewhere around $175 million up to, say, $270 or $280 million to do this increased number of investigations. So I say that agencies are going to be very hard pressed with these budget cuts to make it.

The second major problem with the amendment is the way it expands reg flex judicial review. The Glenn-Chafee bill is basically the bill brought out of committee earlier and is designated as S. 1001. As opposed to S. 1001, this amendment would allow judicial review of final rule reg flex analysis. As opposed to that, this amendment permits judicial review of proposed rule reg flex decisions.

Now, this expands enormously the number of judicial challenges that can be made, and it further overturns a principle that has been long held that court review should wait until an agency makes its final rulemaking decision and then challenge the whole process, whatever it is, and not permit judicial review challenges all along the way, which means that the persistent challenger can keep something bogged down in court for years and years. It can literally bog down the whole process, this number of new rulemaking procedures that would have to be reviewed.

So allowing judicial review of preliminary decisions about whether a rule is even subject to reg flex, which this would do, will bog down agencies and use more tax dollars unnecessarily and be a full employment bill for lawyers, basically. I do not think that should be the objective of this legislation.

Mr. President, further, I must admit that I do not understand exactly how this whole thing would work. It would increase the complexity, as I see it, and it would create more judicial review, to be added to our expense in a substantial way.

Let me say that the Regulatory Flexibility Act was passed by Congress as a way to ensure that agencies would evaluate the impact of proposed regulations on small businesses and other small entities such as local governments. The act was also intended to ensure that agencies consider less burdensome and more flexible alternatives for these small entities.

I have supported the reg flex act from its inception when passed here a number of years ago. But the legislation before us and the amendment we are considering now would fundamentally change the Regulatory Flexibility Act by making its considerations the controlling factor, the controlling decisional criteria, for the very promulgation of a rule. I do not think that is the way we ought to be going. We should ensure that the Federal Government is more sensitive to the needs of small business. I certainly agree with that. That is why the Glenn-Chafee bill, S. 1001, provides for judicial review of final reg flex decisions, and the whole process can be challenged at that one time. It does not permit judicial challenge at each step along the way, which means multiple judicial review, and additional ways of stalling what may be very good legislation.

Now, both bills also do provide—whether it is S. 343 or S. 1001, they both provide for congressional veto. In other words, a rule or regulation being put out by an agency can be challenged and brought back to the Congress and lay here under one bill for 60 days or 45 days for challenge here on the floor. That applies to small business provisions or any other provision.

So it seems to me that we have provided adequate protection, quite apart from the amendment as proposed by the Senators from Georgia.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ROTH. Mr. President, I want to take a moment to talk about the small business amendment to S. 343 offered by Senator NUNN and Senator COVERDELL.

This amendment would, of course, modify the definition of ''major rule'' to include rules that have a significant impact on small business and small governments as provided in the Regulatory Flexibility Act.

This would have the effect of requiring all reg-flex rules to be subject to cost benefit analysis and the decisional criteria, as well as to be subject to the petition process for reviewing rules.

Mr. President, as I have said before, I am deeply concerned about the impact