COMMITTEE ON INTERNATIONAL RELATIONS

Congress and Foreign Policy—1975

COMMITTEE PRINT

U.S. HOUSE OF REPRESENTATIVES

U.S. GOVERNMENT PRINTING OFFICE
74-032 WASHINGTON : 1976
For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 - Price $1.90

COMMITTEE ON INTERNATIONAL RELATIONS

THOMAS E. MORGAN, Pennsylvania, *Chairman*

CLEMENT J. ZABLOCKI, Wisconsin
WAYNE L. HAYS, Ohio
L. H. FOUNTAIN, North Carolina
DANTE B. FASCELL, Florida
CHARLES C. DIGGS, JR., Michigan
ROBERT N. C. NIX, Pennsylvania
DONALD M. FRASER, Minnesota
BENJAMIN S. ROSENTHAL, New York
LEE H. HAMILTON, Indiana
LESTER L. WOLFF, New York
JONATHAN B. BINGHAM, New York
GUS YATRON, Pennsylvania
ROY A. TAYLOR, North Carolina
MICHAEL HARRINGTON, Massachusetts
LEO J. RYAN, California
DONALD W. RIEGLE, JR., Michigan
CARDISS COLLINS, Illinois
STEPHEN J. SOLARZ, New York
HELEN S. MEYNER, New Jersey
DON BONKER, Washington
GERRY E. STUDDS, Massachusetts

WILLIAM S. BROOMFIELD, Michigan
EDWARD J. DERWINSKI, Illinois
PAUL FINDLEY, Illinois
JOHN H. BUCHANAN, JR., Alabama
J. HERBERT BURKE, Florida
PIERRE S. DU PONT, Delaware
CHARLES W. WHALEN, JR., Ohio
EDWARD G. BIESTER, JR., Pennsylvania
LARRY WINN, JR., Kansas
BENJAMIN A. GILMAN, New York
TENNYSON GUYER, Ohio
ROBERT J. LAGOMARSINO, California

MARIAN A. CZARNECKI, *Chief of Staff*
JOHN H. SULLIVAN, *Staff Consultant*

FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., August 12, 1976.

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

The Committee on International Relations long has provided summaries of its own activities in documents such as the annual "Survey of Activities" and the biennual "Legislative Review Activities" report. Those documents do not, however, provide information in any comprehensive way about foreign affairs-related activities of other House committees, the Senate or the Congress as a whole.

For that reason, the Committee on International Relations has requested that the Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress, prepare an annual report of actions taken by Congress which impact on American foreign policy. The first such report appeared in 1974.

This report has been expanded by the Foreign Affairs and National Defense Division to include subject areas not covered in last year's edition and is, in general, a more comprehensive study.

It is expected that these documents will be of assistance to the committee and its members in undertaking both legislative and oversight responsibilities in the area of foreign affairs. The report should also prove helpful to other committees and Members of Congress, as well as to scholars, the press, and the public.

THOMAS E. MORGAN, *Chairman.*

LETTER OF TRANSMITTAL

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., August 12, 1976.

HON. THOMAS E. MORGAN,
Chairman, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to transmit to you at this time "Congress and Foreign Policy—1975," a report summarizing congressional contributions to the shaping of U.S. foreign policy in 1975.

In examining congressional input into specific foreign policy decisions, the report attempts to analyze the larger issue of the role of Congress and its relation to the executive branch in the formulation of U.S. foreign policy. Statutory directives and their subsequent application provide the most common vehicle for congressional involvement in foreign policy, while consideration of executive agreements, generation of public opinion by discussion of issues in public hearings, and reports and observations by members and staff contribute to the policymaking process.

Primary attention in "Congress and Foreign Policy—1975" is given to the activities of the House International Relations and Senate Foreign Relations Committees. However, pertinent activities of other committees and of the whole House and Senate are included in the overall analysis. The report does not attempt to detail all congressional activities relating to foreign policy or to present legislative histories of all foreign policy related measures.

As the preparation for "Congress and Foreign Policy—1975" continued well into 1976, an attempt has been made to provide the reader with references to occurrences in early 1976 which were a logical extension of events of 1975. The purpose of the report, however, has remained to study the congressional role in U.S. foreign policy in 1975; December 31, 1975 was in many instances simply too arbitrary a line for an adequate evaluation of Congress role in various issues.

This report was prepared by members of the Foreign Affairs and National Defense Division, Congressional Research Service, and was edited by Margaret Goodman, analyst in international relations.

NORMAN BECKMAN,
Acting Director,
Congressional Research Service.

CONTENTS

The Debate Over the U.S. Role in the World

INTRODUCTION

Congressional influence on U.S. foreign policy frequently stems from decisions on specific issues, in reaction to positions initiated by the executive branch. This generalization held true for the most part in 1975, but the Congress also attempted at various times to step back and look at the larger picture of U.S. commitments and role in the world. These attempts were characterized as inconclusive, for no evidence of policy change, or even clear evidence of consensus, emerged from the debates and hearings. However, they did serve to communicate an indication of congressional concern over future directions of U.S. foreign policy, and over the role of Congress in shaping that policy.

The great debate on foreign policy in 1975 occurred during Senate debate on the fiscal year 1975 Defense Department authorization. The debate ranged over such questions as basic foreign policy objectives, political and military alliances, and the future of détente. In another attempt at a wider perspective on foreign policy, both the Senate and House foreign affairs committees conducted hearings to consider future directions of U.S. foreign policy.

A major area of congressional foreign policy involvement in 1975 was the evaluation of U.S. intelligence activities conducted by House and Senate select committees. The primary focus of both investigations was on abuses of power by U.S. intelligence agencies, reflecting concern for the image of the United States in the world today as generated by these activities.

U.S. FOREIGN POLICY ISSUES AND GOALS AND THE DEFENSE BUDGET*

Through its action on the defense budget, the Congress annually establishes military force levels and spending authority, and thereby provides the underpinnings of national security policy. In many cases, action on the defense budget has even more direct impact on international affairs. Congressional decisions during action on the fiscal year 1976 defense budget with a direct relationship to U.S. foreign policy included:

(1) The provision of funds to add three combat divisions to the Army, including two brigades to be added in NATO Europe through the replacement of support troops. (The program was approved tacitly. Congress did not vote funds specifically for this purpose.)

(2) Approval of military construction funds for the Indian Ocean base at Diego Garcia, with certain qualifications.

(3) Funds for foreign military assistance, including military assistance funds in support of U.S. Middle East peace objectives.

(4) The denial, through an amendment to the Department of Defense appropriation bill, of funding for any involvement in Angola.

(5) The rejection of amendments to reduce forces in Korea and elsewhere.

(6) The unilateral phaseout of the sole U.S. ABM site.

(7) Reductions in funds for intelligence activities.

(8) A new requirement, included in the defense authorization bill, that the Secretary of Defense consult with the Secretary of State and annually submit a joint report on foreign policy and military force structure.

The total national defense request of $107.7 billion in budget authority included $101.7 billion for Department of Defense military functions and $4.6 billion for foreign military assistance (excluding subsequently requested funds for the Middle East and other revisions).

The administration did not seek to relate the defense budget request directly to international developments or current U.S. foreign policy. The underlying assumptions, as outlined by Secretary of Defense Schlesinger, included continued power rivalry with the Soviet Union, the primacy of NATO Europe to American security interests and the necessity for U.S. leadership, and the continued importance of U.S. interests elsewhere, including Asia and the Middle East.

Action on Component Parts of the Defense Budget Request

Funding the total national defense budget annually involves a dozen or more authorization and appropriation acts. In addition, the year 1975 saw the first trial run of the new congressional budget process.

* Prepared by Richard P. Cronin, analyst in national defense; and Joel M. Woldman, analyst in U.S. foreign policy.

In House Concurrent Resolution 218, the first concurrent resolution on the budget, approved by both Houses on May 14, 1975, the Congress established target ceilings for the national defense functional area. These targets constituted reductions of $7 billion in budget authority and $3.3 billion in outlays from the amounts requested. $1.3 billion of the budget authority reduction stemmed from the collapse of South Vietnam and the elimination of any need for fiscal year 1976 funds for South Vietnamese forces. House Concurrent Resolution 466, the second concurrent resolution on the budget, received final approval in the Senate on December 1 and in the House on December 12, 1975. The second budget resolution, which adjusted the congressional budget for fact-of-life changes and converted targets (aggregate basis) into ceilings, assumed a reduction of $200 million in budget authority and $100 million in outlays for non-Middle East military assistance, but assumed, without passing judgment on its merits, congressional approval of the full Middle East assistance package.

The Department of Defense Appropriation Authorization Act (Public Law 94-106)—The So-Called Procurement Bill

The Department of Defense authorization request for major weapons procurement, R.D.T. & E., manpower strength levels, and other purposes, totaled $29.9 billion for fiscal year 1976, including funds requested for military assistance to South Vietnam. As passed by the House on May 20, 1975, H.R. 6674 included $26.5 billion in funding authorizations, a $3.4 billion reduction. The Senate bill (S. 920), passed on June 6, included $25 billion for procurement and R.D.T. & E., a reduction of $4.9 billion from the administration request. In both cases, the major reductions were obtained through the elimination of unneeded funds for South Vietnam, by proposing to fund only part of the requirements for cost growth in previously authorized Navy shipbuilding programs, and declining to approve a $300 million request for an inventory contingency fund.

The Senate report on the authorization bill (S. Rept. 94-146) included several provisions of foreign policy significance, including a directive to the Department of Defense to submit, by December 31, 1975, a report on long-term basing alternatives in the Pacific. As part of the basing study, the committee also directed that the Department of Defense conduct an indepth study of military alternatives in Korea, including mutual defense arrangements and U.S. troop levels.

Prior to its consideration of the specific budget items covered by the military procurement authorization bill on the floor, the Senate held a wide-ranging "great debate" June 2 to 3, 1975, on foreign policy and security issues in an effort to clarify the policies and postures underlying the administration request. The major focus of this debate was on such questions as basic foreign policy objectives, political and military alliances, and the rivalry between the Communist and the non-Communist worlds.

Senator Dick Clark, for example, saw the end of the Vietnam conflict as an opportunity to initiate a new era in U.S. foreign policy and to "cultivate new attitudes and relationships that reflect an awareness of the world as it really is—small, perilous, and interdependent." [1]

[1] Clark, Dick. Military Procurement Authorization Act, 1975. Remarks in the Senate. Congressional Record (daily ed.), v. 121, June 3, 1975: S. 9423.

In a somewhat more critical vein, Senator Adlai Stevenson III asserted that the United States had no foreign policy now. Because of this, he argued, it is difficult to intelligently debate military priorities.[2] Senator Hubert H. Humphrey stated that the problem for the United States in international affairs was the absence of a mechanism for coordinating national security policy in its totality.

Senator Thomas McIntyre urged that the United States "learn to discriminate in the kinds of commitments we make." He said that our role must lie between that of policeman of the world and Fortress America.[3] Both Senators Alan Cranston and Edward M. Kennedy expressed similar views, with Senator Kennedy suggesting that "the United States must become a peaceful world neighbor, and stop being a militant world meddler."[4]

Other participants in the debate, such as Senators Barry Goldwater and Strom Thurmond, however, urged a strong defense posture abroad as the best protection for this country's security. Senator Goldwater warned that "post-Vietnam international politics would not improve, but would almost certainly grow worse." He therefore insisted that the United States had to maintain all of its political and military alliances in Asia, as well as Europe. While he called for the United States to develop a "more flexible" defense posture permitting greater freedom of choice overseas, he also warned that the Nation "can neither deny nor dodge certain distinct but terrible forces at work: namely, the increasing power of the U.S.S.R. and China and their continuing messianic stance."[5] Senator Harry F. Byrd cautioned his colleagues that history has taught that "our international commitments have value only insofar as they are perceived to be credible by both our allies and our adversaries."[6]

Senator Sam Nunn linked a strong defense posture to the continued viability of détente, and emphasized that the military capabilities of the Soviet Union, not that country's current posture toward the United States, must be the basis of national security policy. "Friendly smiles and gestures," he said, "can disappear in a period of about 8 hours."[7]

The results of the debate, however, proved disappointing to those who wished to link foreign policy commitments, especially reduced commitments in Southeast Asia, with a smaller U.S. force structure and a reduced defense budget. The main achievement in this respect was the adoption of an amendment offered by Senator John Culver requiring that the Secretary of State and Secretary of Defense annually submit a report on foreign policy and military posture for the upcoming fiscal year. This report was intended to explain the relationship of our military force structure to overall foreign policy in the year ahead. Although the amendment was adopted by voice vote in the Senate, the House conferees on the bill considered the

---

[2] Stevenson, Adlai. Military Procurement Authorization, Act, 1975. Remarks in the Senate. Congressional Record (daily ed.), v. 121, June 3, 1975 : S. 9411.
[3] McIntyre, Thomas J. Military Procurement Authorization Act, 1975. Remarks in the Senate. Congressional Record (daily ed.), v. 121, June 3, 1975 : S. 9425.
[4] Kennedy, Edward M. Military Procurement Authorization Act, 1975. Remarks in the Senate. Congressional Record (daily ed.), v. 121, June 2, 1975 : S. 9220.
[5] Goldwater, Barry, Military Procurement Authorization Act, 1975. Remarks in the Senate. Congressional Record (daily ed.), v. 121, June 3, 1975 : S. 9415.
[6] Byrd, Harry F. Military Procurement Authorization Act, 1975. Remarks in the Senate. Congressional Record (daily ed.), v. 121, June 3, 1975 : S. 9459.
[7] Nunn, Sam. Military Procurement Authorization Act, 1975. Remarks in the Senate. Congressional Record (daily ed.) v. 121, June 2, 1975 : S. 9213.

proposed annual report "unnecessary and redundant." [8] But the Senate conferees insisted that a report of this kind was "necessary to provide the Congress a better comprehension of the actual need for our military force structure required to support our current and projected foreign policy." [9]

Consequently, the final version of the fiscal year 1976 military procurement authorization legislation (Public Law 94–106, Oct. 7, 1975) included a new section requiring that such a report be submitted:

> SEC. 812. The Secretary of Defense, after consultation with the Secretary of State, shall prepare and submit to the Committee on Armed Services of the Senate and the House of Representatives a written annual report on the foreign policy and military force structure of the United States for the next fiscal year, how such policy and force structure relate to each other, and the justification for each. Such report shall be submitted not later than January 31 of each year.[10]

The salient fact of congressional action on the fiscal year 1976 defense request is that economics and the debate over national priorities, not foreign policy goals, carried the most weight. While the uncertainties following the Vietnam debacle prevented an effective consensus on foreign policy goals and national security means, the trial run of the new congressional budget process facilitated the making of clear choices, not only on total levels of Federal revenues and expenditures, but also the proportions to be devoted to each of the 15 budget functions—including national defense and international affairs. The departures from the President's budget request in these areas were clear and significant expressions of congressional intent, and the targets set by the Congress for the national defense and international affairs functions were reflected in the subsequent spending legislation.

The initial defeat in the Senate of the first conference report on the procurement authorization bill, an unprecedented action, dramatically highlighted the importance placed on the new budget process. The issue was not the direction of U.S. foreign policy, or the relationship of the spending request to real U.S. security requirements, but the question of whether the proposed authorization, if fully funded, would exceed the congressionally established budget targets.

The Department of Defense Appropriation Act (Public Law 94–212)

As amended, the administration request for the Department of Defense appropriation bill, the main defense spending measure, totaled $97.9 billion in budget authority for fiscal year 1976 and $86.6 billion in estimated total outlays. The administration requested $23.1 billion in budget authority for the transition quarter. The fiscal year 1976 total included $1.3 billion in budget authority for military assistance to South Vietnam.

H.R. 9861, passed by the House on October 2, included $90.2 billion in new obligation authority for Department of Defense military activities for fiscal year 1976 and $21.7 billion for the transition quarter.

---

[8] U.S. Congress. Senate: Committee on Conference. Authorizing appropriations for fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976, for military procurement, research and development, active duty, reserve, and civilian personnel strength levels, military training student loads, and for other purposes; Conference report to accompany H.R. 6674. Washington, US. Government Printing Office, 1975. 94th Cong., 1st sess. S. Rept. 94–385. p. 69.

[9] Ibid.

[10] In accordance with this requirement, such a report was added as a preface to the posture statement of the Secretary of Defense for fiscal year 1977.

The bill represented a reduction of $7.6 billion in budget authority and $3.7 billion in outlays from the fiscal year 1976 request, and an increase of $8.1 billion over the amount appropriated in last year's bill.

The House Appropriations Committee report (H. Rept. 94–517) and the resultant bill included several provisions of foreign policy significance. The committee cut $40.6 million, or about one-half, from the funds requested to operate the Safeguard ABM site at Grand Forks, N. Dak., and directed the Department of Defense to deactivate the site by the end of fiscal year 1976. The Army had planned to operate the site during fiscal year 1976 but to maintain the system below full operational readiness status thereafter. The committee did not accept the argument that valuable operational experience could be gained during fiscal year 1976 and stressed its belief that the impending deployment of MIRVed missiles by the Soviet Union would nullify the future ability of Safeguard to protect the Minuteman ABM fields.

In its fiscal year 1975 report, prior to the Communist victory in Vietnam and other parts of Indochina, the House Appropriations Committee had recommended a number of changes in the U.S. command and force structure in both Japan and South Korea. These proposals included withdrawal of U.S. 2d Infantry Division elements from proximity to the Demilitarized Zone and the total removal from Korea of a nuclear weapons command. In its report on the fiscal year 1976 legislation, however, the committee modified its position in response to the changed U.S. position in the Pacific after the fall of Vietnam, and decided not to press for the accomplishment, during 1976, of certain troop realinements which it had originally recommended. Instead, the committee reaffirmed the U.S. treaty commitment to the Republic of Korea and simply asked the administration to implement those of its recommendations which were possible and to exercise necessary caution. The committee maintained, however, that:

> * * * plans should be made for trimming the entire U.S military presence in Korea to a force of approximately 20,000 men by fiscal year 1978 on the assumption that the situation will have stabilized appreciably by that time and our military assistance programs will have improved the defensive posture of ROK ground and air forces.

The committee also went on record as affirming the central nature of the U.S. security relationship with Japan while encouraging Japan's recent movement toward assuming more responsibility for its conventional warfare defense.

In Europe the committee stated its intention not to provide funds for the annual Reforger and Crested Cap exercises subsequent to fiscal year 1976. The committee questioned the military utility of these annual rotations of U.S. units to Europe and indicated its belief that the exercises served only the purpose of reassuring NATO of the capability and will to deploy forces to Europe.

Of the $7.7 billion in House reductions, the Department of Defense appealed roughly $2.6 billion in cuts to the Senate Appropriations Committee.

The Senate bill, which passed on November 18, 1975, included $90.7 billion in budget authority for fiscal year 1976 and $21.8 billion for fiscal year 1977. In its report on the measure (S. Rept. 94–446) the Senate Appropriations Committee specifically opposed certain foreign policy objectives contained in the House report. Without fore-

closing the possibility of changes in the mission and structure of U.S. forces in Korea, the Senate committee opposed recommending any firm plans or a timetable for a drawdown in U.S. troop levels. Noting the expressed intention of the Senate Armed Services Committee to look into the Korean issue, the committee deferred action pending completion of the Armed Services Committee's study of the question. The Senate committee also opposed the action of the House in ordering the "unilateral mothballing" of the Safeguard ABM site, and it restored $40.6 million which the House had cut from the request.

In floor action the committee's position on ABM was overturned by the passage of an amendment providing for the dismantling of the ABM site save for the perimeter acquisition radar (PAR) system.

The conference report (H. Rept. 94–710), which passed the House on December 12 and the Senate on December 19, included $90.5 billion in budget authority for fiscal year 1976 and $21.9 billion for the transition quarter. Conference action confirmed the decision to phase out Safeguard but provided the full requested funds to cover termination costs. The conferees agreed that the Department of Defense should plan for a drawndown of U.S. forces in Korea, but that the Congress should not predetermine personnel reductions or time phasing.

Final action was delayed until January 27, 1976, when the House concurred in a Senate amendment (to a House amendment) which provided that no funds in the bill could be used for any activities involving Angola, other than intelligence gathering.

The Military Construction Appropriation Act, 1976 (Public Law 94–138)

The military construction appropriation bill, H.R. 10029, which received final approval in the House on November 18, 1975, and in the Senate on November 19, funds military construction and family housing activities for fiscal year 1976 and the transition quarter. Items of foreign policy interest in the bill included $13.8 million for construction at the Indian Ocean island of Diego Garcia, and $117 million for Trident submarine facilities.

Other Related Issues

In addition to the foreign policy issues raised during the Senate's consideration of the military procurement authorization bill, other aspects of U.S. commitments abroad were considered by the Congress during 1975. They included approval by both Houses of the U.S. proposal to station 200 American civilian technicians in the Sinai to monitor the Egyptian-Israeli disengagement agreement. The Senate Foreign Relations Committee, however, had previously required the administration to certify that all secret assurances to the two belligerents be revealed before proceeding to vote on the measure.[11] These developments are discussed in greater detail in the section of this study dealing with executive agreements (see pp. 45–53).

In addition, the Subcommittee on Future Foreign Policy Research and Development of the House Committee on International Rela-

[11] U.S. Congress. Senate: Committee on Foreign Relations. Early warning system in Sinai. Hearings, 94th Cong., 1st sess. Oct. 6 and 7, 1975. Washington, U.S. Government Printing Office., 1975. 264 pp.

tions [12] and the Senate Foreign Relations Committee each began a series of hearings aimed at a broad reassessment of U.S. foreign policy for the years ahead. The House Committee on Armed Services also held a series of hearings on overall national security programs and related budget requirements which covered, among other subjects, the relationship between foreign policy and defense planning, and alternatives in foreign and supporting military policy.[13]

The Senate Foreign Relations Committee, responding to a Senate resolution in November 1973, held hearings to review the U.S. commitment to the Southeast Asia Collective Defense Treaty and organization the following March. No further action on the question was taken by the Congress, however. In any event, the SEATO Council of Ministers at their annual meeting in New York on September 24, 1975, voted to phase out the organization over the next 2 years. The Council did not discuss the Manila Pact and it is assumed that it will continue to be in effect.

Diego Garcia and U.S. Indian Ocean Policy

In several major actions in 1975 the Congress supported administration proposals regarding development of U.S. military support facilities on Diego Garcia, a small island in the Indian Ocean. The question involved in approving funding for this development goes beyond the issue of the actual costs, which represent a rather small part of the defense budget; the decision to develop the Diego Garcia facility bears on great power relationships, the potential for an arms race in the Indian Ocean, U.S. interest in open sealanes to the Persian Gulf, and questions regarding the information made available to Congress by the executive branch detailing the agreement with Great Britain to release the island for U.S. use. The case of Diego Garcia presents an interesting example of the interrelationship of foreign policy, defense goals, and strategic considerations.

In accord with provisions of the 1975 Military Construction Act (Public Law 93–552) the President was required to certify to Congress that construction of military support facilities on Diego Garcia was essential to the national interest; if neither House adopted a resolution of disapproval within 60 days, funds authorized under Public Law 93–552 could be obligated for Diego Garcia. The President issued such a certification on May 12, 1975 (House Document 94–140), and Senator Mansfield introduced a resolution of disapproval, Senate Resolution 160, on May 19, 1975. (No comparable resolution of disapproval was filed in the House.)

---

[12] U.S. Congress. House: Committee on International Relations. Subcommittee on Future Foreign Policy Research and Development. Reassessment of U.S. foreign policy. Hearings, 94th Cong., 1st sess. July 15, 22, 23, and 24, 1975. Washington, U.S. Government Printing Office. 1975. 183 pp.

The Press and Foreign Policy. Panel discussion. 94th Cong., 1st sess. Sept. 24, 1975. Washington. U.S. Government Printing Office, 1975. 34 pp.

[13] U.S. Congress. House: Committee on Armed Services. Full committee consideration of overall national security programs and related budget requirements. Hearings. 94th Cong., 1st sess. Dec. 3, 4, 5, 8, 9, 10, 15, 16, 17, and 18, 1975. Washington, U.S. Government Printing Office, 1975. 586 pp.

Following hearings before the Senate Armed Services Committee [14] Senate Resolution 160 was reported adversely to the Senate.[15] The committee's report on the resolution and additional and minority views filed with it present a summary of both sides of the argument on the Diego Garcia issue. The position of the majority of the committee was that the United States has vital interests in the Indian Ocean area, because the sealanes there lead to the natural resources of Africa, India, and the Middle East, and are particularly important for shipment of Middle Eastern oil. Second, the committee noted that the Soviet Union had increased its presence (to a force of 15 to 20 ships, half of which can be classed as combatants), and its capability to operate in the Indian Ocean by the reopening of the Suez Canal and the construction of a naval support facility at Berbera, Somalia; the Diego Garcia facility would provide the United States a comparable capability to sustain naval operations in the area. Third, the committee argued that construction of modest facilities at Diego Garcia would be a prudent action in view of the fact that the nearest independent U.S. fuel supply in the absence of the Diego Garcia operation is at Subic Bay in the Philippines, 4,000 miles from the Indian Ocean.

The minority views on Senate Resolution 160, presented by Senators McIntyre, Culver, Hart of Colorado, and Leahy, argued that convincing evidence that expansion of the Diego Garcia base facility was essential to U.S. national security had not been presented. To the contrary, they considered it essential to assure that all avenues toward preventing a superpower arms race in the Indian Ocean be explored before a U.S. commitment in the area be made, and noted that despite previous suggestions of the Senate Armed Services Committee and similar suggestions from the U.N. General Assembly, the administration had not approached the Soviet Union on the issue of an Indian Ocean arms limitation agreement since 1971. The report also noted that none of the 29 nations on the Indian Ocean littoral had given public support to the proposed U.S. base expansion on Diego Garcia.

Looking to the strategic arguments presented by those favoring expansion of the Diego Garcia facility, the minority views concluded that if the U.S. goal is to be able to "show the flag," it has the capability to do so without Diego Garcia; but if the goal is actually to be able to conduct major military operations, Diego Garcia by itself is probably not sufficient.[16] The minority views concluded that the proposed base expansion on Diego Garcia had assumed a symbolic importance beyond its military significance.

Senate Resolution 160 was rejected by the Senate (43–53) on July 28 after a lengthy debate along the lines presented in the preceding summary. Since no resolution of disapproval was considered by the House, the administration was free to obligate fiscal year 1975 military construction funds for the construction on Diego Garcia.

S. 1247, the fiscal year 1976 military construction authorization, contained a provision authorizing $13.8 million for military construc-

[14] U.S. Congress, Senate: Committee on Armed Services. Disapprove Construction Projects on the Island of Diego Garcia. Hearing, June 10, 1975. 94th Cong., 1st sess. Washington U.S. Government Printing Office, 1975. (An executive session of the committee was also held on June 17, 1975.)

[15] U.S. Congress, Senate: Disapprove Construction Projects on the Island of Diego Garcia. (Rept. No. 94–202) 94th Cong., 1st sess. June 18, 1975. Washington, U.S. Government Printing Office, June 18, 1975. 22 pp.

[16] Ibid. p. 21.

tion on Diego Garcia.[17] H.R. 5210, the comparable House measure, also contained a $13.8 million authorization for Diego Garcia. During debate on the measure on July 28, 1975, Representative Leggett introduced an amendment, which was subsequently rejected, to strike the Diego Garcia funds.

Diego Garcia funding was carried through the conference report on S. 1247 (H. Rept. 94–483), and the report was passed by the House without debate on September 24. During Senate debate on the conference report on September 29, Senator Culver raised the issues of the status of former inhabitants of Diego Garcia and of the nature of the secret agreement between the United States and Great Britain. On both issues, evidence was presented to indicate that the administration had not provided Congress with complete information, but had presented the impression that the island had for some time been uninhabited, and that no financial arrangements were involved in the United States-British agreement.[18]

The final debates in 1975 on the implications of U.S. base development at Diego Garcia for U.S. policy in the Indian Ocean occurred during Senate consideration of the fiscal year 1976 military construction appropriation measure, H.R. 10029. (The measure had passed the House on October 8 without debate on the $13.8 million for Diego Garcia. The report accompanying H.R. 10029 (H. Rept. 94–530) stated that the Navy's request for those funds had been approved because of the expanding Russian influence in the Indian Ocean shipping lanes.) The Senate Appropriations Committee also approved the $13.8 million Diego Garcia request (S. Rept. 94–442) in H.R. 10029. On the floor of the Senate, however, an amendment proposed by Senator Culver was approved on November 6, 1975, to delay use of the Diego Garcia funds appropriated by H.R. 10029 until July 1, 1976. The major thrust of the arguments in support of the amendment was to reduce the likelihood of an arms race in the Indian Ocean, and to give the administration an additional opportunity to move toward a mutual arms restraint agreement for the Indian Ocean with the Soviet Union.

The conference report on H.R. 10029 (H. Rept. 94–655) passed by the House on November 18 and the Senate on November 19, revised the Culver amendment to delay use of the appropriated funds only until April 15, 1976, with the exception of $250,000 to be expended without time restriction for aircraft arresting gear. Senate and House floor debate on this compromise indicated that the delay would not present problems for the Navy's leadtime and procurement schedule,

---

[17] See U.S. Congress, Senate: Committee on Armed Services, Report to accompany S. 1247, "Military Construction Authorization, Fiscal Year 1976," S. Rept. 94–157, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

The Senate bill contained a provision (sec. 609) to withhold the Diego Garcia authorization if a resolution disapproving obligation of fiscal 1975 funds had been passed. As S. Res. 160 was defeated prior to final consideration of S. 1247, the issue was dropped in the conference measure.

[18] See also Congressional Record (daily ed.), "Diego Garcia—A Question of Human Rights," v. 121, Sept. 24, 1975: S16556, 16560. Senator Culver had presented an amendment to the State Department authorization for fiscal year 1976, S. 1517, adopted on September 17, requiring the President to report to Congress by November 1, 1975, on the role of the United States in the removal of inhabitants from Diego Garcia, and expressing the sense of Congress that the United States should negotiate with the U.S.S.R. to limit arms buildup in the Indian Ocean. The amendment was subsequently dropped in conference with the House.

and would still provide time for a U.S. initiative to test Soviet interest in an arms restraint agreement.[19]

In addition to this legislative activity, additional congressional actions to evaluate the need for and implication of further construction on Diego Garcia included hearings by the House International Relations Committee and two factfinding missions to Somalia. The major themes of the House hearings were the role of the Soviet Union in the littoral states of the Indian Ocean, the prospects of arms limitations in the Indian Ocean, and the status of former islanders.[20]

At the invitation of the Somalian Government, the House and Senate Armed Services Committees both sent factfinding missions to Berbera, Somalia.[21] The reports of the two missions both concluded that development of a substantial Soviet installation was taking place in Berbera, and the Senate report recommended expansion of the Diego Garcia facility to counter this development. However, Representative Leggett, a member of the House team, described the Soviet facility as a "rather modest facility" [22] in a statement introducing his amendment to strike Diego Garcia construction funds from the House military construction authorization.

Thus, in 1975, Congress resolved to develop U.S. military support facilities for the Indian Ocean. However, the Congress did not reach any consensus on the potential implications of this commitment for U.S. foreign and defense policy, or receive clarification from the administration on details of agreements with the British permitting U.S. use of the island. While supporters of the U.S. development argued that increased U.S. presence in the Indian Ocean is necessary to counter Soviet activities by providing fueling and communication facilities for the U.S. Navy, opponents of the Diego Garcia funding have claimed that the facility will lead to the development of a three-ocean U.S. Navy, contribute to the arms race in the Indian Ocean, and add to tensions in that region.

---

[19] The State Department reported to the Congress on April 15, 1976, as requested by the Culver amendment, on the status of negotiation efforts. The report concluded that "* * * we do not perceive it (an arms limitation agreement in the Indian Ocean) to be in the U.S. interest at this time. Congressional Record (daily ed.), v. 122, May 6, 1976: S6626.

[20] U.S. Congress, House: Committee on International Relations. "Diego Garcia, 1975: The Debate over the Base and the Island's Former Inhabitants." Hearings, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[21] U.S. Congress, House: Committee on Armed Services. "Report of the Special Subcommittee to Inspect Facilities at Berbera, Somalia." Hearing, July 15, 1975. 94th Cong., 1st sess. (HASC No. 94-19). Washington, U.S. Government Printing Office, 1975. 11 pp.
Senate: Committee on Armed Services. "Soviet Military Capability in Berbera, Somalia." Committee print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 29 pp.

[22] Congressional Record (daily ed.) v. 121, July 28, 1975: H7054.

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES*

In 1975 the key agencies of the U.S. intelligence community were subjected to the most intensive congressional scrutiny since their creation in the years following World War II. Through the efforts of two select committees, one in the House and one in the Senate, Congress and the American people were given detailed information regarding the operations, procedures, and missions of the American intelligence establishment.

In the fall and winter of 1974 serious charges were made in the New York Times concerning the activities of the Central Intelligence Agency. On September 8, the Times reported that the CIA had directed the infusion of millions of dollars into Chile between 1970 and 1973 in an effort to aid groups opposed to the Marxist regime of President Salvadore Allende Gossens and in an attempt to "destabilize" the Allende government. A coup did occur in Chile in September 1973, during the course of which President Allende was killed, or committed suicide. Following the publication of the September 8 Times article, President Ford acknowledged at a press conference that the CIA had been involved in certain efforts in Chile aimed at assisting the opponents of Allende, although he denied that the CIA was involved in the coup itself. One key result of these revelations was the focusing of congressional attention once again on the CIA's foreign covert action operations, a subject that had been the source of intermittent controversy for a number of years.

An important legislative enactment related to this controversy that emerged in the latter months of 1974 was section 662 of the Foreign Assistance Act of 1961, as amended (Public Law 93–559, the Hughes-Ryan amendment) which stipulated in part that:

> No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

It was presumed at the time of its passage that this amendment to the Foreign Assistance Act would enable Congress to maintain better oversight by requiring the CIA to report, through the President, on covert action operations conducted by the Agency overseas. Questions regarding the effectiveness of this provision in enabling the Congress to stop covert actions with which it came to disagree were raised late in 1975 when a controversy developed between the President and Congress

---

*Prepared by Richard F. Grimmett, analyst in national defense.

regarding CIA funding of pro-Western forces in Angola. (See United States-African Relations, pp. 176–77. The questions regarding section 662 centered on the fact that under its provisions the appropriate congressional oversight committees do not have an express veto authority over covert action operations of the CIA. This situation creates serious problems for these committees should any of them wish to end any of the covert actions that are brought to their attention.

On December 22, 1974, the New York Times reported that the CIA, in direct violation of its statutory charter, conducted a "massive, illegal domestic intelligence operation during the Nixon administration against the antiwar movement and other dissident groups in the United States." The Times article also charged that "intelligence files on at least 10,000 American citizens" had been maintained by the CIA, and that the Agency had engaged in "dozens of other illegal activities" within the United States, starting in the 1950's, "including break-ins, wiretapping and the surreptitious inspection of mail." Following the publication of the December 22 Times story, President Ford ordered CIA Director William E. Colby to provide him with a report on the allegations. After reviewing the Colby report, President Ford on January 4, 1975 established an eight-member Presidential Commission, chaired by Vice President Nelson A. Rockefeller, to "ascertain and evaluate any facts relating to activities conducted within the United States by the Central Intelligence Agency." Yet within 2 weeks of the Rockefeller Commission's creation, CIA Director Colby had acknowledged, before subcommittees of the Senate Appropriations and Armed Services Committees, that the CIA had in fact engaged in certain domestic operations against American citizens in recent years. Colby emphasized, however, that these activities were not of the scope alleged in the New York Times article of December 22.

At this juncture, the Senate and the House determined that separate congressional probes of the allegations raised against the CIA would be necessary in order to establish the facts at issue and to restore public confidence in the agency once again. Inasmuch as other units within the American intelligence network, such as the Federal Bureau of Investigation, had also been charged with misdeeds in recent years, primarily in the area of domestic surveillance, it was decided that the congressional inquiries would focus not only on the CIA, but on all U.S. agencies engaged in intelligence activities, foreign and domestic. On January 27, 1975, the Senate, by a vote of 82 to 4, established the Senate Select Committee to Study Government Operations With Respect to Intelligence Activities. Eleven Senators were appointed to the committee, six Democrats and five Republicans. Senator Frank Church (D-Idaho) was named chairman, Senator John Tower (R-Tex.) vice chairman. Senate Resolution 21, which established the Senate select committee, gave it broad authority to determine whether the Central Intelligence Agency, the Federal Bureau of Investigation, or any other agency of the Federal Government, or any persons working for or on behalf of such agencies, had engaged in "illegal, improper or unethical activities." The committee was subsequently charged to submit its findings and recommendations not later than April 30, 1976. On February 19, the House of Representatives voted 286–120 its approval of House Resolution 138, authorizing an inquiry into "allegations of improper and illegal activities of intelligence agencies in the

United States and abroad," through the creation of the House Select Committee on Intelligence.

Ten Representatives were appointed to the House committee, seven Democrats and three Republicans. Representative Lucien N. Nedzi (D-Mich.) was named chairman. In early June some members of the House select committee raised questions concerning the propriety of Representative Nedzi remaining as chairman of the committee in view of the fact that he had previously received secret briefing from the CIA on matters that had now become a focus of the committee's inquiry. Subsequently, the controversy was resolved through the passage of House Resolution 591 on July 17, 1975, which added two Democrats and one Republican to the committee. Representative Michael Harrington (D-Mass.) and Representative Nedzi were not reassigned to this reconstituted House Select Committee on Intelligence. All other members of the first select committee retained their seats on the new one. Representative Otis G. Pike (D-N.Y.) replaced Mr. Nedzi as chairman.

House Resolution 138 gave the House select committee broad powers to investigate "the organization, operations, and oversight of the intelligence community of the U.S. Government." The resolution authorized an inquiry into the activities of the key agencies or units of the intelligence network, such as the CIA, the FBI, and the Defense Intelligence Agency (DIA), as well as "any other instrumentalities of the U.S. Government engaged in or otherwise responsible for intelligence operations in the United States and abroad." House Resolution 591 reaffirmed this mandate in its entirety and directed the select committee to report its findings to the House no later than January 31, 1976.

In the course of public hearings held by the two Select Committees on Intelligence a number of important subjects related to U.S. intelligence were examined. The Senate select committee focused its public hearings on major controversies that had been the subject of the Rockefeller Commission report (President's Commission on CIA Activities Within the United States) and press accounts of questionable operations of the CIA, FBI, and other intelligence units. This approach led the Senate committee to examine the involvement of the CIA in assassination plots against foreign leaders, CIA operations in Chile against Salvadore Allende Gossens, and FBI counterintelligence programs within the United States. The House select committee focused its public hearings on the budget of the intelligence community, the performance of the intelligence community in selected crises, and the questions related to risks and control of foreign intelligence programs of the United States.

Efforts of the House select committee to obtain various kinds of classified data from executive branch agencies led to a number of disputes between the committee and executive branch officials over the kinds of documents, papers, and testimony that would be made available to the committee and the restrictions that would be placed on the use of such information should it be given to the committee. On a number of occasions, the House select committee found it necessary to subpena classified documents in order to receive them. The House select committee made a compromise agreement in November in order to obtain a subpenaed State Department memorandum of Mr. Thomas B. Boyatt, relating to the 1974 Cyprus crisis. In accepting this arrange-

ment, the committee specifically stipulated that its action "shall in no way be considered as a precedent affecting the right of this committee with respect to access to executive branch testimony or documents." In November, the House committee also voted to hold Secretary of State Henry Kissinger in contempt of Congress for failing to appropriately respond to three separate committee subpenas for data relevant to the committee's investigation. By early December, the administration had responded to the three subpenas to the degree that the House committee was able to conclude that "substantial compliance" with them had occurred. As a result, final House proceedings against Secretary Kissinger were dropped by the House select committee.[1]

Activities of House and Senate Select Committees

The following is a synopsis of information developed or expanded upon by the two select committees in the course of their respective hearings. Information from other congressional hearings in 1975 that are directly related to the subheadings below is also incorporated. Sources for this information are either hearing documents or press accounts of hearings.

Intelligence community budget

Comptroller General Elmer B. Staats told the House select committee in July that the General Accounting Office does not know how much the United States spends on intelligence because of current restrictions on its auditing authority with respect to intelligence agencies. As the result of these legal obstacles, the GAO is not in a position to know whether or not there is duplication or lack of coordination among the agencies of the U.S. intelligence community. James T. Lynn, Director of the Office of Management and Budget (OMB), testified before the House select committee in August that because current law permits the Director of Central Intelligence to expend large sums of money on his own authority, the Director of OMB could not give assurances that none of the moneys currently appropriated for the CIA were being spent for illegal activities. William E. Colby, Director of Central Intelligence, stated in testimony before the House select committee in August that the CIA did not inform either the intelligence subcommittees of Congress or the Office of Management and Budget (OMB) about the CIA's mail-opening program or its dealings with organized crime until after these activities had been terminated. In testimony before the House select committee in Au-

[1] The compromise arrangement regarding the Boyatt memorandum provided that the House Select Committee on Intelligence would accept an "amalgamation of State Department documents" which included "in its entirety the papers described as the 'Dissent Memorandum' prepared by Thomas Boyatt while Director of Cypriot Affairs in the [State] Department." This amalgamation was to be accompanied by an affidavit attesting that the Boyatt memorandum was "contained unabridged within the amalgamation." In return the House Select Committee on Intelligence would consider that its subpena for the memorandum had been complied with by the State Department. For materials and testimony relating to the Boyatt memorandum controversy, the question of the committee's access to information, and the citing of Secretary of State Henry Kissinger for contempt of Congress, see the following documents:

U.S. Congress: House: Select Committee on Intelligence. "U.S. Intelligence Agencies and Activities. The Performance of the Intelligence Community." Hearings, pt. 2. Sept. 11, 12, 18, 25, 30; Oct. 7, 30, 31, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. U.S. Intelligence Agencies and Activities: Committee Proceedings Pt. 4. Sept. 10, 29; Oct. 1; Nov. 4, 6, 13, 14, and 20, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. Report of the Select Committee on Intelligence Citing Henry A. Kissinger, Together With Concurring and Dissenting Views. Dec. 8, 1975. Rept. No. 94-693, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 20 pp.

gust, FBI witnesses stated that the Bureau's budget for intelligence-gathering and counterintelligence activities for fiscal year 1975 was $82,488,000—a substantial portion of which went for counterespionage purposes. During one of his appearances in August before the House committee, CIA Director Colby urged that the entire budget of the CIA be kept secret by Congress.[2] The House, on October 1, supported this position by rejecting, by a vote of 267 to 147, an amendment of Representative Robert N. Giaimo (D-Conn.) that was intended to make possible public disclosure of the total amount appropriated to the CIA. During the House debate on the Defense Department appropriations bill in 1975, Representative George H. Mahon, chairman of the House Appropriations Committee, extended the opportunity to all Members of the House to have access to classified budgetary data on intelligence under proper safeguards which would protect the information from public disclosure.

CIA domestic activities

In February and March in testimony before the Defense Subcommittee of the House Appropriations Committee and the Government Information and Individual Rights Subcommittee of the House Government Operations Committee, respectively, CIA Director William E. Colby acknowledged that "over the past 8 years" the CIA has maintained files on four Members of Congress,[3] and that the agency maintains a wide range of files containing information on American citizens. Colby cited reasons for these files being maintained, but added that it was not possible to make an accurate estimate as to the number of names kept on file. On June 10, the Rockefeller Commission report was released. It stated that the "great majority" of CIA domestic activities complied with the law, but that certain operations—mail openings, buggings, break-ins, and the collection of materials involving the names of more than 300,000 individuals and organizations—"were plainly unlawful and constituted improper invasions upon the rights of Americans."[4] In June, CIA Director Colby testified before the Government Information and Individual Rights Subcommittee of the House Government Operations Committee that a continuing CIA review of its records had led to the determination that the agency had files on 75 current Members of Congress. Colby stated there was "no provision for immunity for Members of Congress from such attention." He also acknowledged that beginning in August 1973, the CIA had destroyed some files, including some documents that conceivably might have been used as evidence of criminal activity by the agency. This destruction has since been suspended, Colby added.

In hearings held in October, the Senate select committee received testimony from a number of former public officials on the CIA's mail-opening program. Details of this program were first provided in March with the release of the testimony of William J. Cotter, Chief Postal

---

[2] U.S. Congress. House: Select Committee on Intelligence. "U.S. Intelligence Agencies and Activities: Intelligence Costs and Fiscal Procedures." Hearings. Pt. 1. July 31, Aug. 1, 4-8. 1975. 94th Cong., 1st sess., Washington, U.S. Government Printing Office. 1975.

[3] U.S. Congress. House: Subcommittee on Department of Defense, Committee on Appropriations. "Central Intelligence Agency Domestic Activities." Hearings. Feb. 20, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office. 1975.

[4] U.S. President 1974— (Ford). "President's Commission on CIA Activities Within the United States." Report to the President. June 1975. [Washington. For sale by the Superintendent of Documents, U.S. Government Printing Office. 1975.] 299 pp.

Inspector of the United States, on the subject taken in executive session before the courts, Civil Liberties, and the Administration of Justice Subcommittee of the House Judiciary Committee. During the Senate select committee's hearings, it was revealed that in the course of its 20-year program of mail opening, the CIA had opened foreign correspondence to and from "selected American politicians," including Senators Edward M. Kennedy, Hubert H. Humphrey, Frank Church; Representative Bella Abzug; and Richard M. Nixon. Arthur F. Burns, Chairman of the Federal Reserve Board, and civil rights leaders Martin Luther King, Jr., and his wife Coretta, also had their mail opened. In addition, mail of the Ford and Rockefeller Foundations and Harvard University was opened and examined by the CIA. An official "watch list" for mail opening was kept by the Agency—an index of at least 1,300 names that the CIA had determined were to receive special attention. Individuals whose names were on this "watch list" included author John Steinbeck; Linus Pauling, Nobel Laureate; and Victor Reuther, United Auto Workers official. Officials of the CIA stated that the mail-opening program of 1953–73 was known to be illegal within the Agency while it was being carried out. Operation HTLINGUAL, as it was termed, resulted in the filming of 2,705,726 envelopes and the opening of 215,820 letters in New York during the 20-year period. Former Postmasters General J. Edward Day, John A. Gronouski, and Winton M. Blount testified that they could not recall ever being told during their respective tenures with the Postal Service that the CIA was opening U.S. mail.[5]

CIA and assassination plots

In November, the Senate Select Committee on Intelligence released a 347-page interim report on "Alleged Assassination Plots Involving Foreign Leaders"[6] which discusses the role of the CIA and others in plots against Premier Fidel Castro of Cuba, Rafael Trujillo of the Dominican Republic, Gen. Rene Schneider of Chile, Patrice Lumumba of the Congo—now Zaire—and President Ngo Dinh Diem of South Vietnam. The report held in part that "officials of the U.S. Government initiated plots to assassinate Fidel Castro and Patrice Lumumba," that "American officials encouraged or were privy to coup plots which resulted in the deaths of Trujillo, Diem, and Schneider" and that "CIA officials made use of known underworld figures in assassination efforts." The report also observed that the "apparent lack of accountability in the command and control system was such that the assassination plots could have been undertaken without express authorization." On December 18, Senator Church and nine of his colleagues on the Senate Select Committee on Intelligence introduced S. 2825, a bill to make unlawful the entering into a conspiracy to assassinate a foreign official outside the United States, or the attempted assassination of a foreign official outside the United States.

---

[5] U.S. Congress, Senate; Select Committee To Study Governmental Operations With Respect To Intelligence Activities, "Intelligence Activities; Mail Opening," Hearings, vol. 4, Oct. 21, 22, and 24, 1975, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1976.

[6] U.S. Congress, Senate; Select Committee To Study Governmental Operations With Respect to Intelligence Activities, Alleged assassination plots involving foreign leaders, Nov. 20, 1975, Senate, Rept. No. 94-465, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975, 347 pp.

CIA and Chile

In February, the Senate Foreign Relations Committee released portions of executive session testimony given by Richard Helms, former Director of the CIA, before the committee on January 22, 1975. In this testimony, Mr. Helms acknowledged that he had provided incomplete information concerning the involvement of the CIA in Chilean affairs when he testified before a Senate committee after President Salvador Allende Gossens had come to power.[7]

In December, the Senate Select Committee on Intelligence released a 62-page staff report entitled, "Covert Action in Chile 1963–1973."[8] which discussed the participation of the CIA in efforts intended to block the election of and later to further the overthrow of the government of Marxist President Allende of Chile. The report estimated that the CIA spent $13.4 million for such purposes in Chile during the 10-year period. Of this total, roughly $8 million was spent on propaganda and support of political parties, while another $4.3 million was spent to influence and support the mass media in the country. The report added, however, that no direct involvement of the CIA in the 1973 Chilean coup itself had been established.[9]

National Security Agency operations

In hearings before the House select committee in August, Roy Banner, General Counsel for the NSA, stated that current law on wiretaps does not prohibit the National Security Agency from eavesdropping on overseas telephone calls placed by American citizens.[10] In testimony before the Senate select committee in October, National Security Agency Director, Lt. Gen. Lew Allen, Jr., stated that from 1967 to 1973, the NSA had secretly scanned international telephone and cable traffic, intercepting the messages of 1,680 American citizens and groups and the messages of 5,925 foreign nationals or organizations. This program, formally designated Project Minaret in 1969, was halted in 1973. Allen testified that the National Security Agency had not obtained court orders to authorize this electronic surveillance by his Agency nor had the NSA received the specific approval of President Lyndon Johnson or Richard Nixon or that of any Attorney General. Director Allen stated that all communications intercepted by the NSA had at least one foreign terminal.[11]

NSA supplied information to other intelligence agencies and units such as the CIA, FBI, DIA, and the Bureau of Narcotics and Dangerous Drugs (BNDD) on the basis of watch lists given to NSA by these other intelligence groups. The information supplied by NSA was

---

[7] U.S. Congress. Senate: Committee on Foreign Relations. CIA Foreign and Domestic Activities. Hearing on Activities of the Central Intelligence Agency in Foreign Countries and in the United States, Jan. 22, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office. 1975. 39 pp.

[8] U.S. Congress. Senate: Select Committee To Study Government Operations With Respect to Intelligence Activities. Covert action in Chile 1963–1973. Staff Report. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 62 pp.

[9] For testimony and other documents related to covert action in Chile see U.S. Congress. Senate: Select Committee To Study Governmental Operations With Respect to Intelligence Activities. Intelligence Activities: Covert Action. Hearings, vol. 7. Dec. 4 and 5, 1975. 94th Cong., 1st sess. Washington, U.S. Govertment Printing Office, 1976.

[10] House Select Committee on Intelligence. Hearings. Part 1.

[11] U.S. Congress. Senate: Select Committee To Study Governmental Operations With Respect to Intelligence Activities. Intelligence Activities: The National Security Agency and Fourth Amendment Rights. Hearings, vol. 5. Oct. 29 and Nov. 6, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1976.

selected from interceptions the Agency conducted as part of its foreign intelligence mission. Among the categories of individuals marked for surveillance in this matter were: (1) about 30 Americans and about 700 foreign nationals and groups suspected by the CIA of extremist and terrorist activities, (2) approximately 20 Americans who had traveled to North Vietnam and were believed to be a link to possible foreign influence on the antiwar movement, (3) about 450 Americans and 3,000 foreigners suspected of illegal drug activities by the BNDD, (4) approximately 180 American individuals and groups and 525 foreign nationals and groups suspected by the Secret Service of being a danger to the President, and (5) about 1,000 American individuals and groups and 1,700 foreign individuals and groups suspected by the FBI of terrorist and extremist activity.[12]

In November, the Senate select committee disclosed the details of Operation Shamrock, a secret program through which three international telegraph companies, specifically, RCA Global Communications, ITT World Communications, and Western Union International, provided the National SecurityAgency (NSA) with copies of the great bulk of the international messages these companies sent from 1947 to May 15, 1975, when the program was terminated by Secretary of Defense James Schlesinger. Senator Frank Church, chairman of the select committee, stated that it had been estimated that the "NSA in recent years selected about 150,000 messages a month for NSA analysts to review." Senator Church also noted that FBI agents had reviewed messages in the Washington offices of these three companies. Some details of these activities were first publicly mentioned in late October through a report by the staff of the Government Information and Individual Rights Subcommittee of the House Government Operations Committee. In his November testimony before the Senate Select Committee, Attorney General Edward H. Levi expressed no conclusions on the legality of Operation Shamrock or on NSA's practice of monitoring overseas phone calls of U.S. citizens, noting that the matter was currently under review by the Justice Department.[13]

Performance of the intelligence community

During hearings before the House Select Committee on Intelligence in September and October, testimony and evidence were received regarding the performance of the intelligence community prior to notable international incidents. The post mortem report of the intelligence community regarding the 1973 Middle East war stated, for example, that "there was an intelligence failure in the weeks preceding the outbreak of war in the Middle East on October 6. Those elements of the intelligence community responsible for the production of finished intelligence did not perceive the growing possibility of an Arab attack and thus did not warn of its imminence." In addition, the intelligence community, according to William G. Hyland of the State Department, did not provide any "specific warning of the coup on April 25, 1974, in Portugal." Furthermore, the performance of the intelligence community in connection with the 1974 Cyprus coup, in the words of the intelligence community's post mortem report, "fell quite short of the mark." [14] In a sworn statement, released by the House committee,

---

[12] Ibid.
[13] Ibid.
[14] House Select Committee on Intelligence. Hearings. Part 2.

former Ambassador to Greece Henry J. Tasca, stated that the CIA in Greece had not informed him of a potential coup against Archbishop Makarios, the President of Cyprus, before the coup occurred, even though the CIA had received information that such a coup was possible.[15] A former CIA analyst, Samuel A. Adams, charged that months before the 1968 Tet offensive in Vietnam, U.S. intelligence "had deliberately downgraded the strength of the enemy army in order to portray the Vietcong as weaker than they actually were." Adams added that then CIA Director Richard Helms "fed the phoney figures" to Congress prior to the Tet attacks stating that the strength of the enemy was declining.[16] These charges were disputed in December hearings before the House committee by Defense Intelligence Agency Director, Lt. Gen. Daniel O. Graham and by CIA Director William E. Colby. General Graham and Director Colby both stated that no conspiracy to coverup Vietcong strength had occurred and that Tet did not represent an intelligence failure by U.S. intelligence agencies.[17]

Executive control of the intelligence community

In testimony before the Senate select committee, in September, CIA Director William E. Colby acknowledged that the CIA had, from May 1952 until February 1970, operated a $3 million program to experiment with and develop poisons and biochemical weapons, as well as devices to administer them. This project, known as NKNAOMI, was undertaken in conjunction with the Special Operations Division of the Army Biological Laboratory at Fort Detrick, Md. Colby also confirmed that the CIA had maintained a secret cache of deadly poisons—one derived from cobra venom, the other a shellfish toxin—in spite of a direct Presidential order that such materials be destroyed. Richard M. Helms, former CIA head, testified that he had issued an oral instruction to the appropriate CIA personnel that the CIA's cache of poisons be destroyed in accordance with President Nixon's 1969 and 1970 directives on the subject. Helms said he did not follow up his oral directive with a written one. He assumed his order had been carried out because CIA employees were trained to accept oral commands as orders written in "blood."[18]

The House Select Committee on Intelligence received testimony in October from James R. Gardner, a former liaison officer of the State Department to the Forty Committee of the National Security Council, that between April 1972 and December 1974, about 40 covert action operations had been approved by the Forty Committee without a single formal meeting of that group being held. The Forty Committee is the NSC subcommittee charged with reviewing and making final recommendations to the President concerning proposed covert action operations. Gardner said that in place of formal meetings, the business of the Forty Committee was conducted by telephone and telephone votes. The decision to hold or not to hold a formal meeting was made

---

[15] Ibid., part 4.
[16] Ibid., part 2.
[17] U.S. Congress. House: Select Committee on Intelligence. U.S. Intelligence Agencies and Activities: Risks and Control of Foreign Intelligence. Hearings, pt. 5, Nov. 4, 6; Dec. 2–3, 9–12, and 17, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.
[18] U.S. Congress. Senate: Select Committee To Study Governmental Operations With Respect To Intelligence Activities. Intelligence Activities: Unauthorized Storage of Toxic Agents. Hearings, vol. 1. Sept. 16, 17, 18, 1975. Washington, U.S. Government Printing Office, 1976.

by the Forty Committee's Chairman—the Assistant to the President for National Security Affairs. Secretary of State Henry A. Kissinger later testified before the House select committee that every covert action operation undertaken by U.S. agents is "personally approved by the President." The Chief Executive, Kissinger said, receives "all the decisions" of the Forty Committee for his "final determination." [19]

Drug and biological agent testing programs related to intelligence

In September, representatives of the Army, in testimony before the Investigations Subcommittee of the House Armed Services Committee, disclosed that the Army had surreptitiously given LSD to servicemen in the course of drug experiments conducted between 1958 and 1962 to determine the potential applications of the drug in intelligence operations. Dr. Van M. Sim, former head of the Army's drug testing program, testified in September before a joint hearing of the Administrative Practice and Procedure Subcommittee of the Senate Judiciary Committee and the Health Subcommittee of the Senate Labor and Public Welfare Committee, that the Army was experimenting on soldiers with a powerful drug known as BZ as late as 1974. The subjects who took the drug were never told what they would be taking or how it might affect them. Dr. Sim added that few followup studies have been made on the individuals who took the drugs through the program.

In September, Charles Senseny, a weapons expert who worked with the Army's Special Operations Division at Fort Detrick, testified before the Senate select committee that the unit carried out simulated poison and germ attacks on the New York subway system and Government installations such as the Pentagon and the White House. The attacks were carried out, said Senseny, in an effort to develop countermeasures against possible enemy use of poisons or germ agents against the United States.[20] It was revealed in November in testimony before a joint hearing of the Administrative Practice and Procedures Subcommittee of the Senate Judiciary Committee and the Health Subcommittee of the Senate Labor and Public Welfare Committee, that drug addicts, undergoing rehabilitation at the National Institute of Mental Health's Addiction Research Center in Lexington, Ky., were rewarded with payments in narcotics in return for their participation in CIA-funded drug experiments. The program was funded by the CIA under the cover of the Office of Naval Research from 1951 to 1953, and through other CIA arrangements from 1953 to 1962, when the program was terminated. Although the experiments with hallucinogenic drugs involved volunteers who had knowledge of the fact that they were having drugs administered to them, they also included hundreds of unwitting subjects as well.

CIA and news organizations

In testimony before the House select committee, CIA Director William E. Colby acknowledged that the CIA employs as informants abroad part-time correspondents of major American news-gathering organizations. These CIA informants include free-lance television and

---

[19] House Select Committee on Intelligence, Hearings, Pt. 2.
[20] Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities, Hearings, Vol. 1.

radio correspondents as well as part-time writers for various newspapers and magazines. Colby added, however, that the CIA did not employ any full-time staff correspondents of U.S. news-gathering organizations.[21]

Intelligence agencies and the Internal Revenue Service

Donald C. Alexander, IRS Commissioner, testified before the Senate select committee in October that the CIA and the FBI had used the Internal Revenue Service to harass political activist groups. Alexander also confirmed that the IRS Special Services Staff had a watch list of groups and individuals for possible income tax audits. Individuals on the IRS list included former Senators Charles Goodell and Ernest Gruening; civil rights leaders Jesse Jackson and Coretta King; columnists Joseph Alsop and Jimmy Breslin, and former New York Mayor John Lindsey. Organizations on the IRS list included the National Education Association, the American Jewish Committee, Associated Catholic Charities, the NAACP, the American Civil Liberties Union, the John Birch Society, and the Ford Foundation.[22] In August, Commissioner Alexander told the House select committee that the Internal Revenue Service had ended its generalized intelligence activities in January 1975. He added, however, that it was his view that controls over the distribution of tax return information among Government agencies were too lax and should be strengthened through new legislation.[23]

FBI counterintelligence and surveillance activities

In July, FBI Director Clarence M. Kelley acknowledged at a press conference that the Federal Bureau of Investigation had for many years engaged in "surreptitious entries" of private premises in the United States for the purpose of "securing information relative to the security of the Nation." Kelley confirmed also that the FBI had broken into foreign Embassies in the United States for "counterintelligence" purposes. In September, the Senate select committee disclosed that the FBI from 1942 until April 1968, had committed at least 238 illegal burglaries against 14 "domestic subversive targets." At least three other such domestic targets were subjected to numerous break-ins from October 1952 until June 1966. FBI witnesses also told the Senate select committee in October that for 26 years, from 1940–1966, the FBI had opened and read mail in eight cities—New York, Washington, Miami, Los Angeles, San Francisco, Detroit, Seattle, and Boston—apparently without the approval of the Attorney General and without a warrant from a court. The purpose of this program, said W. Raymond Wannell, Assistant FBI Director for the Intelligence Division, was to aid in the location of potential spies.[24]

In November and December, the House and Senate select committees heard detailed testimony regarding various counterintelligence

---

[21] House Select Committee on Intelligence, Hearings, Pt. 5.

[22] U.S. Congress, Senate: Select Committee To Study Governmental Operations With Respect To Intelligence Activities, Intelligence Activities: Internal Revenue Service, Hearings, vol. 3, Oct. 2, 1975, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1976.

[23] House Select Committee on Intelligence, Hearings, Pt. 1.

[24] "Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities," Hearings, vol. 4.

efforts of the FBI.[25] The Senate select committee received testimony during November regarding an FBI program, in effect since 1961, to discredit the late Dr. Martin Luther King, Jr.—a program which, in the words of FBI Assistant Deputy Director James Adams, had no "statutory basis or justification." In December, the Senate select committee heard a report from its staff, based on FBI documents and testimony of various witnesses, which held that the FBI had been used for political purposes from the Presidency of Franklin D. Roosevelt to that of Richard M. Nixon. The report recounted evidence that the FBI had—for Presidential political ends—conducted wiretaps, supplied secret dossiers, and engaged in physical surveillance of persons.[26]

Strategic arms limitation talks and intelligence

On December 2, 1975, former Chief of Naval Operations, Admiral Elmo R. Zumwalt, Jr., testified before the House select committee that Secretary of State Kissinger had been less than candid with the President and Congress regarding what Zumwalt asserted were "gross violations" by the Soviet Union of the 1972 Strategic Arms Limitation Agreement (SALT I). Zumwalt also charged that U.S. intelligence analysts had been denied access to important data by U.S. policymakers during the period prior and subsequent to the signing of the SALT I agreement—making their jobs all the more difficult. Zumwalt's testimony was challenged before the Senate Foreign Relations Committee the following day by former Defense Secretary James Schlesinger, and by Secretary of State Kissinger in a December 9 press conference. At a later date, the House select committee received the testimony of CIA Deputy Director Edward Proctor that certain documents regarding Soviet compliance with the SALT agreements had been withheld by Mr. Kissinger from certain administration officials, including Secretary of State William Rogers.[27]

Issues and Areas for Congressional Action

As 1975 ended, the House and Senate select committee began preparing their final reports and recommendations.[28] The Senate Government Operations Committee in mid-December scheduled hearings for January 1976 to consider legislative proposals to oversee the intelligence community. In view of the issues raised during the months of public hearings before the two select committees, it seems likely that the Congress in 1976 will be confronted with a number of choices related to oversight of the U.S. intelligence community—once all of the final reports and recommendations are filed and released. The fol-

---

[25] U.S. Congress:
House: Select Committee on Intelligence. "U.S. Intelligence Agencies and Activities: Domestic Intelligence Programs." Hearings. pt. 3. Oct. 9; Nov. 13, 18, and Dec. 10, 1975. 94th Cong., 1st sess., Washington, U.S. Government Printing Office, 1975.
Senate: Select Committee To Study Governmental Operations With Respect to Intelligence Activities. "Intelligence Activities: Federal Bureau of Investigation." Hearings. vol. 6. Nov. 18, 19, Dec. 2, 3, 9, 10, and 11, 1975. 94th Cong., 1st sess., Washington, U.S. Government Printing Office. 1976.

[26] Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities. Hearings. vol. 6.

[27] House Select Committee on Intelligence. Hearings. pt. 5.

[28] The final recommendations of the House select committee were filed on Feb. 11, 1976. U.S. Congress. House: Select Committee on Intelligence. Recommendations of the final report of the House Select Committee on Intelligence, pursuant to H. Res. 591. Feb. 11, 1976. House Rept. No. 94–833. 94th Cong., 2d sess. Washington, U.S. Government Printing Office, 1976. 29 pp. The Senate select committee's final recommendations and report were filed on Apr. 26 and 28, 1976 (S. Rept. 94–755).

lowing are some of the more important issues and subject areas that the Congress may address.

Intelligence Oversight Committee

Congressional oversight of the intelligence community has generally been the responsibility of the Appropriations and Armed Services Committees of the House and Senate. In October 1974, the House expanded this oversight responsibility by adopting House Resolution 988, which included a provision giving the Committee on Foreign Affairs (now the Committee on International Relations) the special oversight function of "reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving * * * intelligence activities relating to foreign policy * * * ." Since the passage of the Hughes-Ryan amendment to the Foreign Assistance Act in 1974, the Senate Foreign Relations Committee has participated in the formalized review of CIA covert action operations along with the other intelligence oversight committees.

In the wake of the investigations by the House and Senate select committees, the Congress is likely to be asked to consider changes in the current oversight arrangement. Possible changes could be the establishment of either a joint intelligence oversight committee or an oversight committee for one or both Houses. Should the Congress or either House decide to establish such a committee, a number of issues would have to be resolved in the process. Congress or the individual Houses would have to determine the appropriate size of such a committee as well as what the permissible tenure of service of committee members should be. The jurisdiction of such a committee over agencies of the U.S. intelligence community will also have to be determined. Should this jurisdiction, for example, be limited to U.S. foreign intelligence agencies or extended to include domestic intelligence units as well? Should such a committee have legislative jurisdiction and authorization authority over the agencies within its purview? Should such a committee have exclusive legislative, authorization, and oversight jurisdiction over the intelligence community, or should it share these authorities with other standing committees in the House and Senate? If the Congress or either House decides to establish a new oversight committee arrangement, it seems likely that standards will have to be developed to govern disclosure of classified information by Members who serve on any new committee that is created. Such standards would undoubtedly address the means by which classified information could be released to other Senators and Members of Congress, or the public at large.

Covert action operations of the CIA

A major point of controversy during recent years has been covert action operations of the Central Intelligence Agency. In light of the revelations regarding CIA activities in this area, it is possible that it will be recommended that current procedures governing notification of the appropriate congressional committees (as required by section 662 of the Foreign Assistance Act of 1961 as amended) be changed. It may be recommended that a new oversight committee be given the statutory right to a comprehensive briefing on each

proposed CIA foreign covert action operation prior to its initiation. It may further be recommended that such an oversight committee have the authority to disclose to the Senate and/or to the House, CIA covert action operations it believes should be terminated should they be initiated over the objections of the committee. The Congress will certainly be asked to determine whether or not the assassination of foreign officials, the entering into a conspiracy to do so, or the attempt to assassinate such an official by U.S. citizens should be made a criminal offense.

Intelligence community budget

In view of the controversy that has developed in recent months over the intelligence community's budget and the uses to which it is put, it is possible that legislation will be recommended to change the budgetary process currently in effect for intelligence groups, especially the CIA. This may be done in an effort to facilitate greater oversight of such units by both the Congress as a whole and any new oversight committee that may be created. It may be proposed, for example, that an annual authorization of the national intelligence community budget be required, including direct votes on it in secret sessions of the House and/or the Senate. Restrictions on the ability of the CIA to reprogram or transfer funds for its use from other accounts, as well as checks on the authority of the CIA Director to expend funds for the CIA on his own certificate, may also be recommended. Should Congress determine that an annual authorization of the national intelligence community budget be required, it will need to establish specific guidelines to govern access to and use of this budgetary data by Members of both Houses.

Reorganization of the intelligence community

To define more clearly the missions and permissible activities of the CIA, NSA, and other agencies of the U.S. intelligence community, and thus facilitate oversight of such matters in the future, the Congress may be asked to amend the statutory charter of the CIA and to legislate new charters for other intelligence units. To promote greater efficiency and to eliminate unnecessary duplication of effort within the intelligence community, a general reorganization of it may be proposed, including a redefinition of the position of the Director of Central Intelligence and the powers and responsibilities that inhere in it.

The above issues and subject areas are illustrative of the scope of choices in the intelligence oversight areas that face the Congress as 1976 commences. Problems in this area are exceedingly complex and they will undoubtedly require intensive examination and debate to resolve satisfactorily. Yet an important step toward that resolution was taken in 1975 through the wide-ranging use of congressional investigative powers.

The Debate Over U.S. Policymaking System and the Congressional Role in Foreign Policy

INTRODUCTION

The years since the height of U.S. involvement in Vietnam have produced a reaction in Congress to a perceived imbalance between the Congress and the executive branch in foreign policy decisionmaking. A majority of the Congress has agreed that efforts must be made to reestablish and strengthen the congressional voice in foreign policy; passage of the War Powers Act (1973), the Case-Zablocki Executive Agreements Act (1972), specific policy directives such as the Jackson-Vanik amendment (1974) and the Turkish aid cutoff (1975), and various other legislative actions to require increased executive branch reporting in order to facilitate congressional oversight, respond to this concern.

This section of Congress and Foreign Policy 1975 attempts to look at the issues which, in 1975, were pivotal in the effort to redefine the relationship of Congress to the executive branch in foreign policymaking. For instance, in an attempt to deal more efficiently and effectively with foreign policy issues, the House International Relations Committee and the Senate Foreign Relations Committee have both reorganized subcommittee structures. Other proposals for reform of the congressional foreign policymaking structure were made by a congressionally appointed Commission on the Organization of the Government for the Conduct of Foreign Policy (the Murphy Commission.) Many of the Commission's recommendations, however, have not been implemented.

In 1975, the reporting requirements of the War Powers Resolution were invoked on four occasions, with some questions raised as to the extent to which the act did permit greater congressional involvement in the decisionmaking process. Congress also reviewed its role regarding executive agreements and considered various legislative proposals to increase its oversight of such agreements.

Congressional efforts to reassert foreign policymaking prerogatives resulted in at least two instances in the passage of legislation specifically affecting U.S. policy toward particular countries. The issues of U.S. aid to Turkey and the linkage of U.S. trade concessions with Soviet emigration policies provoked controversy with the administration, which tends to see the congressional foreign policy role as one of influencing policy rather than making it.

CONGRESSIONAL ORGANIZATION FOR THE CONDUCT OF FOREIGN AFFAIRS*

Congress' concern about assuming a more responsible role in foreign policy in recent years has directed increased attention to ways in which congressional performance in foreign policymaking is related to congressional organization. This concern for organization in 1975 produced a substantial number of proposals for reorganization, but rather limited actions to implement these proposals. A congressionally appointed Commission on the Organization of Government for the Conduct of Foreign Policy [1] (referred to as the Murphy Commission after its Chairman, Robert D. Murphy) made its report in June 1975; its proposals for both congressional and executive branch reorganization focused primarily on the increasing relationship between international economic and political affairs. Reorganization proposals made by the Congress itself have related to such matters as intelligence oversight and the possibility of establishing a Joint Committee on National Security, and reorganization of existing committee and subcommittee structures.

Study Commission Proposals for Reorganization

Murphy Commission

The Commission on the Organization of the Government for the Conduct of Foreign Policy was established by the Congress in 1972 to study ways by which the executive and legislative branches make and implement foreign policy. Congressional interest in the report's recommendations was minimal in 1975; no committee conducted hearings on the Commission report, and only isolated references have been made to its specific recommendations.

The only recommendation made by the Murphy Commission to receive congressional action called for including the Secretary of the Treasury as a statutory member of the National Security Council. The measure, S. 2350, was passed by the Senate on October 9, 1975, and by the House on December 17, 1975. It was subsequently vetoed by President Ford (S. Doc. 94–145, Jan. 19, 1976), who argued that enactment of the legislation is unnecessary because the President has the authority to invite the Secretary of the Treasury to participate in Council affairs when issues of substantial interest to the Treasury Department are involved. The Senate overrode the Presidential veto on January 22, 1976; as of this writing the House has not considered the matter.

The two sections of the Murphy Commission report dealing specifically with congressional participation in foreign policymaking outline recommendations to meet congressional responsibility in two im-

* Prepared by Gale A. Mattox, analyst in international relations.

[1] U.S. Commission on the Organization of the Government for the Conduct of Foreign Policy. (Report) June 1975. Washington, U.S. Government Printing Office, 1975. 278 pp.

mediate challenges to U.S. foreign policy: Increasing international economic and physical interdependence, and the resultant merging of domestic and foreign policy issues.

The Commission maintained that the Congress has too long deferred to and allowed its powers to be usurped by the executive branch, and it cited a survey of Members of Congress that indicated dissatisfaction with Congress' diminished role in foreign policy. The Commission expressed the belief that the security of the Nation requires that Congress and the executive branch resolve foreign policy issues through "shared participation and responsibility." Although the Commission recognized that the executive branch must conduct U.S. relations with other countries, Congress and the executive do share important responsibilities in foreign affairs: War powers, the appointive process, and treaty powers. And only Congress has the power to regulate foreign commerce, an increasingly important responsibility.

To facilitate the effective legislative/executive sharing of responsibility the Commission:

(1) Endorsed the War Powers Resolution and encouraged both the executive branch and the Congress to adhere to its spirit of cooperation;

(2) Recommended that a statement of national commitment be adopted by a congressional concurrent resolution to assure that any promise to use armed force in defense of a foreign country result from a treaty, statute, or concurrent resolution approved by both the legislative and executive branches;

(3) Proposed that to curtail excess of executive authority, all national emergencies and statutes delegating emergency powers should conform to the National Emergencies Act, all existing formal states of national emergency should be terminated and in the future, declared emergencies should contain provisions for termination;

(4) Asserted that the flow of information within the Government should be as free as possible, all unnecessary classification procedures be terminated, and a more comprehensive system of classification be enacted, with oversight and maintenance of this system of classification performed by a Joint Committee on National Security;

(5) Urged the Senate to continue to demand that all appointed foreign policy officials possess the necessary qualifications for their positions; and

(6) Encouraged the Congress to exercise more effective review and oversight through report back requirements for executive testimony and reports, thus encouraging more executive/legislative cooperation.

While the Commission acknowledged that Congress had made "substantial progress" in many of these areas, it offered the above recommendations to qualify or strengthen the advances already made.

The Commission then turned its attention to recommendations for congressional organization and procedures. The Commission report concluded that it is necessary that the House International Relations Committee and the Senate Foreign Relations Committee have broad jurisdictional flexibility on foreign policy issues, particularly in the consideration of economic questions that may have implications for

foreign policy. It expressed general approval of the Senate's jurisdictional responsibilities, but proposed a review of the Senate subcommittee system. The Commission was more critical of the House and recommended that the House Banking and Currency Committee and the International Relations Committee have concurrent legislative oversight of international financial organizations and that the International Relations Committee broaden its oversight functions in trade policy issues, particularly over reciprocal tariff agreements. The Commission report endorsed the full utilization of subcommittees and joint hearings to coordinate congressional action in the foreign policy field.

Specifically, the Commission proposed that the Foreign Relations and International Relations Committees be afforded the opportunity to review and comment on the budget estimates made by the appropriations committees to determine the foreign policy implications, if any, of the estimates. These two committees should also be represented on the budget committees of both Houses. To expedite the authorization process the Commission suggests that authorization bills be limited to general expenditure and that more detailed review periodically be made of permanent legislation or multiyear authorizations with focus on the long-term effectiveness of programs. The Congress might also consider combining authorizations and appropriations into a single process handled by House-Senate "program committees."

The Commission felt that more evaluation and review of major programs and policy were necessary. The report of the Commission also recommended that:

—There be a central congressional repository for written reports supplied to Congress by executive agencies, and a system of security classification be developed by the Joint Committee on National Security;

—A part of the Congressional Research Service focus steadily on issues to which Congress as a whole accords high priority, under the guidance of the Joint Committee on Congressional Operations;

—There be improved reporting procedures and accounting of international programs in which the United States participates;

—The Joint Committee on Congressional Operations develop better research facilities, including the periodical publication of a summary of congressional foreign affairs research interests;

—There be more travel by teams of members to review international programs, and a reporting procedure for these trips be encouraged; and that

—Public awareness of congressional activities be increased via televised hearings.

The majority of the Murphy Commission's recommendations actually dealt with the administration of foreign affairs within the executive branch. Because the Constitution confers the primary responsibility for the conduct of foreign policy on the President, it is essential that he have a competent staff able to assess all issues with foreign policy implications. The NSC and State Department are assigned responsibility for this function. But as the scope of foreign policy broadens, to remain effective these structures must receive more input from other agencies involved in foreign policy issues. Such intragovernmental coordination will become increasingly important with the growing complexity of global issues, the Commission maintained.

To maintain an integrated approach to foreign policy as the economic issues become more complex, the Commission proposed a central coordinating role for the State Department in economic policy-making with international implications. However, two Commission members, Senator Mansfield and Mrs. Engelhard did not concur with this recommendation according to the State Department responsibility for the coordination of foreign economic issues. In appendixes to the Commission report, they acknowledged the growing importance of economic issues to foreign policy discussion, but suggested that all aspects of economic policy remain under the responsibility of the Secretary of the Treasury, whom they felt to be best qualified.

The Commission further advised involving other agencies in the foreign economic policy decisions by broadening the NSC to allow more debate on economic issues, organizing several advisory boards with members drawn both from within the Government and from the private sector to advise on economic policy matters, and requiring greater economic expertise in the Foreign Service and throughout the Government.

In its recommendations for improving congressional/executive relations, the Commission stressed cooperation in the flow of information and communication between as well as within branches. Improved cooperation, the Commission reported, is particularly important with regard to executive agreements, emergency powers, and executive privilege. To improve congressional participation in foreign affairs, the Commission study proposed a Joint Committee on National Security.

Intelligence oversight proposals

Proposals for reform of congressional oversight of intelligence activities were contained in the report to the President by the Commission on CIA Activities Within the United States (the Rockefeller Commission) and the Murphy Commission reports, and they were also made by the House and Senate Select Committees on Intelligence. For a detailed review of these recommendations, see pp. 26–28.

Joint Committee on National Security

Several Members of Congress have periodically introduced legislation to coordinate the foreign affairs activities of both Houses of Congress through the creation of a Joint Committee on National Security, and the Murphy Commission also recommended establishment of such a committee. Proponents of the measure argue that a joint committee could improve congressional effectiveness in the area of foreign affairs through better coordination of the two foreign affairs committees, and the Murphy Commission recommended that a Joint Committee on National Security "could perform for the Congress the kinds of policy review and coordination now performed in the executive branch by the National Security Council, and provide a central point of linkage to the President and the officials at the Council."[2]

There has been considerable opposition to the proposal for a joint committee. In supplemental remarks to the report of the Murphy Commission, Commission member, Senator Mike Mansfield objected to the recommendation, arguing that a joint committee might not only de-

[2] Commission on the Organization of Government for the Conduct of Foreign Policy, p. 208.

crease the authority and power of existing standing committees, but could become a "supercommittee" and fall under the influence of the executive branch, thereby reducing rather than increasing congressional authority for national security affairs.

Changes in Congressional Organization

Committee structure

Perhaps the most important changes in 1975 relating to congressional reassertion of its role in foreign policymaking involved reorganization of the Foreign Affairs Committees of both Houses. The House Committee on International Relations (previously the House Committee on Foreign Affairs, with name changed by H. Res. 163 in March 1975) replaced its geographic subcommittees with functional subcommittees. The revised structure is designed "to deal more effectively with the major international problems which are increasingly global in nature—such as energy and food shortages and international trade."[3] The following subcommittees were established: Oversight; International Security and Scientific Affairs; International Operations; International Political and Military Affairs; International Resources, Food and Energy; International Economic Policy; International Organizations; and International Trade and Commerce. In addition, a Special Subcommittee on Investigations was created, as well as a Special Subcommittee on Future Foreign Policy Research and Development.

The changes in the committee's subcommittee structure were also intended to help the International Relations Committee deal effectively with its expanded jurisdictional responsibilities. The Committee Reform Amendments of 1974 (H. Res. 988, adopted Oct. 8, 1974) broadened the jurisdiction of the International Relations Committee to include jurisdiction over international commodity agreements and international trade and trade with enemy, export controls, international education, and nondomestic aspects of Public Law 480. The committee also gave up jurisdiction over international fishing agreements and international financial and monetary organizations (de facto responsibility for which had already been exercised by the House Committee on Banking, Currency and Housing), but it did maintain nonlegislative oversight authority for these areas.

The Senate Foreign Relations Committee voted in February 1975 to abolish distinctions between consultative, study or oversight, and ad hoc committees. The committee's subcommittee structure now includes five regional and four functional subcommittees: African Affairs; Arms Control, International Organizations, and Security Agreements; European Affairs; Far Eastern Affairs; Foreign Assistance and Economic Policy; Multinational Corporations; Near Eastern and South Asian Affairs; Oceans and International Environment; and Western Hemisphere Affairs. The Foreign Relations Committee traditionally considers legislation, treaties, and nominations only in full committee, with subcommittee functions normally confined to oversight. However, the Subcommittee on Foreign Assistance and Economic Policy was assigned legislative jurisdiction for foreign

[3] U.S. Congress, House; Committee on Foreign Affairs, Press release, Morgan announces new Foreign Affairs Committee structure Feb. 3, 1975.

economic and military assistance programs, foreign military sales programs, and U.S. participation in multilateral assistance programs and international lending institutions.

Both the Senate and the House increased the size of committee staffs during 1975 to accommodate the increasing responsibilities and research needs of Congress in all areas, including foreign affairs. Senate Resolution 60 allows each Senator not already assigned a committee staff member to hire one staff person for each major committee on which he serves. The Committee Reform Amendments of 1974 increased all House committee staffs from 6 to 18 positions. One-third of these staff personnel are designated minority staff, but may be detailed to general committee work when necessary.

The House International Relations Committee rules for the 94th Congress state that all committee and subcommittee meetings and markup sessions, except those relating to internal budget or personnel matters, shall be open to the public.[4] In some instances, hearings and markup sessions were held simultaneously, with administration witnesses available to answer questions during the markup. While some observers have criticized this procedure for removing the actual give-and-take involved to more informal settings away from the public eye and for increasing the potential for executive branch influence on committee decisions, it must be noted that public access to markups means that members' positions on legislation in the formative stages are part of the public record.

Joint referrals of legislation

The increasing interrelationship of foreign and domestic policy issues has resulted in increased use, in both the House and Senate, of joint or consecutive referral procedures. The House Committee Reform Amendments of 1974 authorized the Speaker to refer bills to more than one committee, either through joint or consecutive referrals, or by dividing a bill into various parts. For example, the Rhodesian chrome bill (H.R. 1287) was referred sequentially to the International Relations and Armed Services Committees, while the Comprehensive Oil Pollution Liability and Compensation Act (H.R. 9294) was referred jointly to the International Relations, Merchant Marine and Fisheries, and Public Works and Transportation Committees.

The Senate has used joint and consecutive referral procedures for some time, and made frequent use of them in 1975. For example, S. 2607, to repeal the embargo on U.S. trade with North and South Vietnam, was referred jointly to the Foreign Relations and Banking, Housing, and Urban Affairs Committees, and the International Food and Development Assistance Act (H.R. 9005) was referred consecutively to the Foreign Relations and Agriculture Committees. As a result of these joint referrals, conference committees have included representatives of involved committees. The conference committee on H.R. 9005, for example, included members of the House International Relations Committee and the Senate Foreign Relations and Agriculture Committees.

---

[4] Meetings can be closed if a quorum of the committee or subcommittee, in open session, determines by rollcall vote that all or part of a day's meetings shall be closed. Committee staff estimates that less than 10 percent of committee meetings were held in closed session in 1975.

Confirmation process

Through the power of confirmation, the Congress, and the Senate in particular, is able to influence the choice of policymakers who advise the President in foreign policy decisions and may be influential in determining the direction of U.S. foreign policy. In the Senate, the Foreign Relations Committee has imposed an informal reporting requirement on nominees submitted by the executive branch for confirmations. All nominees proposed by the executive branch are requested to submit a statement agreeing to the National Commitments Resolution (S. Res. 91-85)[5] and providing information on political contributions and any possible conflicts of interest.

The Assistant to the President for National Security Affairs is currently not subject to Senate confirmation. The influential role that Secretary Kissinger assumed while occupying this position has caused concern by some Members of Congress. The Murphy Commission also expressed concern over the situation and proposed that this position not be occupied by an individual with other official responsibilities.

James Stanton incorporated many of these concerns in H.R. 11342, introduced on December 19, 1975, and recommended the establishment of the position of Special Assistant to the President for National Security Affairs. This Special Assistant would advise the President on the "coordination and integration of domestic, foreign military, and other policies relating to the national security." He would be subject to Senate confirmation, thus allowing the Congress limited influence and oversight in the conduct of his responsibilities. Finally, the Special Assistant would not be permitted to hold any other Federal office or serve on active or reserve duty in the Armed Forces.

---

[5] The resolution defines a national commitment as the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States. The resolution maintains that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the U.S. Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

CONGRESS AND WAR POWERS*

The War Powers Resolution (Public Law 93-148), frequently regarded as a symbol of congressional resurgence in foreign policy, was partially implemented on four occasions in 1975, and was discussed in relation to U.S. involvement in the Sinai peace force and U.S. paramilitary involvement in Angola. In each instance when the resolution was actually implemented (the evacuations of U.S. and foreign nationals from Danang, Phnom Penh, and Saigon, and the *Mayaguez* incident), the executive branch complied with the law's section 4 reporting requirements and notified Congress of the actions taken regarding the use of U.S. forces. Subsequently, a House International Relations Subcommittee held hearings to evaluate executive branch compliance with the War Powers Resolution.[1] In addition, the Subcommittee on International Political and Military Affairs of the House International Relations Committee also conducted hearings (May 14 and 15, June 12 and 25, July 25 and 31, and Sept. 12, 1975) on the seizure of the *Mayaguez* and factors involved in the executive branch decision to use force to retrieve the vessel,[2] and requested that the General Accounting Office undertake a detailed study of the seizure and U.S. diplomatic and military attempts to secure release of the ship and crew.

While reaction to the viability of the War Powers Resolution was generally favorable, reviews of congressional performance with regard to executive branch/legislative war powers prerogatives were mixed. Although the President did heed the provisions of the War Powers Resolution in the four instances involving use of U.S. forces, he was permitted to circumvent the series of statutory provisions enacted between 1973 and 1975 which prohibit the use of funds to finance combat activities and other military or paramilitary operations "in, over, and off the shores of North and South Vietnam, Laos, and Cambodia." The Vietnam Contingency Act of 1975 (H.R. 6096, H. Rept. 94-155) was passed by the House on April 17, authorizing funds for the evacuation of U.S. citizens and certain Vietnamese nationals, but containing no congressionally mandated authority for the use of U.S. Armed Forces for that purpose. The Senate-passed measure (S. 1484, S. Rept. 94-88) did specifically authorize the use of armed forces as necessary to complete the evacuation of U.S. citizens, and the conference report of the measure (H. Rept. 176) followed essentially the Senate model and was approved by the Senate April 25. However, consideration of the conference report by the House was

---

* Prepared by Margaret Goodman, analyst in international relations.

[1] U.S. Congress. House: Committee on International Relations. Subcommittee on International Security and Scientific Affairs. War Powers: a test of compliance. Hearings, 94th Cong., 1st sess., May 7 and June 15, 1975. Washington, U.S. Government Printing Office, 1975. 135 pp.

[2] Complete hearings not yet published.

delayed from the originally scheduled date of April 29 to May 1, after the final evacuation from Saigon had been completed, and the report was then rejected by the House.

Thus, it would appear that Congress failed to take advantage of an opportunity to assert its influence on executive branch activities through its power over the purse, by permitting the President to proceed in Indochina in spite of statutory prohibitions on such use of funds. When questioned about the effect of the statutory prohibitions after the rescue of the *Mayaguez* crew, Monroe Leigh, State Department legal counsel, stated:

> * * * the enactment of the funds limitation provisions * * * did not go so far as to prevent the President from exercising his constitutional authority to rescue American citizens simply because those citizens happened to be in Indochina * * *[3]

According to another commentary on the subject, however, "(t)he law had become a mere inconvenience which—thanks to public support, the legal theories of the State Department, and the acquiescence of Congress—could be ignored."[4]

Presidential Compliance With the War Powers Resolution

The four reports filed by the President[5] in compliance with the War Powers Resolution were brief accounts of the number of U.S. forces involved in each incident, the approximate times of their involvement, and the numbers of U.S. and foreign civilians directly affected by each operation. All four reports indicated that the President acted pursuant to his constitutional powers as Commander in Chief, and that the reports were filed "in accordance with the President's desire to keep the Congress fully informed" and "taking note of Section 4 of the War Powers Resolution,"[6] rather than specifically indicating compliance with the resolution. In addition, the State Department legal advisor, Monroe Leigh, noted that the President had consulted with Congress on all four occasions, although specifically required to do so only in those situations inolving actual or imminent hostilities.

Congressional reaction to the President's compliance with the War Powers Resolution was expressed principally during the 2 days of hearings conducted by the House International Relations Subcommittee on International Security and Scientific Affairs. Concern with the general attitude of the executive branch toward the legislation was voiced, while more specific attention was directed toward definitional problems. Senator Jacob Javits, one of the principal Senate sponsors of the measure, expressed satisfaction that the legislation had "stood up well in its initial tests," although he observed that

---

[3] U.S. Congress, House: Committee on International Relations. War powers; a test of compliance, pp. 88.

[4] Glennon, Michael J. Strengthening the War Powers Resolution: the case for purse strings restrictions. Minnesota Law Review, vol. 60, November 1975, pp. 23.

[5] U.S. Congress, House Committee on International Relations, Subcommittee on International Security and Scientific Affairs. The War Powers Resolution: relevant documents, correspondence, reports. (Committee print) 94th Cong., 2d sess., January 1976 edition. Washington, U.S. Government Printing Office, 1975. pp. 40–45.

[6] The reports of the Danang and Phnom Penh evacuations referred to section 4(a)(2) of the resolution, "the introduction of U.S. armed forces into the territory, airspace, or waters of a foreign nation while equipped for combat," and the report on the Mayaguez incident specified section 4(a)(1), "introduction of U.S. troops into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." The report on the Saigon evacuation referred only to section 4, without indication of subsections.

the reports filed had been "brief to the point of minimal compliance with the requirements of the law," and "did not provide an adequate informational basis for informed congressional action." [7]

The War Powers Resolution was not fully tested in any of the four instances in 1975 because U.S. troops were voluntarily withdrawn in each case after a brief period of time. However, the executive branch has maintained the position put forward in the President's 1973 veto message, that the War Powers Resolution unconstitutionally attempts to restrict Presidential power as Commander in Chief of the Armed Forces. In the compliance hearings, the State Department legal adviser maintained that:

> Besides the three situations listed in subsection 2(c) of the War Powers Resolution, it appears that the President has the constitutional authority to use the Armed Forces to rescue American citizens abroad, to rescue foreign nationals where such action directly facilitates the rescue of U.S. citizens abroad, to protect U.S. Embassies and legations abroad, to suppress civil insurrection, to implement and administer the terms of an armistice or cease-fire designed to terminate hostilities involving the United States, and to carry out the terms of security commitments contained in treaties. We do not, however, believe that any such list can be a complete one, just as we do not believe that any single definitional statement can clearly encompass every conceivable situation in which the President's Commander in Chief authority could be exercised.[8]

Mr. Leigh argued further that if the President's use of the Armed Forces is pursuant to a constitutional grant of power—as the four reports submitted by President Ford claim—then any statutory provision to cut short that use, such as the 60-90-day limit set forth in the War Powers Resolution, would be unconstitutional.[9] Thus, Congress cannot yet claim to have achieved an effectively proven limitation on Presidential warmaking powers in the vehicle of the War Powers Resolution.

More specific problems discussed during the hearings regarded definitions of hostilities and consultation. Various Congressmen questioned the fact that the President did not choose to define the situation surrounding the final Saigon evacuation as a possibly hostile situation, in spite of the fact that the airport was under rocket attack, and two U.S. Marines had been killed at the airfield the day preceding the final evacuation. In an exchange of letters which followed the hearing, the State and Defense Department spokesmen argued that "hostilities" or "imminent hostilities" must be defined situationally. In the case of the Saigon evacuation, they pointed out that since the operation had terminated by the time the President's report was filed, the question of possible congressional action under section 5 of the law (which is triggered by a sec. 4(a)(1) report of involvement in hostilities or imminent hostilities) was moot. However, the issue still remains, since in future instances the Congress and the executive branch may not agree on what constitutes a hostile situation, and therefore, on whether or not section 5 will become operative.

Problems concerning the definition of "consultation" arose in the context of the *Mayaguez* incident in which the President claimed that he had consulted with congressional leaders, while most Members of Congress involved reported that they had been informed of Presidential opinion after the fact rather than given an opportunity to exchange views with the President prior to the decision. Although the

---

[7] U.S. Congress. House. War powers hearings, p. 69.
[8] Ibid., pp. 90-91.
[9] Ibid., p. 91.

law provided that the President consult with Congress, the requirement is qualified by the phrase "in every possible instance," making that section, according to Representative Findley, "the least precise and therefore the least effective part of the War Powers Resolution." [10] The congressional leaders involved objected to the fact that they did not have direct contact with the President until after key decisions had been made, and comments at the hearing expressed skepticism as to whether the President had in fact been precluded by his other responsibilities from more extensive interchange with Members of Congress. Administration witnesses argued that the communications between the White House and Members of Congress were consistent with the consultation requirements of the War Powers Resolution.

Representative John Seiberling and Senator Thomas Eagleton introduced similar amendments (H.R. 7594 and S. 1790 respectively) to the War Powers Resolution to clarify the consultation provision by replacing the phrase "consult with Congress" with "seek the advice and counsel of Congress" and by further defining the meaning of the phrase. Senator Javits suggested that the President should have consulted with the House International Relations Committee and the Senate Foreign Relations Committee, but noted that he did not believe the situation warranted amending the resolution at that time. Representative Clement Zablocki, chairman of the House International Relations Subcommittee responsible for the war powers resolution, and the principal House sponsor of the measure, concurred with Senator Javits; neither body considered the proposed amendments in 1975, apparently taking the position that the hearings and other publicity had provided the White House with a clear indication of congressional concern with the way in which the matter had been handled.

An additional issue receiving some attention during the hearings concerned Presidential authority to rescue U.S. citizens and foreign nationals. Senator Eagleton introduced an amendment to the War Powers Resolution (S. 1790) to clarify the authority of the President to rescue U.S. citizens from threatening situations abroad. The question of Presidential authority to evacuate foreign nationals, an issue raised in the House hearings, does not relate directly to the War Powers Resolution, but rather to the need for specific congressional approval for such action and the extremely confused status of the Vietnam contingency legislation at the time of evacuation.

During Senate debate on the Sinai resolution (S.J. Res. 139, Public Law 94–110, debated on Oct. 9, 1975), which includes provisions for 200 U.S. civilian technicians to be stationed in the Sinai, the War Powers Resolution was debated in relation to the President's authority to rescue civilians. Arguing that the War Powers Resolution in effect gives the President authority he did not previously have to act outside the United States without a declaration of war, Senator James Abourezk proposed an amendment (to the Sinai resolution) to prohibit the President from introducing U.S. Armed Forces in the Middle East. His amendment was not passed, but the Sinai resolution as approved by the House and Senate does contain language to clarify that the resolution does not give the President any authority to introduce U.S. troops which he did not already possess.

[10] Ibid., p. 57.

Inclusion of U.S. Civilian Combatants Under the War Powers Resolution

Senator Eagleton also reintroduced a proposal to assure that the War Powers Resolution covers paramilitary operations. He had originally offered a similar proposal as an amendment to the War Powers Resolution in 1973, but his amendment was defeated during Senate debate on the measure. In 1975, he included the proposal in S. 1790, and when the issue reemerged later in the year as the question of U.S. civilian and paramilitary involvement in Angola arose, Senator Eagleton reintroduced the proposal as an amendment to S. 2662, the Foreign Assistance Act of 1975.[11]

In support of his proposed amendment, Senator Eagleton noted that the executive branch has claimed that the President possesses inherent powers to conduct paramilitary operations. According to Mitchell Rogovin, special council to the Director of Central Intelligence, "Congress has formally acknowledged that the President has inherent constitutional authority to use military force short of war, and this acknowledgment is implicit in the War Powers Resolution * * * "[12] Rogovin's analysis concludes:

> If the President has the power to dispatch troops to foreign countries and to use military force short of war—and the foregoing discussion clearly demonstrates that he does—then it would logically follow that he has the power to send civilian personnel to foreign countries to engage in covert action * * *[13]

Senator Eagleton pointed out that CIA Director William Colby had acknowledged that five U.S. pilots and five ground agents had been engaged in paramilitary activities in Angola; had these agents been U.S. military rather than CIA civilian personnel, the President arguably would have been required to report their activities to the Congress, and Congress could have sought to terminate the operation. Eagleton argued that failure of Congress to broaden the War Powers Resolution might encourage Presidents in the future to resort to paramilitary operations to avoid the reporting requirements for uniformed forces.

Language such as that contained in Senator Eagleton's proposed amendment presumably would also cover U.S. civilian personnel involved in the Sinai early warning system; this point, however, was not mentioned in remarks on the amendment or in discussion of the early warning system.

Additional References

1. Emerson, J. Terry, Constitutional authority of the President to use the Armed Forces in defense of American lives, liberty, and property. Congressional Record (daily ed.) v. 121. May 6, 1975, pp. S7526–S7530.
2. Glennon, Michael J. Strengthening the war powers resolution: The case for purse-strings restriction. Minnesota Law Review, v. 60, No. 1, November 1975, pp. 1–43.
3. Jenkins, Gerald L. The War Powers Resolution: statutory limitation on the Commander in Chief. Harvard Journal of Legislation, v. 11, February 1974, pp. 181–204.

---

[11] See Eagleton, Thomas. Foreign Assistance Act of 1975—S. 2662, amendment No. 1291. Congressional Record (daily ed.), vol. 121, Dec. 16, 1975, p. S22254.

[12] Rogovin, Mitchell. Statement before the House Select Committee on Intelligence, Dec. 9, 1975. (Mimeo) p. 7.

[13] Ibid., p. 8.

CONGRESSIONAL OVERSIGHT OF EXECUTIVE AGREEMENTS*

In recent U.S. history Presidents have concluded executive agreements with increasing frequency. These international agreements, which do not go to the Senate for approval of ratification as do treaties, have on numerous occasions served as the basis for extensive commitments of U.S. men, materiel, and/or money abroad without the prior knowledge or approval of Congress. This unilateral executive activity has contributed to the creation of an imbalance in the constitutional system of checks and balances between the executive and legislative branches. While the executive branch has been able to cite various statutory, treaty, or constitutional authorities as the bases for conclusion of these agreements, clear criteria acceptable to both branches on the differences between treaties and executive agreements have been lacking. A first step toward resolution of the imbalance was the 1972 enactment by the Congress of the Case-Zablocki Act (Public Law 92-403) which provides for the transmittal by the Secretary of State to the Congress of the text of any international agreement other than a treaty no later than 60 days after such agreement has entered into force. By this act the Congress endeavored to acquire access to all such agreements concluded. While Congress might not be concerned about every executive agreement, receipt of all of them would assure that Congress would make the determination as to which agreement might require closer attention.

During 1975 various Members of the Congress continued their concern with the problem of executive agreements as they pertain to the development of foreign policy and national commitments without the active participation of the Congress. At least five different types of legislative proposals were submitted during the first session of the 94th Congress although none was reported to the floor of either House. The Separation of Powers Subcommittee of the Senate Judiciary Committee held hearings on two of these bills, and at the same time reviewed implementation of the Case-Zablocki Act on the transmittal to the Congress of international agreements other than treaties. Finally, the Congress responded to the series of agreements which were associated with the Sinai Middle East accords.

Legislative Proposals

Of the bills submitted during 1975 which provided for some sort of congressional review of executive agreements, the legislation pending before the House Committee on International Relations included H.R. 4438, which was submitted by Chairman Morgan of that committee and was directed primarily at agreements which constituted

*Prepared by Marjorie Ann Browne, analyst in international relations and Clyde R. Mark, analyst in Middle East and North African affairs.

commitments, and H.R. 5489, which was identical to a Senate bill, S. 1251, and provided for review by the Senate alone. In addition, H.R. 1273 was almost identical to S. 3830, which had been passed by the Senate in 1974, but with the word "specific" added in the last section. H.R. 1268 was the only bill which provided that such agreements would not enter into force unless a concurrent resolution of approval were passed by both houses within 60 days. Most of the legislative proposals provided for entry into force after a 60-day period, unless a resolution of disapproval were passed. A chart identifying the important substantive elements of each bill as well as those of S. 3830, 93d Congress, follows:

SUBSTANTIVE PROVISIONS OF LEGISLATION INTRODUCED CONCERNING EXECUTIVE AGREEMENTS

	S. 3330 [1]	H.R. 1268	H.R. 1273	H.R. 4438	H.R. 5489/S.1251	S. 632
(a) Type of international agreement.	Any executive agreement.	Any executive agreement.	Any executive agreement.	Each executive agreement	Any executive agreement.	Any executive agreement.
(b) Limits on agreement to be transmitted.	See (h).	Not specifically authorized by law or treaty.	See (h).	Concerning the establishment, renewal, continuance or revision of a national commitment.	See (g).	See (h).
(c) Transmittal agent	Secretary of State.	Secretary of State.	Secretary of State.	President.	President.	Secretary of State.
(d) Transmitted to	Congress.	Congress.	Congress.	Congress.	Senate.	Congress.
(e) Special procedures for secretary.	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
(f) Conditions for entry into force.	In force after 60 days unless concurrent resolution of disapproval by both Houses.	In force after 60 days if concurrent resolution of approval by both Houses.	Same as S. 3830.	Same as S. 3830.	In force after 60 days unless resolution of disapproval by Senate only.	Same as S. 3830.
(g) Definition of "executive agreement."	Any bilateral or multilateral international agreement or commitment, other than a treaty, which is binding on the United States and made by President or any officer, employee, or representative of executive branch.	Same as S. 3830.	Same as S. 3830.	Any bilateral or multilateral international agreement or commitment, regardless of its designation, other than a treaty, and including agency-to-agency agreement made by President [same as S. 3830].	Any bilateral or multilateral international agreement or understanding, formal or informal, written or verbal, other than treaty, involving or intent is to leave impression of, a commitment of manpower, funds, information or other resources of United States made by President [same as S. 3830].	Same as S. 3830.
(h) Not applicable to	Executive agreements entered into by President pursuant to provision of Constitution or prior authority by treaty or law.		Executive agreements entered into by President pursuant to specific provision of Constitution or prior specific authority by treaty or law.			Same as S. 3830.
(i) Notification to other countries of this act.					Yes.	
(j) Approval before the end of 60 days.				Special procedures for emergency situations: into force immediately but congressional suspension within 10 days by concurrent resolution of both Houses.	Provides for resolution of approval before end of 60 days.	
(k) Special provisions				Defines national commitment.		

[1] S. 3830, 93d Cong., was approved by the Senate on Nov. 21, 1974.

The Separation of Powers Subcommittee of the Senate Committee on the Judiciary held hearings on the two Senate bills: S. 1251 and S. 632. These were the only formal public hearings on the broad issue of executive agreements during 1975. The 13 witnesses included four Senators, representatives from the Departments of State, Defense, and Justice, and five lawyers from academia, in addition to Adm. Elmo R. Zumwalt, retired Chief of Naval Operations. A short time before the hearings started, the New York Times had published copies of two letters between President Richard Nixon and South Vietnamese President Nguyen Van Thieu in 1972 and 1973 in which Nixon promised "swift and severe retaliatory action" by the United States if North Vietnam failed to abide by the terms of the 1973 Paris Peace Agreement. These "agreements" had never been transmitted under the Case Act and in fact Congress had not known of their existence. Yet both Subcommittee Chairman James Abourezk and Senator Clifford Case took the position that they constituted a clear commitment for the United States. Senator Case pointed out during the hearings that Congress, being unaware of these commitments, had passed the Case-Church amendments in August, 1973 barring military activity on, over, or off the shores of both Vietnams, Laos, or Cambodia, and effectively disabled the United States from performing the Nixon commitments.

The 1972 trade agreement with the U.S.S.R. was also identified by Senator Case as creating serious foreign policy difficulties because it was not submitted promptly to the Congress under the Case-Zablocki Act; it was not officially transmitted for more than a year and then only after the Foreign Relations Committee requested it. One part of the agreement—an international agreement between the Export-Import Bank and the Vneshtorgbank of the U.S.S.R.—contemplated the extension of substantial credits to the Soviet Union under conditions favorable to the U.S.S.R. When the details were made public, congressional action on the Export-Import Bank Renewal Act severely limited funds that could be lent to the Soviet Union without prior congressional approval. According to Case, this congressional action was a factor in the Soviet suspension of the entire trade agreement and the breakdown of the arrangements that had been reached on Soviet emigration. Prior congressional consideration of the trade agreement or Senate consideration of it as a treaty, would have, according to Case, established the scope and limits of the subsidized credit proposal prior to its entry into force and would have reduced the possibility of severe foreign policy repercussions. In general, executive branch witnesses at these Separation of Powers Subcommittee hearings opposed legislation which provided for congressional review and possible disapproval of executive agreements, recommending instead that procedures be devised for more frequent briefing of Congress by the executive branch. Specific objections were raised on constitutional grounds against the use of a legislative veto procedure.

Implementation of the Case-Zablocki Act

Under present procedures, the agreements transmitted pursuant to the Case-Zablocki Act are received in the Senate Foreign Relations and House International Relations Committees. Notice of their trans-

mittal is published in the Congressional Record as an executive communication. Each committee circulates a list of the agreements received to its members and to its staff, who screen the list for agreements which might require further investigation. The House committee publishes in its calendar a country and subject index to the agreements transmitted.

During 1975, according to tentative figures compiled by the Department of State, the United States concluded 13 treaties and 276 international agreements other than treaties (executive agreements).[1] During the same year, the Secretary of State, in accordance with the Case-Zablocki Act, transmitted to the Congress 272 unclassified and 11 classified agreements. Since August 22, 1972, when the Case-Zablocki Act was signed, through the end of 1975, 868 agreements other than treaties had been transmitted to the Congress. In spite of these statistics, however, some Members of the House and Senate indicated that not all agreements have been transmitted. For example, Representative Les Aspin released a statement on July 21, indicating that between 400 to 600 agreements had not been transmitted under the Case-Zablocki Act.

In addition, the Separation of Powers Subcommittee in May 1975 received testimony with regard to the 1972 Trade Agreement with the U.S.S.R. and the Nixon-Thieu letters, and during hearings in July, State Department legal adviser Monroe Leigh acknowledged that he was reviewing six agreements between U.S. intelligence agencies and their foreign counterparts to determine whether those agreements should be transmitted under the Case-Zablocki Act.

A basic type of agreement which has usually not been considered by the executive branch as coming under the Case-Zablocki Act is the agency-to-agency arrangement. While the subjects of these agreements are generally routine, they are occasionally of consequence in their impact and effect on future foreign policy. The intelligence agreements referred to by Leigh might also be considered in this category.

During early 1976, the Comptroller General of the United States submitted to Senator Abourezk a study which examined the implementation of the Case-Zablocki Act relative to U.S. agreements with the Republic of Korea.[2] The GAO also made certain observations about implementation of the Case-Zablocki Act in general:

> This report focuses on the need for (1) better control procedures concerning the submission of agreements by Government agencies to the State Department and (2) clarification and reemphasis of the full extent to which the Congress and the State Department desire to be advised of arrangements under the Case Act. Particular clarification is needed regarding arrangements that may not be legally binding, oral arguments, arrangements with parties other than states, or arrangements subordinate to or implementing a broader agreement.[3]

In addition, the GAO had the following recommendations:

> The Senate Foreign Relations and House International Relations Committees may want to specify more clearly what they consider to be an "international agreement."[4]

* * * * * * *

---

[1] During 1975, the Senate received 11 treaties and approved 6 of them in addition to 9 treaties submitted before 1975. A total of 24 treaties were still pending at the end of 1975 (5 of which were approved by the Senate in January 1976).

[2] U.S. General Accounting Office. U.S. agreements with the Republic of Korea. Report of the Comptroller General of the United States. Washington, 1976. 25 pp. ("B-110058" Feb. 20, 1976).

[3] Ibid., p. 2.

[4] Ibid., p. 18.

> The committees may want to request the State Department to reemphasize to other agencies the need to report all agreements.[4]
>
> * * * * * * *
>
> No comprehensive list of international arrangements being concluded with foreign countries by U.S. agencies is currently available. A more comprehensive listing of such arrangements is needed. * * * The committee may * * * wish to have established a more inclusive agreement reporting system, which would provide for a cumulative listing of all arrangements reached or negotiated by a Government agency.[5]

The Department of State, in response to the GAO report, on March 9, 1976, circulated an airgram to all diplomatic posts outlining "Case Act Procedures and Department of State Criteria for Deciding What Constitutes an International Agreement" and directing that "all international agreements concluded by any officer or representative of the U.S. Government be transmitted to the Department of State, Office of Treaty Affairs, no later than 20 days after entry into force." The airgram indicated that agency level agreements would be transmitted under the Case-Zablocki Act when they met certain criteria as determined by the executive branch.

Review of Specific Agreements

The Sinai accords

The Sinai accords of September 1, 1975, produced several conflicts between Congress and the executive branch.[6] The most immediate issue was congressional approval for placing 200 U.S. civilian technicians along the new Sinai cease-fire lines to observe possible violations of the accords. Congress debated the cost, danger, need, duties, protection, removal, supervision, selection, and other factors relating to the technicians before granting approval on October 9, 1975. But during the course of the technicians debate, several other issues emerged. The executive branch provided the Congress copies of several secret agreements signed by the United States and Israel and Egypt.[7] The President held that the secret agreements were executive agreements and beyond the purview of the Congress, while several Members of Congress maintained that the agreements were treaties subject to the advice and consent of the Senate. This debate was not resolved by Congress.

Another area of contention between the Congress and the executive branch revolved around the question of whether the United States

---

[5] Ibid., pp. 17–18.

[6] These four items were (1) the Egyptian-Israeli accord on Sinai, which outlined the basic agreement; (2) the Egyptian-Israeli annex to the Sinai accord, which established the buffer zone; (3) protocol to the Egyptian-Israeli accord (actually signed on October 10), which provided for the mechanics of the movement to the new cease-fire lines; and (4) U.S. proposal for an early warning system in Sinai, which provided for U.S. oversight of an electronic warning system.

[7] These four items were (1) memorandum of agreement between the Governments of Israel and the United States, which provided for (a) U.S. consideration of Israeli economic, military, and oil needs, and (b) systematic consultations in the event of a violation of the Egyptian-Israeli accords; (2) memorandum of agreement between the Governments of Israel and the United States (the general peace conference), which provided for a coordinated policy between the United States and Israel regarding a forthcoming peace conference at Geneva; (3) assurances from the U.S. Government to Israel, which clarified American consideration of Israel's sophisticated weapons needs; and (4) assurances from the U.S. Government to Egypt, which provided for (a) U.S. consideration of future negotiations with Syria, (b) possible U.S. reaction to violations of the Sinai accords, and (c) U.S. technical and economic assistance.

made commitments in the secret agreements. In most cases, the so-called commitments were so ambiguously worded that it was difficult to decide if the United States was or was not committed to take specific actions, but it was possible to distinguish intentions which could be interpreted later as forming the basis of commitments. The Congress challenged the legality of the so-called commitments or intentions on two grounds: First, that the agreements were not treaties and therefore not binding on the United States; and second, that the wording left so much room for interpretation that the so-called commitments could not withstand simple legal tests for clarity and intent. The Congress was challenging the right of the executive branch to enter into commitments and to hide those commitments within nonpublic executive agreements. At year's end, the issue remained unresolved.

The existence of the secret agreements also raised the issue of security classification and public access to executive branch documents. While the Congress and executive branch were arguing about release of the full texts of the agreements, the Washington Post and the New York Times on September 18 published the previously secret agreements. The Senate Foreign Relations Committee on October 3, voted 12 to 2 to release the agreements,[8] while the executive branch accused Congress of leaking the documents to the newspapers, and endangering national security. This conflict failed to produce any resolution to the issues of access and classification.

Committee review of the associated agreements

The House International Relations Committee held 6 days of hearings on the proposal for an early warning system in September and on October 3 voted, 31 to 0, to approve the sending of the technicians, House Joint Resolution 683.[9] According to the committee report:

> The time [almost 1 month] was well spent. A variety of complex issues were involved in the approval which required thorough attention and discussion in the Congress. Further, there was a need to avoid the kind of haste which in times past sometimes accompanied congressional action involving national commitments: for example, the Gulf of Tonkin Resolution.[10]

The Senate Foreign Relations Committee held 6 days of hearings in executive (closed) session before holding public hearings on October 6 and 7. Some of the comments of the committee in reporting on the legislation were significant:

> Most of the Committee's consideration of this matter has been centered on two questions: (1) the extent to which approval of the 200 technicians might commit the United States to a broader network of assurances, undertakings, or agreements, and (2) the extent to which the elements of this broader network were divulged to the Committee, the Congress, and the country.
>
> As indicated above, the Committee is satisfied that it has been informed of all the relevant assurances and undertakings which are a part of the overall Sinai agreements.
>
> Further, the Committee has taken pains, both in the language of the resolution before the Senate and in its legislative history, to nail down the point that Congressional approval of the proposal to send 200 technicians to the Sinai Peninsula

---

[8] The committee published the agreements in U.S. Congress, Senate, Committee on Foreign Relations, Early warning system in Sinai, Hearings, 94th Cong., 1st sess. Oct. 6 and 7, 1975. Washington, U.S. Government Printing Office, 1975. pp. 249–253.

[9] Three of the committee's meetings were in executive (closed) session, and two were open to the public. On the first day, the committee heard testimony in both open and in executive sessions.

[10] U.S. Congress, House: Committee on International Relations. To Implement the United States Proposal for the Early-Warning System in Sinai: Report together with supplemental and additional views on House Joint Resolution 683. 94th Cong., 1st sess. House. Rept. 94–532. Washington, U.S. Government Printing Office, 1975. p. 2.

is precisely that—no more, no less—and that it does not imply approval or disapproval of anything else.

At the same time, the Committee recognizes that some of the ancillary agreements will result in requests to Congress for authorizations and appropriations. The point the Committee wishes to emphasize is that by approving the limited proposal for technicians in the Sinai the Congress does not in any way bind itself to any particular course of action with respect to future proposals.[11]

While members favored the insertion in the legislation of a statement disavowing congressional support for any other agreements, of whatever form made during the negotiations, others considered that so specific an amendment would give such agreements a formality which they did not intend them to have. In its final form the Congress adopted a statement as proposed by the International Relations Committee:

SEC. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early Warning System in Sinai" does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch. (Public Law 94-110.)

Legal memoranda

The issues of whether the four associated agreements should be considered as treaties or as executive agreements and of whether their status as executive agreements in international and domestic law would be maintained without congressional action were the subjects of a memorandum of law prepared by the Senate Office of Legislative Counsel (OLC) at the request of Senator Dick Clark. In summary the September 24, 1975, memorandum by the Senate OLC concluded that constitutionally one of the agreements, and possibly two others, were beyond the power of the President to make without the advice and consent of the Senate. The Senate OLC further concluded that without the advice and consent of the Senate, one agreement and possibly the other two, were without force and effect under domestic and international law. In determining the distinctions between treaties and executive agreements and evaluating the four associated agreements, the Senate OLC used the following criteria: (1) text of the Constitution, (2) intent of the Framers, (3) actual practice, (4) Supreme Court cases, (5) comments of authorities and views of the Senate Foreign Relations Committee, and (6) criteria employed by the Department of State in Circular 175.

The legal adviser at the Department of State, Monroe Leigh, on October 6, 1975, replied in writing to the memorandum of law of the Senate OLC. Leigh concluded that the Senate OLC memo's basic premise that all important international agreements must as a matter of law be submitted to the Senate as treaties and must receive the advice and consent of the Senate before entering into force was totally false and rendered invalid most of the analysis that followed from it as well as the final conclusions reached. During his analysis Leigh dismissed several of the statements made in the Senate OLC analysis without discussion or justification and stressed the role of practice, custom, and usage as a basis for the use of executive agreements. Leigh stated:

Whether an agreement is authorized by Constitution, treaty, or statute, it cannot be refused full force and effect in either municipal or international law simply because it was not submitted to the Senate as a treaty.[12]

---

[11] U.S. Congress. Senate: Committee on Foreign Relations. Early warning system in Sinai; Report together with individual views to accompany S.J. Res. 138, 94th Cong., 1st sess. Senate. Rept. 94-415. Washington, U.S. Government Printing Office, 1975. p. 9.

[12] Congressional Record [daily ed.], v. 121, Nov. 14, 1975: S20105.

This initial exchange of legal memorandums was followed by an October 22, 1975, Senate OLC response to the Leigh reply of October 6.[13] On February 5, 1976, Assistant Legal Adviser for Treaty Affairs Arthur W. Rovine submitted to the Senate Foreign Relations Committee a reply to the second memorandum by the Senate Office of Legislative Counsel.[14]

This exchange of legal memorandums did not resolve the issues they addressed, but they did identify the positions of the Senate and of the Department of State on the nature, origins, and use of the executive agreement.

Congress and the Spanish bases agreement

During an October 1975 briefing before the Subcommittee on Europe of the Senate Foreign Relations Committee on the progress of the negotiations on the Spanish bases agreement, Assistant Secretary of State for Congressional Relations Robert McCloskey indicated that the agreement would be submitted to the Congress for approval, although he was not certain it would be submitted as a treaty to the Senate or as an executive agreement to the Congress. However, that statement represented a positive step, as there had been requests since 1969 that it be submitted to the Congress in one form or the other before entering into force. On February 18, 1976, the President transmitted to the Senate for its advice and consent the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, together with its seven supplementary agreements and its eight related exchanges of notes.

---

[13] The first three memorandums were inserted in the Congressional Record by Senator John L. Sparkman: Congressional Record [daily ed.], v. 121, Nov. 14, 1975: S20102-S20115.
[14] Congressional Record [daily ed.], v. 122, Feb. 17, 1976: S1687-S1692.

THE CONGRESSIONAL ROLE IN THE DETERMINATION OF SPECIFIC POLICIES

The Turkish Aid Controversy*

The July 1974 coup d'etat in Cyprus, engineered by the ruling military junta in Greece, and the subsequent Turkish military intervention on the island, generated considerable activity in the 93d and 94th Congresses in the form of resolutions and amendments affecting U.S. commitments abroad. These developments culminated in a challenge by the Congress to the administration over its conduct of foreign policy on the Cyprus issue, and the continuation of economic and military aid to Turkey in light of Turkish use of American-supplied arms and materiel during its invasion of the island.

Background

The Foreign Assistance Act of 1975 (Public Law 93-559), approved on December 30, 1974, contained a provision requiring the President to suspend all military assistance, sales of defense articles, and the issuance of licenses for the transportation of arms, ammunition, and implements of war to the Government of Turkey. The Turkish intervention on Cyprus and extension of military control in the northern part of the island were held by Congress as a violation by Turkey of the conditions under which American aid was provided.[1] The President was authorized to delay the effective date of the suspension until February 5, 1975, if he determined that this would further negotiations toward a peaceful resolution of the Cyprus situation. President Ford made such a determination on December 31, 1974. Turkey could, therefore, receive aid until February 5, 1975, providing that it adhered to the Cyprus cease-fire and refrained from transporting additional troops or armaments to the island. Another provision of Public Law 93-559 included an allocation of $25 million for the relief of the 200,000 Cypriot refugees displaced by the conflict. After February 5, under the terms of the Foreign Assistance Act, military aid to Turkey could not be resumed until the President certified that: (1) Turkey was in compliance with all agreements entered into concerning the requirements of American military aid legislation, and (2) substantial progress had been made toward agreement regarding military forces in Cyprus.

At the heart of the embargo on military assistance and sales to Turkey was the assertion that Turkey, during its intervention on Cyprus in July 1974, and especially during its subsequent extension of military control over the northern 38 percent of the island, had violated

---

* Prepared by Richard M. Preece, specialist in Middle Eastern affairs.

[1] Two provisions of U.S. law—sec. 505(d) of the Foreign Assistance Act of 1961 and sec. 3(c) of the Foreign Military Sales Act—prescribe the permissible uses of American military assistance to foreign countries. If these conditions or purposes are violated, an immediate cutoff of aid is required.

agreements required by U.S. law by using American-supplied materiel for purposes not envisaged in the Foreign Assistance Act and the Foreign Military Sales Act. Turkey had agreed in 1947 not to use American-supplied defense articles except for authorized purposes, including self-defense, internal security, and participation in collective arrangements or measures consistent with the United Nations Charter. As expressed by a series of votes in the latter part of 1974, therefore, Congress went on record against Turkey's violation of that agreement and in affirming the principle that U.S.-supplied military equipment may not be used for purposes other than those for which it is furnished.

A General Accounting Office legal opinion strongly admonished the Department of State for its failure to make the required determination on Turkey's eligibility for military assistance following the violation of U.S. law. It stated that:

> • • • section 505(d) of the Foreign Assistance Act and section 3(c) of the Foreign Military Sales Act—in view of their express terms (particularly the references to "immediate" ineligibility) • • • place a specific duty upon cognizant officials to expeditiously consider, and make appropriate determinations concerning the applicability of such provisions in circumstances which clearly suggest potential substantial violations.[2]

In response to a request by Senator Eagleton for a legal opinion relating to Turkey's ineligibility for further military assistance, the Department of State, in a letter of November 22, 1974, stated:

> The administration decided that it was impossible publicly to express a legal conclusion on the issue of Turkey's eligibility for further assistance and sales without undermining our foreign policy objective of persuading Turkey and Greece to enter into direct negotiations for a solution to the Cyprus problem.[3]

The 1975 developments

During January 1975, the administration endeavored to assure the Congress that progress was being made toward negotiations on Cyprus and, while an early overall resolution of the problem was not anticipated, meaningful steps would likely commence in early February. At the same time, warnings were voiced by the Turkish Government that if the suspension of military aid and sales took effect on February 5, Turkey would have no alternative but to review United States-Turkish bilateral agreements and impose restrictions on U.S. military installations in that country. On January 24, Secretary of State Kissinger invited the Congress to join in "a new national partnership" in the conduct of foreign policy, and called for nonpartisan cooperation as "a national necessity." He stated that the "growing tendency of the Congress to legislate in detail day-to-day and week-to-week conduct of our foreign affairs raises grave issues," and pointed to the restrictions on aid to Turkey as one example where "tactics have defeated the very purpose that both branches meant to serve, because the legislative sanctions were too public or too drastic or too discriminating."[4]

State Department spokesman Robert Anderson declared in a statement on January 31 that the February 5 deadline was "not helpful

---

[2] Congressional Record [daily ed.], vol. 120, Dec. 24, 1974: S20531.
[3] Ibid.
[4] "A New National Partnership." Address by Secretary Kissinger before the Los Angeles World Affairs Council on Jan. 24, 1975. Department of State Bulletin, v. 72, Feb. 17, 1975, pp. 202–204.

in any way in trying to induce a settlement because it puts pressure on one of the parties," and that the administration believed it would be a disaster to drive Turkey from its Western alinement and weaken American security interests in the eastern Mediterranean. In a meeting on February 1 between congressional sponsors of the arms cutoff and Secretary Kissinger, the Secretary of State disclosed that no "substantial" progress had been made toward a Cyprus settlement. His appeal for further delay of the suspension was rejected.

With the embargo in effect, the Turkish Government announced the drafting of retaliatory contingency plans which included the closure of some U.S. military and other installations. At the same time, a leading proponent of the embargo, Senator Eagleton, declared on February 11 that the Ford administration "may be playing a dangerously irresponsible game" with its statements deploring congressional action against Turkey.

During a closed session of the Senate Foreign Relations Committee on February 27, Secretary Kissinger reportedly repeated administration concern over the Turkish arms embargo, warning that the issue transcended the Cyprus dispute and jeopardized United States and allied security interests in the entire eastern Mediterranean region. In an attempt to alleviate some of the strains in the relationship between the United States and its two NATO allies, Secretary Kissinger subsequently met with Greek Foreign Minister Dimitrios Bitsios, in Brussels on March 7, and with Turkish leaders in Ankara on March 11 for talks on negotiations. Thereafter, Kissinger proposed that further negotiations looking toward a settlement be resumed under the auspices of United Nations Secretary General Kurt Waldheim.

On March 26, the Foreign Relations Committee, by a 9 to 7 vote, approved a bill (S. 846) which would permit the President to lift the suspension of military aid to Turkey and would require him to report to Congress every 30 days on progress toward a Cyprus peace settlement. Sponsors of the bill included Majority Leader Mansfield, Minority Leader Scott, Committee Chairman Sparkman, ranking minority committee member Case, and the chairman and senior minority member of the Armed Services Committee, Stennis and Tower. Chairman Sparkman informed newsmen that the vote reflected congressional concern over the potential loss of Turkey as a member of NATO, and indicated that passage of the bill would be helpful in bringing about negotiations on a Cyprus settlement. S. 846 was reported to the Senate from the committee on April 10 (S. Rept. 94-71). Four days later, on the House side, Representatives Hamilton and Buchanan introduced a bill (H.R. 5918) to authorize further suspension of the Turkish arms embargo.

In April, the Greek Government withdrew permission for the U.S. 6th Fleet to use the harbor of Elefsis, 17 miles west of Athens. Various other American military facilities also were closed. The Government restricted privileges, immunities, and exemptions formerly granted to American personnel, and declared that the remaining five U.S. installations in Greece were to be placed under Greek commanders.

The Senate, on May 19, by a 41 to 40 vote, passed S. 846, which was referred to the House Committee on International Relations on May 20. Majority Leader Mansfield had given warning that by prolonging the Greco-Turkish dispute over Cyprus, NATO would suffer severe dam-

age. He said that the vote had been expressly scheduled to allay Turkish resentment of the United States and thus strengthen the hand of the administration in influencing progress during forthcoming talks on a settlement.

During June and July, the problems of achieving a consensus on the issue of Turkish aid became apparent. Indeed, differences between the executive and legislative branches, and sharp divisions within the Congress itself, became manifest on July 24 when S. 846 failed passage in the House by a vote of 206 to 223.

U.S. Ambassador to Turkey, William Macomber, stated before the National Press Club on June 12 that continuation of the embargo could produce "a disaster," with Turkish retaliation in closing U.S. defense and intelligence-gathering facilities in Turkey. On June 15, Turkish Prime Minister Demirel declared that his government "cannot consider the attitude of the United States, which refuses to sell arms to her faithful ally of 30 years, as friendly. Turkey should not be expected to carry out bilateral agreements unilaterally." Two days later, following a meeting of the Turkish Security Council, Foreign Minister Ihsan Caglayangil announced in Ankara that American installations in Turkey would be placed on "provisional status" on July 17, and that his government would notify the United States which of the bases would continue or cease operations. At the same time, a formal note was delivered to the United States which stated that the Turkish Government had "decided to negotiate the new rules and conditions governing the maintenance of joint defense facilities and activities with the United States."

On June 19, and again on June 23 and 26, President Ford met with Members of Congress to appeal for resumption of military aid to Turkey.

Secretary Kissinger, in a speech in Atlanta on June 23, reiterated the administration's opposition to the congressional suspension of aid to Turkey, and declared that alliances remained "a first international priority" of the United States. But Kissinger also stated in an apparent reference to Greece and Turkey, that "no country should imagine that it is doing us a favor by remaining in an alliance with us. * * * No ally can pressure us by a threat of termination; we will not accept that its security is more important to us than it is to itself."

On July 8, Secretary Kissinger met with groups of House Members, including a briefing to freshmen. White House legislative liaison staff and State and Defense Department and NATO officials also provided information on the potentially damaging effects of the ban for United States and North Atlantic Alliance interests. At the same time, Greek-American interest groups actively campaigned to encourage citizens to communicate to their representatives their opposition toward lifting the embargo.

On July 9, Representatives Morgan, Broomfield, Zablocki, Hamilton, Findley, Buchanan, and Whalen introduced H.R. 8454, which would (1) permit deliveries of military aid already contracted for by Turkey before the February 5 cutoff; (2) allow Turkey to purchase for cash any further arms it required to fulfill its NATO responsibilities; and (3) required the President to report to Congress every 60 days on arms sales to Turkey and progress toward a Cyprus settlement. The bill was described as being "neither pro-Turkish nor pro-

Greek," but "an even-handed attempt to settle the Cyprus question and to preserve the NATO alliance." President Ford, on July 10, following a White House breakfast meeting with 140 House Members, called H.R. 8454 "a good compromise," which, if passed by Congress, would lead to "the settlement of the Cyprus situation and to the continuation of Turkey as a strong and effective partner in NATO."

Responding to an urgent request from President Ford, the House Committee on International Relations on July 10 met for 10 hours to consider the Turkish arms issue.[5] Witnesses included Under Secretary of State Joseph Sisco, U.S. Ambassador to Turkey Macomber, Assistant Secretary of State Arthur Hartmann, CIA Director William Colby, and Assistant Secretary of Defense Robert Ellsworth. Testifying in opposition to the bill were former Under Secretary of State George Ball, former Deputy Secretary of Defense Cyrus Vance; Representatives Brademas, Sarbanes, Rangel, and Beard; and representatives of Greek-American groups. On July 11, by a 16 to 11 vote, the committee approved H.R. 8454, as amended. Subsequently, by a 19 to 4 vote, the committee agreed to take up S. 846, in lieu of H.R. 8454, and reported that bill, with amendments, to the House on July 16 (H. Rept. 94–365). The committee noted in its report the Turkish perception of the legal issues relating to its intervention on Cyprus. On the one hand, the 1947 United States-Turkish agreement limited the use of American-supplied equipment to the authorized purposes established in U.S. legislation. On the other hand, Turkey had responsibilities under articles 2 and 3 of the 1960 Treaty of Guarantee to maintain the independence, territorial integrity, and security of Cyprus, and, under article 4, the right to take action to maintain arrangements that had been established for an independent Cyprus; and under article 2 of the Treaty of Alliance between Cyprus, Greece, and Turkey, each party undertook to resist "any attack or aggression, direct or indirect," against the independence or territorial integrity of Cyprus. Whatever its position with respect to American law, Turkey felt it was acting according to international law and the 1960 accords to which it was a party. Moreover, the embargo against Turkey indicated a selective enforcement of U.S. law in that several similar military agreements which had been and were being violated by other friendly states had not led to denials of aid, and the United States had furnished arms to countries that were in possession of territory of other states.

President Ford, on July 17, urged a large delegation of House Members to lift, at least partially, the ban on arms shipments to Turkey in order to maintain operation of U.S. military installations in that country. On July 20, several thousand Greek-Americans rallied in front of the Capitol against a resumption of aid to Turkey. On July 24, S. 846 was considered by the House and defeated by a narrow margin of 17 votes. Supporters of the measure pointed out that the arms embargo had achieved just the reverse of what had been intended in helping to bring about a Cyprus settlement and claimed that it also had jeopardized the security of the United States and the

[5] U.S. Congress, House: Committee on International Relations, Suspension of Prohibitions Against Military Assistance to Turkey, Hearing, 94th Cong., 1st sess. July 10, 1975. Washington, U.S. Government Printing Office, 1975.

future of NATO. Opponents of S. 846 countered that Turkey had violated U.S. law in using equipment provided by U.S. foreign assistance in its invasion of Cyprus in July 1974 and that to lift even partially the embargo would sanction that violation and encourage similar abuses by other recipients of U.S. arms sales. Turkey's threat to close U.S. bases amounted to blackmail and extortion, they claimed, and there was no guarantee that suspension of the embargo would result in negotiations toward a Cyprus settlement.

The failure of Congress to lift the arms ban, despite appeals by the Ford administration, brought about the threatened Turkish retaliation. The Turkish Government assumed control over all U.S. bases and installations, and suspended all American military operations in that country. Prime Minister Demirel rejected the offer by President Ford of $50 million in weapons grants in return for reopening the bases which had been made in Helsinki at the end of July. (The President had offered the arms grant under legislation permitting him to provide arms to friendly countries when the executive branch considered such aid vital to the national security.) Turkey refused the grant on the basis that it was unwilling in principle to accept as a gift what it was quite willing and able to pay for. The Turkish Government claimed that the congressional arms embargo, which not only halted military aid to Turkey, but also banned the sale of military hardware on a commercial basis, violated common defense agreements with the United States that committed the United States to supply military equipment to NATO allies.

Even if the arms embargo should be removed, the relationship between Ankara and Washington would probably not be the same because Turkish domestic politics would proscribe the reopening of all the bases. Such bases as Turkey would consider essential to the NATO alliance might be reopened, but under NATO, rather than American control. Appearing before the Senate Committee on Armed Services on July 30, Secretary of Defense James Schlesinger said that several of the U.S. installations taken over by Turkey "cannot be duplicated," and that "others can be duplicated at considerable expense."

In response to the suspension of operations at U.S. installations in Turkey and to deteriorating United States-Turkish relations, the chairman and ranking minority member of the Senate Committee on Foreign Relations introduced S. 2230 on July 30. The bill contained the same language as S. 846 which had been rejected by the House on July 24. The Turkish aid provisions were attached to an authorization for the Board of International Broadcasting for fiscal year 1976. On July 31, the Senate passed the bill by a vote of 47–46. The bill failed to come to a vote in the House before the August recess, which began on August 1, because of parliamentary maneuvers by its opponents. House Rules Committee Chairman Madden refused to convene the committee to consider granting the rule necessary for floor action.

The Committee on International Relations met on September 17 to consider S. 2230 following an urgent request from President Ford that the Turkish arms embargo be at least partially lifted lest U.S. security interests in the eastern Mediterranean be jeopardized beyond repair. The committee reported the bill on September 22 (H. Rept. 94–500). As reported, the measure permitted (1) delivery of approxi-

mately $184.9 million of military equipment contracted for by the Turkish Government prior to the February 5 cutoff; (2) commercial cash sales; and (3) U.S. Government sales, credits, and guarantees for equipment considered necessary for Turkey's defense responsibilities to NATO. The latter, however, would be permitted only after enactment of the fiscal year 1976 Foreign Military Sales Act authorization bill.

Debate on S. 2230 followed much the same argument as had occurred for S. 846, but it included announcements by various House Members that they were switching their positions and supporting a suspension of the embargo. Their principal reason was the deterioration of U.S. security interests in the eastern Mediterranean region. On October 2, the House approved S. 2230, as amended, by a vote of 237–176. The Senate concurred with the House amendment on October 3, and the measure was approved on October 6 (Public Law 94–104).

Turkey, in response to the passage of the bill, announced that negotiations on the status of U.S. military installations in Turkey would resume after Turkey's midterm elections of October 12. Turkish Foreign Minister Caglayangil termed the vote "a positive step toward lifting the shadow that has fallen on Turkish-American relations." Greek Government officials were reported as having acknowledged that the arms embargo had not accomplished the purpose of forcing Turkey to make concessions over the Cyprus issue, and that they appeared willing to try a new approach.

On October 30, President Ford transmitted to the Congress proposed revisions to draft legislation, originally forwarded on May 15, to authorize foreign assistance programs for fiscal year 1976 and 1977 and for the transition period July 1, 1976, through September 30, 1976. These revisions contained specific amounts, including $75 million in military assistance and $130 million in foreign military sales credits for Turkey. (Greece would receive $50 million in MAP and $110 million in FMS credits.) The President stated that these amounts "take into consideration urgent needs for defense articles and services on the part of these two important NATO allies." The President's proposals were introduced as H.R. 10594 and S. 2662. On December 8, complying with provisions of Public Law 94–104, President Ford submitted his first report on administration efforts to help resolve the Cyprus dispute. In the report, the President said that he had initiated talks with both sides and with concerned European allies. He stated that there had been "a narrowing of differences on most of the key issues necessary to negotiate a Cyprus solution."

The Jackson-Vanik Amendment*

The Jackson-Vanik amendment passed by Congress in 1974 was prompted by specific concern about the Soviet Union's treatment of its Jewish minority and desires of some Members of Congress that the Soviet Union make meaningful concessions on human rights in exchange for benefits received from the United States. The amendment (title IV of the Trade Act of 1974—Public Law 93–618) prohibits extension of U.S. Government credits and most-favored nation (MFN) trade status to certain Communist countries that restrict free emigra-

*Prepared by Carlo LaPorta, analyst in European affairs.

tion of their citizens, unless the President makes a favorable determination on conditions for a specific country and asks Congress to waive the Trade Act restrictions.

Despite what appeared in October 1974 to be Soviet acceptance of the link between emigration of Jews and reception of U.S. trade concessions, the Soviet Government informed the United States on January 10, 1975, that it could not accept the conditions Congress had attached to the Trade Act, as it considered the congressional action to be interference in Soviet internal affairs. Consequently, through 1975 an impasse blocked the administration's plans to normalize commercial relations with the Soviet Union.

This apparent stalemate raised three essential questions about congressional intervention in the conduct of foreign policy: Did the amendment hinder or hurt the détente process; did it cause the Soviet Union to purposefully cut the number of Jews allowed to leave, and so act to the detriment of Soviet Jews; and did its restrictions cause U.S. enterprise to lose trade opportunities to other industrialized nations which offer the Soviet Union normal trade relations and official credits?

Because it may come to be regarded as one of the first successful congressional attempts to alter the administration's détente objectives, the Jackson-Vanik amendment may eventually be credited with more influence in redefining U.S.-U.S.S.R. relations than it deserves, for subsequent developments in 1975 (Portugal, Southeast Asia, Africa, comparative defense postures) are perhaps more important as sources of increasing criticism of détente in the United States.

The Soviet Government obviously regarded Congress insistence on the amendment as a setback; but evidence also suggested the Soviet Union was willing to regard these developments as a temporary slowdown in only one area of improving U.S.-U.S.S.R. relations. It is conceivable that the Soviet Government has been expecting that its October 1972 lend-lease agreement with the United States will provide additional incentive to Congress to change the stand on trade with the Soviet Union. Under the agreement, the Soviet Union is not required to make any additional payments on the agreed debt other than the $48 million already paid unless the United States grants the U.S.S.R. MFN status by the end of 1976.

The Soviet refusal to implement the 1972 trade agreement with the United States did spark some controversy between the administration and Congress about the role of Congress in foreign policymaking. Proponents of the Jackson-Vanik provisions rebutted administration criticism with an announcement of their firm support for the legislation as passed. They maintained the Soviet Union had breached a commitment made in good faith and criticized the administration for attempting to blame Congress for the Soviet Union's bad behavior. After this short exchange, congressional attention to this issue decreased markedly after February 1975.

President Ford did try to raise the issue again in April when he called for remedial legislation to correct the impasse on trade and emigration and repair damage done to U.S. foreign policy interests. None was forthcoming. Bills (H.R. 3307, H.R. 5313) submitted to the Subcommittee on International Trade, Investment, and Monetary Policy of the House Banking, Currency, and Housing Committee to ease a

$300 million Export-Import Bank credit ceiling on commercial agreements with the Soviet Union received minimal attention. In any case, these bills skirted the essential issue that the Soviet Union remains ineligible for U.S. Government credits, regardless of any ceiling, until it satisfies the Jackson-Vanik conditions or those conditions are changed.

It is probably accurate to say the Jackson-Vanik amendment's effect on Jewish emigration was probably greater while it was being debated than after it became law. In 1973, when the House first considered the trade legislation, emigration reached a peak of near 35,000 for the year. After the House approved the Jackson-Vanik amendment in December 1973, the rate of Jewish emigration declined each year. The decline in 1974 may have been a signal to the Senate of the consequences if Congress were to approve the legislation or it may have been the natural result of the Yom Kippur war and other factors which caused fewer Soviet Jewish citizens to want to leave. Once the legislation passed the Senate, emigration of Jews from the Soviet Union further declined to a 5-year low, of only approximately 14,000 leaving the U.S.S.R. in 1975. Soviet authorities argue the decline is natural. Critics feel it has been expressly controlled by the Soviet Government.

Two essential considerations remain. First, although harassment and other measures to discourage a desire to emigrate persist, the Soviet Government has continued to let a certain number of Jews leave. Second, Congress has the power to repeal or alter its legislation, so that some leverage may still exist that could perhaps produce a compromise understanding.

Continued congressional interest in the emigration question and human rights (also stimulated by the conclusion in Helsinki of the Conference on Security and Cooperation in Europe) was expressed when two delegations visited the Soviet Union; one from the Senate in late June 1975, and the other from the House in August. During these visits members of the delegations also met with Soviet Jews wanting to emigrate in order to discuss their problems first hand. Some members of the delegations reportedly conceded that the Jackson-Vanik provisions were not helping the situation for Soviet Jews, and raised the possibility of some future action to bypass the current trade bars, *if* the Soviet Union could give evidence of progress on human rights issues. Other members doubted the utility of any link between trade and emigration.[6]

Congress did, however, agree to grant MFN and credit eligibility to Romania. Romania and the United States signed a trade agreement on April 2, 1975, but Congress waited until July before approving it in order to have an observable improvement in Romania's emigration rate as evidence of progress. Senator Jackson and others supported this step, claiming that an understanding with Romania indicated the trade legislation provisions on emigration were workable.

Because many complex factors influence the level of U.S.-U.S.S.R. trade, it is beyond the scope of this report to make a definitive assess-

---

[6] U.S. Congress:
Senate: Committee on Foreign Relations. Congress and United States-Soviet Relations. Committee Print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 43 pp.
House: Committee on the Judiciary. Emigration of Soviet Jews. Committee Print. 94th Cong., 2d sess. Washington, U.S. Government Printing Office, 1976. 54 pp.

ment of the effect of the Jackson-Vanik amendment on U.S. trade with the Soviet Union. The administration contends a lack of United States MFN and credits has caused the Soviet Union to turn to other countries for technological imports, but such U.S. trade has not been shut off either. Soviet trade officials have apparently indicated their estimate of lost U.S. trade to be near $5 billion. Such an estimate cannot be uncritically accepted, but at the same time should not be completely discounted.

In conclusion, it would appear that the Jackson-Vanik amendment since its passage, has not really furthered the interests of Soviet Jews trying to leave the Soviet Union and that leverage which caused the Soviet Union to take steps to influence Congress' decision is now diminished. Some Members of Congress became aware of this development, but did not propose significant measures to help correct the current impasse. Essentially, Congress' attention has been deferred, while both sides have reassessed certain elements of East-West trade relations. Moreover, proponents of the amendment can claim that it has been successfully applied with regard to Romania, and the the next step, therefore, should be up to the Soviet Union.

Under current conditions, U.S.-U.S.S.R. trade of significant volume can continue; but such factors as credit and a rapidly increasing Soviet balance-of-payments deficit with the West (perhaps in the range of $4 to $5 billion in 1975 according to a CIA estimate) may change the main lines of future commercial relations. Soviet agricultural performance also affects the flexibility of the Soviet Union on trade decisions with the West. Finally, U.S.-U.S.S.R. political relations, mainly, and also progress on nuclear arms agreements, could strongly affect Congress reaction to trade developments with the Soviet Union.

Major Functional Problems Facing U.S. Foreign Policy

INTRODUCTION

This section attempts to observe the congressional role in some of the basic foreign policy issues facing the United States, such as weapons control, U.S. relations with the Third World, other international economic questions, participation in international institutions, and problems of the "International Common." A common thread running through all these issues is the concept of interdependence. As used here, the term implies many linkages: between U.S. domestic and foreign policies; the interrelationships of such issues as agriculture, energy, economics, nuclear proliferation, trade, et cetera; as well as emphasis on U.S. relations with other countries, for these problems can only be resolved by the world community of nations.

As the line between foreign and domestic policy fades on many issues, the congressional role in determining U.S. policy in many cases becomes more important. Congressional prerogatives in trade regulation, foreign aid, commodities regulation, and support for U.S. participation in international institutions place increasing responsibilty on Congress for the determination of U.S. policy priorities. This section examines some of the major functional problems of U.S. foreign policy, focusing primarily on those aspects of the issues which require congressional consideration.

WEAPONS TRANSFER, PROLIFERATION, AND CONTROL

Conventional Arms Transfers*

In recent years, the most significant trend in the transfer of U.S. conventional arms to foreign nations has been the decreasing use of military assistance program (MAP) grant aid and the increasing reliance on the foreign military sales (FMS) program. The military assistance program has been reduced from an appropriation of $5.7 billion in 1952 to less than $800 million per year for the last 8 years. In fiscal year 1975, the amount appropriated for the MAP was $475 million. Conversely, U.S. Government cash and credit arms sales under the FMS program have grown from $1.6 billion in fiscal year 1971 to over $10 billion in fiscal year 1974 and $9.5 billion in fiscal year 1975. The most dramatic increase in the FMS program has been the sale of large amounts of sophisticated weapons, as well as training and logistics support, to the oil-producing states of the Middle East.

Arms sales

This concentration of arms transfers to the Middle East, as well as the large amounts of arms and military services involved, stimulated increased congressional interest in the role of the United States as perhaps the world's leading supplier of military equipment. This interest focused on the policy issues involved in these transfers and on the lack of congressional control or oversight over many aspects of the arms transfer program. Many in Congress have felt that the United States has emerged as the world's leading arms merchant with little thought or emphasis, other than economic, on the foreign policy implications of these sales, particularly sales to the Middle East/Persian Gulf area. Such arms sales, it has been contended, contribute to and, indeed, stimulate regional arms races, encouraging certain regimes to give undue attention to military as opposed to social-economic development. Arms transfers are also said to link the United States with regimes prone to practices inimical to our concepts of human dignity, to promote regional instability, and to increase the ability and the willingness of these nations to resort to force, using U.S. arms to settle international disputes. Moreover, it was alleged, this massive transfer of weapons, technology, and training reduces U.S. force readiness, creates U.S. military commitments, and could involve the United States in international disputes in ways in which we do not wish to be involved. In addition, there was some apprehension that U.S. control over these weapons once they are transferred is, at best, tenuous and that they could be transferred to other nations and used in ways not intended, as for example, against Israel.

*Prepared by Herbert Y. Schandler, specialist in national defense.

In response to these policy issues concerning U.S. arms transfers, several committees held hearings on arms sales programs and policies during 1975. Closed hearings, later published, were conducted by a subcommittee of the Senate Appropriations Committee in April which focused on the impact on U.S. readiness of sales of military equipment.[1] In March, the Subcommittee on International Political and Military Affairs of the House International Relations Committee conducted hearings on a request by Ethiopia to purchase arms from the United States to combat a rebel group in Eritrea.[2] The same subcommittee later that month conducted hearings concerning the training of foreign military forces by U.S. civilian contractors.[3] Of particular interest to the subcommittee was a contract which had recently been made public for the training of the Saudi Arabian national guard by the Vinnell Corp. The Senate Armed Services Committee, also in March, held executive hearings on the modernization of the Saudi Arabian national guard. That same month, the Special Subcommittee on the Middle East of the House Armed Services Committee reported on a visit by 18 members of the committee to the Middle East and commented on U.S. arms sales to the region as well as on the Vinnell contract.[4] In this regard the subcommittee report stated:

> Selling military equipment and weapons systems to countries such as Saudi Arabia invariably involves the selling of training as well * * *. In summary, the contract is not inconsistent with the kind of technical assistance that has been provided in the past.

A special study mission to gather information on U.S. arms sales to Iran, Kuwait, and Saudi Arabia, was conducted by Representative Pierre S. du Pont IV, during the period May 22–31, 1975. In his report to the House International Relations Committee, Representative du Pont concluded that, "the United States and the Persian Gulf nations have legitimate reasons to engage in the transfer of arms," although he also felt that the United States, "should initiate a policy of restraint in its arms sales in terms of absolute amounts, level of sophistication of the weapons, and the percentage of each national market it controls."[5]

Annual hearings held from 1972 to 1974 on the Persian Gulf by the former Subcommittee on the Near East and South Asia were continued in 1975 by the Special Subcommittee on Investigations of the House International Relations Committee. These hearings, held during June and July 1975, focused on the continuing debate on arms sales to the Persian Gulf and provided, in the words of the subcommittee chair-

---

[1] U.S. Congress, Senate: Committee on Appropriations, Department of Defense Appropriations, fiscal year 1976, hearings before a Subcommittee on Appropriations, part 5, 94th Cong., 1st sess., Washington, U.S. Government Printing Office, 1975, pp. 169–260.

[2] U.S. Congress, House of Representatives, Committee on Foreign Affairs, U.S. Policy and Request for Sale of Arms to Ethiopia, hearing before the Subcommittee on International Political and Military Affairs, 94th Cong., 1st sess., Mar. 5, 1975, Washington, U.S. Government Printing Office, 1975.

[3] Committee on International Relations, U.S. Defense Contractor's Training of Foreign Military Forces, hearings before the Subcommittee on International Political and Military Affairs, 94th Cong., 1st sess., Mar. 20, 1975, Washington, U.S. Government Printing Office, 1975.

[4] Committee on Armed Services, report of the Special Subcommittee on the Middle East, 94th Cong., 1st sess., Mar. 11, 1975 (HASC No. 94–3, Washington, U.S. Government Printing Office, 1975.

[5] U.S. Congress, House of Representatives, Committee on International Relations, U.S. Arms Sales to the Persian Gulf, report of a study mission to Iran, Kuwait, and Saudi Arabia, May 22–31, 1975, Dec. 19, 1975, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

man, "an essential background on an area of vital foreign policy concern." [6]

The major provision of law which gives Congress approval or disapproval authority over cash sales of arms is contained in section 36(b) of the Foreign Military Sales Act. This section (the Nelson amendment) adopted in 1974 requires that any letter of offer to sell defense articles or services in the amount of $25 million or more shall be submitted to the Congress prior to being issued, and shall not be issued if the Congress, within 20 calendar days after receiving such statement, adopts a concurrent resolution stating that it objects to the proposed sale. This provision is waived, however, if the President certifies that an emergency exists which requires such sale in the national security interests of the United States.

On July 14, 1975, Congressman Jonathan Bingham and 10 cosponsors introduced House Concurrent Resolution 337 disapproving proposed sale to Jordan of air defense systems (Hawk and Vulcan). A similar resolution (Senate Concurrent Resolution 50) had been introduced by Senator Case on July 11. Hearings were conducted in the House on the Bingham resolution on July 16 and 17,[7] and on July 24, the International Relations Committee formally reported the resolution disapproving the proposed sale on the grounds that its excessive size would tilt the balance of power in the Middle East against Israel and virtually guarantee that Jordan would be drawn into any future conflict. The Senate Foreign Relations Committee held public hearings on Senate Concurrent Resolution 50 on July 15 and 21, 1975, and held executive hearings on July 18, 21, 24, and 25, 1975. However, no action was taken.

Following action of the House International Relations Committee, the Department of State, after consultation with members of the committee, agreed to suspend temporarily the Hawk sale and again seek to negotiate a compromise. On September 3, the administration notified Congress of its intention to offer Jordan the same Hawk missile package which Congress objected to in July. Apparently no compromise had been arranged, despite Secretary Kissinger's visit to Jordan following the successful conclusion of the negotiations on a new agreement in Sinai.

Consequently, on September 4, Congressman Bingham introduced House Concurrent Resolution 382 which again would have prohibited the proposed sale. On this occasion, however, a compromise was reached. In a communication to the Congress on September 17 [8] the President indicated that the Government of Jordan had indicated that these missile systems would be permanently installed at fixed sites as defensive and nonmobile antiaircraft weapons. This pledge, which sought to insure that these weapons could not be used in an offensive role, and thus would pose neither strategic threat to Israel

[6] U.S. Congress. House of Representatives. Committee on International Relations. the Persian Gulf, 1975: The Continuing Debate on Arms Sales, hearings before the Special Subcommittee on Investigations, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[7] U.S. Congress. House of Representatives. Committee on International Relations. Subcommittee on International Political and Military Affairs. proposed sale to Jordan of the Hawk and Vulcan Air Defense Systems, hearings, July 16 and 17, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[8] U.S. Congress. House. Communication from the President of the United States transmitting information concerning the sale of Hawk antiaircraft missile to Jordan, 94th Cong., 1st sess. House Document No. 94-256. Washington, U.S. Government Printing Office, 1975.

nor affect the power balance in the Middle East, was satisfactory to the Congress and, on September 17, House Concurrent Resolution 382 was withdrawn.

Two other resolutions to prohibit proposed arms sales under the provisions of section 36(b) were introduced in the closing weeks of the first session of the 94th Congress. On December 10, Mr. Rosenthal submitted House Concurrent Resolution 507 which objected to a proposed sale to Saudi Arabia of certain defense articles and on December 18, Mr. Zablocki introduced House Concurrent Resolution 517 which objected to the proposed sale of F–15 aircraft to Israel. The Subcommittee on International Political and Military Affairs held a hearing on House Concurrent Resolution 507 on December 17, but no further action was taken on either of these resolutions prior to the end of the 20-day period allowed for congressional disapproval action.

One additional legislative action was taken by the Congress in 1975 on the issue of arms sales. Section 150 of the Foreign Relations Authorization Act, fiscal year 1976 (Public Law 94–141), signed by the President on November 29, 1975, amended section 414 of the Mutual Security Act of 1954, section 42(A) of the Foreign Military Sales Act and section 511 of the Foreign Assistance Act to require that all decisions concerning issuing licenses for export of articles on the U.S. munitions list, any sale proposed to be made, or the furnishing of military assistance:

shall be made in coordination with the Director of the U.S. Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether such decision might contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control agreements.

Grant military aid

Although grant military aid, as indicated, is now a small portion of total U.S. arms transfers, this program received a great deal of congressional interest and action in 1975. First, the fiscal year 1975 appropriations bill for economic and military assistance (Public Law 94–11) was not cleared until March 1975, three-fourths of the way through the fiscal year. This bill appropriated $475 million for grant military assistance, $125 million less than had been authorized, and $732 million less than had been requested by the administration (although the administration request had included $222 million for Cambodia).

The rapid sequence of events in Cambodia and South Vietnam generated congressional action on a number of bills whose provisions reflected the changing military conditions, with a variety of committees considering separate bills dealing with the President's military aid requests, refugee assistance, troop authority, and appropriations. As they were overtaken by events, the bills were dropped or revised.

A total ban on arms transfers to Turkey in reaction to the improper use of U.S.-supplied armaments in the Turkish invasion of Cyprus, took effect on February 5, 1975. On October 3, Congress reversed itself and cleared a bill (Public Law 94–104) partially ending this 8-month prohibition on military aid and arms sales to Turkey. (For additional details Turkish aid controversy see pp. 54–60.)

An 11th hour Senate battle aimed at shutting off U.S. military aid to two factions fighting a Communist-backed group in the Angola

civil war held up final congressional action on the $90.5 billion fiscal 1976 defense appropriations bill (H.R. 9861).

The House on December 12 approved the conference report on the bill, but when the bill reached the Senate floor on December 15, a coalition of Senators led by John V. Tunney insisted that an amendment be added banning the use of any funds appropriated in the act for "any activities involving Angola other than intelligence gathering."

This proposal was debated in open and secret sessions over a 4-day period, and was finally approved by the Senate on December 19. The defense appropriation bill was then returned to conference to resolve this issue. The conference accepted the Senate ban on funds for Angola and the bill containing this provision was adopted by the House on January 27, 1976 and was signed into law (Public Law 94-212) on February 9, 1976. (For additional details, see pp. 174–181, United States-Africa relations.)

On May 15, 1975, the President forwarded to the Congress draft legislation to authorize foreign assistance programs for fiscal year 1976 and 1977, and for the transition period July 1, 1976 through September 30, 1976 (the new fiscal year beginning in fiscal year 1977 will begin on October 1 rather than July 1). This proposal was printed as House Document 94–158 and was introduced in the Senate as S. 1816. Because of uncertainties caused by changing events, particularly in the Middle East and Indochina, specific amounts for security assistance programs were not included in this draft legislation.

On October 30, 1975, the President transmitted to the Congress proposed revisions to this draft legislation which included specific amounts for security assistance programs. The President proposes for fiscal year 1976 the following authorizations (dollars in millions):

Military assistance program	$422.60
Training	29.30
FMS credit sales	2,374.70
Security supporting assistance	1,867.55
Middle East special requirements	50.00

Seventy percent of the fiscal year 1976 program is concentrated in the Middle East. These proposals were introduced as H.R. 10594 and S. 2662.

Primarily because of the late submission of the President's request for funding for the security assistance program, authorizing legislation for this program was considered separately in 1975 from authorizing legislation on economic assistance programs.

Hearings on these bills focused on the policy issues which had concerned Congress throughout the year—the foreign policy aspects of the program, its statutory framework, and possible ways to bring about strengthened legislative controls on arms transfers.

Greatly modified versions of these bills were reported out of committee and passed by each House in early 1976 (S. 2662, passed February 18, 1976; H.R. 11963, passed March 3, 1976; conference report passed April 29, 1976). The bill included many major modifications to the security assistance program and was described by the Senate Foreign Relations Committee as "the most significant piece of legislation in the field of foreign military assistance policy since the enactment of the Mutual Security Act more than a quarter of a century ago." However, this bill was vetoed by the President on May 7, 1976.

Thus, 1975 was a period of increased congressional interest in all policy aspects of U.S. arms transfer programs. It was a year of fact-finding hearings, and investigations on this subject, leading to attempts to make major modifications to the program in 1976 which would emphasize expanded and strengthened congressional control over all aspects of U.S. arms transfers.

Nuclear Exports, Nuclear Proliferation*

The issue of controlling the proliferation of nuclear weapons is a problem area where a number of commercial, economic, and political interests converge both domestically and internationally. The problem—proliferation of a nuclear weapons capability to other countries—and the goal—nonproliferation of nuclear weapons—are much easier to define than are the steps which the United States as a member of the community of nations might take to realize the goal.[9] This state of affairs was reflected in congressional activity which tended to stress the immediacy and urgency of the problem, but which was limited to exploratory efforts at defining general recommendations to alleviate the problem rather than to solve it.

The desirability of avoiding a further proliferation of nuclear weapons has increased as the number of nations capable of acquiring such weapons has grown and as there is no corresponding increase in world political stability. Unfortunately, in this respect, the growing need for energy sources other than fossil fuels has led to an increased emphasis on nuclear power and many nations now have the need and the means to acquire the materials and technology of nuclear power from the major nuclear exporting countries: The United States, the Soviet Union, the United Kingdom, France, Canada, and Germany. The Treaty on the Non-Proliferation of Nuclear Weapons (NPT), in force since 1970, spells out the obligations of its nuclear weapon state parties to refrain from the transfer of nuclear weapons, and of its non-nuclear-weapon state parties not to acquire such weapons, and the safeguarded conditions under which nuclear transfers are to take place. Nevertheless, the fact remains that not all nations, and not even all nuclear weapon nations, are parties to the NPT; and any party can dissociate itself from the treaty upon 3 months' notice. Thus, even on a formalistic-legalistic level, restraints on military nuclear acquisition are only partial. On the economic level, it is possible for almost any relatively affluent nation to obtain the expertise and materials needed for the production of some nuclear weapons.

Section 123(d) of the Atomic Energy Act, as amended [Public Law 93–485 (88 Stat. 1460), 42 U.S.C. 2153] gives Congress the power to veto any agreement for cooperation in nuclear energy with other countries entered into by the United States. These agreements are the vehicle by which transfers of nuclear information and materials take

* Prepared by Dagnija Sterste-Perkins, analyst in international relations.

[9] Some observers have questioned the desirability and realism of nonproliferation per se as a goal. Alton Frye in a Jan. 11, 1976, New York Times magazine article, "How to Ban the Bomb: Sell It," cites legitimate regional security threats and resultant fears of the nonnuclear weapon states as an inexorable motivation for their acquiring nuclear capacity. To alleviate this precarious situation in which there is no reward for self-restraint, Frye proposes that the United States and the Soviet Union devise "credible arrangements" to protect nonnuclear states against the threat or use of nuclear weapons. He suggests provision by the superpowers, in the event of a nuclear attack on the territory of a nonnuclear state, of a comparable number and scale of nuclear weapons with which the victim could retaliate.

place and hence by which nuclear proliferation can occur. By this means, Congress has an opportunity to control U.S. international nuclear policy. But, it is not clear to what extent Congress can oversee the details of each individual proposed transaction, and the main congressional efforts to deal with nuclear proliferation during the past session concerned general policy guidelines.

The Joint Committee on Atomic Energy has long been concerned with domestic and international aspects of nuclear energy. In a recent report to Congress summarizing issues of concern regarding nuclear developments,[10] the committee stressed the necessity for agreement among the nuclear supplier nations "so that transactions will not be conducted on the basis of which nuclear supplier has the least rigorous safeguard requirements," and said that such negotiations should be a "top foreign policy priority." The report also suggested expanding the International Atomic Energy Agency (IAEA), role from detection to include prevention of diversion of nuclear material, and emphasized the need to assess the part that security assurances on the part of the United States might play in leading nations to ratify and adhere to the NPT.[11] And the report posed a question: Is it wise for the United States to use nuclear reactors and technology as "international political bargaining chips"? This report was submitted pursuant to Public Law 93–514 (88 Stat. 1611) and served as a tool for congressional and public understanding.

The congressional committees with preeminent responsibility in foreign policy and international affairs considered the problems of nuclear proliferation during this session. The Subcommittee on International Security and Scientific Affairs of the House International Relations Committee held hearings [12] on House Concurrent Resolution 371 and Senate Concurrent Resolution 69, which deal in a comprehensive way with horizontal and vertical proliferation issues.[13] Starting with the final declaration of the NPT review conference as a point of reference, the resolutions make four recommendations with respect to arms control negotiations: Embodiment of the Vladivostok recommendations in a treaty and a subsequent further mutual reduction in strategic weapons; conclusion of an agreement to end all underground nuclear explosions; a halt to nuclear transfers to countries not party to the NPT or not accepting IAEA safeguards; and negotiation of an agreement to reprocess all plutonium resulting from nuclear transfers in regional multinational facilities. Testimony from administration officials stated, on the whole, that the resolutions do not conflict with current U.S. policy objectives and negotiations. The resolutions were not reported out of committee during 1975.

The Subcommittee on Arms Control, International Organizations, and Security Agreements of the Senate Foreign Relations Committee held a number of hearings on various proliferation issues throughout

---

[10] U.S. Congress. Joint Committee on Atomic Energy. Development, Use, and Control of Nuclear Energy for the Common Defense and Security and for Peaceful Purposes. First annual report to the United States Congress by the Joint Committee on Atomic Energy pursuant to sec. 202(b) of the Atomic Energy Act, as amended. 94th Cong., 1st sess. H. Rept. No. 94–366. Washington, U.S. Government Printing Office, 1975. 104 pp.

[11] Senator Symington and staff from the Foreign Relations, Armed Services, and Joint Atomic Energy Committees had visited the IAEA in Vienna and SALT negotiators in Geneva June 29–July 3.

[12] U.S. Congress. House: Committee on International Relations. Subcommittee on International Security and Scientific Affairs. Nuclear Proliferation: Future U.S. Foreign Policy Implications. Hearings. Oct. 21, 23, 28, 30; Nov. 4 and 5, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 506 pp.

[13] Horizontal proliferation refers to the further initial acquisition of nuclear weapons while vertical proliferation refers to additions to currently existing nuclear stockpiles.

the year, none of which had been printed by the end of the session. On December 10, the full committee reported favorably Senate Resolution 221,[14] which was agreed to by the Senate December 12. The resolution calls on the President to assume international leadership in seeking cooperation to strengthen the IAEA, to consult in the United Nations and elsewhere on increasing international efforts to strengthen and broaden safeguards, and to seek cooperation with suppliers to restrain nuclear transfers. The resolution had the support of the administration and was passed by voice vote without substantial controversy.

The House Interior and Insular Affairs Subcommittee on Energy and the Environment devoted a substantial part of its 1975 oversight hearings on nuclear energy to problems of international proliferation.[15] Chairman Udall articulated four recommendations for the United States to promote in formulating new international policies: Strengthening the IAEA; cooperation among exporting states to obtain strict safeguard agreements from all recipient states; placing enrichment and reprocessing facilities under international control in regional centers; and developing a long-range energy policy which would produce alternative energy sources to nuclear power.

Actions by the United States alone cannot, of course, solve the proliferation problem, which is tied in with international political considerations. As regards the interaction of U.S. nuclear capacity and foreign needs for nuclear power, commercial considerations come into play. Export of U.S. nuclear technology, materials, and facilities is expected by the Energy Research and Development Administration to surpass U.S. aircraft sales as the main nonagricultural balance-of-payments asset in the next few years. In 1974, U.S. sales of uranium enrichment services abroad amounted to $421 million and it is expected that sales over the next decade will total about $5 billion—in addition to $1.5 to $2 billion annually in sales of services, equipment, and facilities by the U.S. nuclear industry. When the United States sells nuclear materials abroad, it is under safeguards contained in agreements between the United States and the recipient country and the IAEA. IAEA safeguards include protective devices on the related facilities, inspections, and on-site observers. Their purpose is to deter and to detect any diversion of nuclear materials by the recipient country to unauthorized, that is, military use. There has been no documented instance of diversion of material in contravention of the safeguards system.[16] Whether this record is testimony to universal compliance or to the inadequacy of the safeguards can be argued, but there is near unanimity in the conclusion that the IAEA, while doing an adequate job under its financial and legal constraints, must be augmented in order for its safeguards methods and personnel to be less thinly spread over the expanding facilities for which it is and will be responsible.

---

[14] U.S. Congress, Senate: Committee on Foreign Relations. International Safeguards of Nuclear Materials: report to accompany S. Res. 221, 94th Cong., 1st sess. Rept. No. 94-525. Washington, U.S. Government Printing Office, 1975. 6 pp.

[15] U.S. Congress, House: Committee on Interior and Insular Affairs. Subcommittee on Energy and the Environment. Oversight hearings on nuclear energy—International Proliferation of Nuclear Technology. Hearings, July 21, 22, and 24, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 118 pp.

Two major international convocations during 1975 served to highlight the major concerns of the nuclear "haves" and "have-nots" and demonstrated difficulties which eventually would have to be overcome for successful control of proliferation of nuclear weapons. During May, parties to the NPT came together in Geneva for the first 5-year review of the treaty's operation. The final declaration of the review conference expressed conclusions influenced partly by the nuclear importing and Third World nations. Specifically, it focused on recommendations largely applicable to the nuclear superpowers, the United States and the Soviet Union, calling for priority on a comprehensive nuclear weapons test ban to halt the nuclear arms race; stating that the United States and the Soviet Union, as steps toward this end, should minimize their underground nuclear weapons tests and formalize the Vladivostok agreement in a SALT agreement "at the earliest possible date," and declaring that the NPT provisions prohibiting nuclear weapons and nuclear weapons technology transfers from nuclear weapon states to nonnuclear weapon states had been "faithfully observed by all parties." The emphasis here was a clear indication that nonnuclear weapon states, and nuclear importing states, are increasingly looking at limitations on United States and Soviet atomic weaponry (restrictions on "vertical proliferation") as a precondition for strict limitations on their own activities.

A second series of meetings, initiated by the United States and held in secret sessions in London and Paris beginning in June, involved the major nuclear exporting countries. Participants in these talks, which were aimed at promoting agreement on the universal application of more stringent safeguards as a precondition for any nuclear exports, were the United States, the Soviet Union, the United Kingdom, France, Canada, West Germany, Japan, and Italy. As the talks progressed, it was reported that the United States encountered opposition to its proposal to establish multinational regional fuel processing centers—a proposal also advanced later by Secretary of State Kissinger in his September 22 speech before the U.N. General Assembly—largely because of the question of control.

It has been U.S. policy to require that the reprocessing of spent fuel from its nuclear exports take place in U.S. plants, in order to minimize the risk of diversion of weapons-grade material which can be derived from such fuel. Other nations, most notably West Germany in a major nuclear agreement with Brazil, have actually exported facilities and materials for the entire nuclear fuel cycle, including uranium enrichment and reprocessing plants. Such discrepancies in export policies of commercial competitors would be likely subjects of an international agreement among the nuclear suppliers.

Another often mentioned goal would be the requirement by nuclear suppliers that the recipient country utilize adequate physical security measures to prevent theft by subnational groups—terrorist factions, outlaw organizations, et cetera—of nuclear materials. It is not clear now that adequate security would be constituted in each individual case, and to date no materials are reported to have been stolen by any such group, but there is a general fear that the possibilities for theft are greater than they should or could be. These fears are not prompted solely by conditions in other nations but by the state of domestic U.S. facilities as well. For instance, the digest of a General Accounting Of-

fice report to Congress released April 23[17] recommended increased security for U.S. nuclear weapons shipments that travel on highways and streets.

The concern over physical security was embodied in legislation considered at length by the Senate Committee on Government Operations during the first session and into the second session of the 94th Congress. The proposed Export Reorganization Act of 1975, S. 1439, which was the subject of hearings,[18] called for a system of interagency checks on nuclear exports, including a requirement that safeguards against theft, diversion, or sabotage in the receiving nation be at least as stringent as those required within the United States. At various times through the year committee Chairman Abraham Ribicoff and other members of the committee were prominent in publicizing nuclear proliferation problems. Other fruits of the committee's interest were two informational volumes[19] which received wide circulation.

Opposition to legislation further restricting U.S. nuclear exports has come from the executive branch. Pursuant to section 14 of Public Law 93–500, the President on May 6 submitted to the Congress a report on the adequacy of laws and regulations to prevent the proliferation of nuclear capability for nonpeaceful purposes, and on the adequacy of domestic and international safeguards.[20] Prepared by the Energy Research and Development Administration with assistance from the Nuclear Regulatory Commission, the Arms Control and Disarmament Agency and others, the report concluded that no additional legislative authority was required to control nuclear exports and that the United States was making "major efforts" to gain acceptance of export control policies by other countries to further inhibit proliferation. With respect to physical security measures, the report stated that the United States was working toward adoption of an international convention on this problem and was aiding IAEA safeguard development efforts; and that close cooperation with the other supplier nations was necessary, "to avoid a competition which would be based on minimizing the safeguards applicable to purchaser nations."

During the IAEA meeting in Paris at the end of May, Secretary Kissinger assured the delegates that the United States would increase supplies of enriched uranium to meet the demand in countries agreeing to currently required safeguards. This statement might have been intended to allay the fears of potential U.S. customers that increasingly stringent safeguards would be imposed by the United States, and to reverse the slight trend toward the granting of nuclear supply contracts to other nuclear exporters.

---

[17] Inserted in the Congressional Record (daily edition) vol. 121, Apr. 23, 1975: P. S6809, by Senator Symington.

[18] U.S. Congress, Senate: Committee on Government Operations. The Export Reorganization Act—1975. Hearings, Apr. 24, 30, and May 1, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 533 pp.

[19] U.S. Congress, Senate: Committee on Government Operations. Peaceful Nuclear Exports and Weapons Proliferation: a compendium. 94th Cong., 1st sess. Committee print. Washington, U.S. Government Printing Office, 1975. 1,335 pp.

U.S. Library of Congress: Congressional Research Service. Facts on Nuclear Proliferation: a handbook. Prepared for the Committee on Government Operations, U.S. Senate. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 259 pp.

[20] U.S. President, 1974– (Ford). Laws and Regulations Governing Nuclear Exports and Domestic and International Nuclear Safeguards. Message from the President of the United States transmitting a report on the adequacy of laws and regulations to prevent the proliferation of nuclear capability for nonpeaceful purposes, and on the adequacy of domestic and international safeguards, pursuant to section 14 of the Export Administration Amendments of 1974 (Public Law 93-500). 94th Cong., 1st sess. House Doc. 94-131. Washington, U.S. Government Printing Office, 1975. 55 pp.

The Strategic Arms Limitations Talks*

Background

During 1975, the strategic arms limitation talks (SALT) continued between United States and Soviet teams of negotiators in Geneva and between Secretary of State Kissinger and various Soviet officials. These efforts were directed toward concluding an international agreement which would implement the principles established by President Ford and Soviet Party Leader Brezhnev in Vladivostok in late 1974. The Vladivostok agreement in principle includes a 2,400 ceiling on the number of each country's strategic delivery vehicles, of which 1,320 can be equipped with multiple independently targettable reentry vehicles (MIRV's). By September 1975, an impasse had developed over whether to include in these ceilings the Soviet "Backfire" bomber and the United States cruise missile. By the end of the year, it was planned that Kissinger would meet with Soviet leaders in Moscow, in an effort to resolve the stalemate.

On January 22, Kissinger ended 2 days of discussions, where reportedly the Soviet Union offered a major proposal to deal with the weapons systems in contention, as well as a possible reduction in the overall ceilings established at Vladivostok. At the conclusion of the talks, Kissinger said that "we will reply in a few weeks and then continue the negotiations." In the meantime, the Geneva discussions reconvened on January 28, 1976.

Congressional activities

An opportunity for direct congressional participation in the making of an arms control agreement occurs when the Congress is called upon to approve an agreement concluded as a result of international negotiations. Aside from Senate advice and consent under the treatymaking powers of the Constitution, the Congress has additional authority over arms control and disarmament agreements. Under the Arms Control and Disarmament Act of 1961, no action to limit U.S. forces can be taken "unless authorized by further affirmative legislation by the Congress,[21] a provision which covers agreements which do not take the form of treaties.[22] Thus, through this act, the Congress is assured a role in any international agreement in the area of arms control, a point which represents a unique source of congressional power. Since there were no new agreements concluded during 1975, the only instance of this kind of congressional action was the Senate approval of the 1974 protocol to the ABM treaty. The protocol provides that the United States and the Soviet Union are each limited to one defensive missile site.[23] Approved by the Senate in November 1975 by a vote of 63 to 15, the protocol prompted little controversy during congressional consideration.

The minimum congressional controversy was basically attributable to strong congressional opposition to ballistic missile defense which

*Prepared by Lenelce N. Wu, analyst in international relations.

[21] 22 U.S.C. 2573.

[22] For example, the interim agreement concluded during the 1972 strategic arms limitation talks was approved by joint resolution since it was an executive agreement rather than a treaty. (Public Law 92-448).

[23] The original ABM Treaty of 1972 provided two missile sites for each country.

had been evident since 1969.[24] Indeed, at the time the protocol was concluded in July 1974, the United States had already limited itself to one ABM site. This had been accomplished by the 1972 congressional action which denied funds in the defense procurement authorization bill to build a second ABM site around Washington, D.C.

During 1975, congressional action on the defense appropriations bill (H.R. 9861) severely limited the way ABM funds could be used for the remaining site at Grand Forks, N. Dak. Other than funds for operation of the perimeter acquisition radar, as stated in the law (Public Law 94–212), the approved funds could be used only for the "expeditious termination and deactivation of all operations" of the Safeguard facility.[25] This language was an acceptance of the Senate amendment, and its approval in that body was followed by the disclosure that the Department of Defense had planned to keep the system operational only until July 1, 1976, and would have placed it on "standby status" after that time.[26] The action of the Congress restricted the use of ABM funds further than that planned by the Department of Defense, but in light of these plans, may represent only a minor initiative.

The limitation of funds represents one of the major sources of legislative influence in matters of national security. In pursuing this course in the case of the ABM, the Congress also signaled a willingness to act upon weapons systems in a way which would limit them further than the restraints imposed by an international agreement.

Although Congress has exercised little, if any, power over ongoing arms control negotiations, at least as far as detailed negotiating positions and bargaining are concerned, it has attempted in a number of different ways to influence U.S. SALT policy and possibly the outcome of the negotiations.

One of the ways in which the Congress has sought to influence SALT is through the congressional resolution. Two that received some attention in 1975 were Senate Resolution 20 (with its House companion H. Res. 160) and Senate Concurrent Resolution 69 (H. Con. Res. 371, comparable, but slightly different). The simple resolutions call for completion of the negotiations to finalize the Vladivostok principles, as well as further negotiations on mutual restraints on weapons development within the Vladivostok ceilings, on mutual reductions to lower levels, and on a mutual commitment to continue talks on weapons systems not covered by the 1972 SALT accords. The concurrent resolutions call for "prompt embodiment" in a treaty of the Vladivostok principles, and suggest that a next step should be talks on a 20-percent mutual reduction in strategic nuclear delivery vehicles, and those equipped with MIRV's. (These latter measures also address other arms control areas, like an underground nuclear test ban.) Thus, these resolutions sought to address SALT issues in a substantive manner, by suggesting goals for the President to pursue during the negotiations.

---

[24] U.S. Senate. Committee on Foreign Relations. Protocol to the Limitation of Anti-Ballistic Missile Systems Treaty. Report to accompany Ex. I. 93–2. Nov. 3, 1975. 94th Cong., 1st sess., executive report No. 14. Washington, U.S. Government Printing Office, 1975. p. 2.

[25] Conference Report on H.R. 9861. Congressional Record (daily ed.), Dec. 10, 1975: H12277.

[26] John W. Finney. Safeguard ABM System to Shut Down; $5 Billion Spent in 6 years since Debate. New York Times, Nov. 25, 1975.

During 1975, congressional action on these measures has been limited to hearings,[27] which may have served to stimulate public discussion of the pertinent issues.

Similar congressional activities have been in the form of substantive proposals by individual Members, notably in 1975, those of Senators Henry Jackson [28] and George McGovern.[29] One group of House Members, led by Congressmen Steven Symms and John Dent, sent a letter to the President with several ideas for what should be included in a SALT II treaty, and tied these proposals to their own approval of a prospective SALT II agreement.[30] The impact of measures like these, which elicit no public response from the administration, cannot be easily evaluated. When and if a SALT II agreement is concluded, it might be evident to what extent these congressional proposals have been incorporated.

Related national security concerns

As noted above, congressional consideration of the defense money bills prompted the discussion of some arms control issues involved in defense decisions. Besides the action which limited the U.S. ABM deployment, several attempts were made to limit strategic weapons in an effort to affect the goals of SALT negotiations. An example of this type of measure was the Humphrey-Brooke amendment to the defense procurement authorization bill (H.R. 6674) to prohibit the use of funds for flight testing of maneuverable reentry vehicles (MARV), unless the President certified to the Congress that the Soviet Union had begun MARV flight testing or that it was in the U.S. national interest to begin a program.[31] The amendment also set down a specific congressional procedure to decide, once the President had made the proper determinations, whether the program should be disapproved.

By curtailing MARV flight testing, supporters of the Humphrey-Brooke amendment asserted, the Soviet Union would have confidence that a U.S. MARV system had not been deployed. (Surveillance of flight testing has become one of the few ways in which progress toward deployment can be determined by national means of inspection.) It was hoped that by stopping deployment, a mutual agreement to limit or eliminate MARV might be achieved at SALT.

On June 6, 1975, the Senate approved the amendment by a vote of 43–41. However, in conference, the Senate receded from its amend-

---

[27] U.S. Congress. House: Committee on International Relations. Subcommittee on International Security and Scientific Affairs. The Vladivostok Accord: Implications to U.S. Security, Arms Control, and World Peace. Hearings, 94th Cong., 1st sess., June 24, 25, and July 8, 1975. Washington, U.S. Government Printing Office, 1975. 197 pp. The Subcommittee on Arms Control and International Organization of the Senate Foreign Relations Committee also held hearings on the subject of SALT, but these have not been printed as of this writing.

[28] Vladivostok and Strategic Arms Reduction. Congressional Record, (daily ed.), March 26, 1975: S5038-S5039.

[29] Toward Effective Arms Control. Congressional Record (daily ed.), May 5, 1975: S7379-S7381.

[30] Congressmen Issue Warning to Ford on SALT. Congressional Record (daily ed.), Oct. 28, 1975: E5630.

[31] The MARV system is comprised of a ballistic missile equipped with its own navigation and control system capable of adjusting its course following launch from the delivery vehicle. This weapon is being developed to achieve a high degree of accuracy and a capability to evade defensive measures. Arms control supporters have contended that developing increased accuracy of a strategic weapon could imply a move toward a first-strike capability. Possession of a first-strike capability could have a destabilizing effect on the United States-Soviet military balance as well as constitute a threat to arms limitation.

ment on the grounds that during fiscal year 1976 the only planned MARV flight testing was for the Navy Evader missile. The conference report explained that testing this weapon "could in no way be construed as supporting the development of a high accuracy MARV."[32]

The fate of the Humphrey-Brooke amendment might indicate the limits of congressional attempts of this kind. Because the weapons development process is an extended one, the congressional funding process becomes extended. In 1975, the funds sought for MARV were only for one of the initial stages of development. Apparently in the view of the Congress, this stage did not pose a threat to the strategic balance or arms limitation efforts. Thus, the case of the Humphrey-Brooke amendment may suggest that it is difficult to make arms control considerations seem urgent in the early stages of weapons development.

Other congressional efforts to seek restraint in weapons programs were evident in various amendments to limit or delete funds in both the defense authorization and appropriations bills. The strategic weapons systems affected were the B–1 bomber, improvements in strategic weapons to achieve a counterforce capability, the Trident submarine and missile systems, and cruise missiles. These efforts largely failed, although some modest cuts were achieved. In the case of the B–1 bomber, the conference committee warned that authorization of the requested funds did not represent a commitment to production of the system.

Congress and alleged SALT violations

During 1975, congressional attention also focused on allegations of Soviet violations of SALT I. This issue was the subject of hearings held by the Senate Armed Services Committee's Subcommittee on Arms Control[33] and the House Select Committee on Intelligence. While the Senate committee's inquiry was on the substance of the allegations regarding Soviet compliance with the SALT I agreements of 1972, the House group approached the problem differently. Rather than investigating the charges of violations themselves, the House committee examined the executive branch machinery established to monitor an arms control agreement. The committee voted contempt-of-Congress citations against Secretary of State Kissinger in an effort to obtain information on this subject. Questions were raised whether as national security adviser, Kissinger had provided various U.S. officials with complete information on Soviet compliance with SALT I. Following issuance of the citations, the administration provided certain data to the committee. In addition, Kissinger's explanation at a press conference in December 1975, of the Government process involved in verifying SALT compliance, cast new light on this important responsibility in the arms control area. The congressional initiative on this issue resulted in a notable example of congressional oversight of the implementation of an existing arms control agreement.

---

[32] U.S. Congress, Senate: Authorizing appropriations for fiscal year 1976 and the period beginning July 1, 1976, and ending September 30, 1976 for military procurement . . . and for other purposes. Conference report to accompany H.R. 6674. Sept. 19, 1975. 94th Cong., 1st sess., S. Rept. No. 94–385. Washington, U.S. Government Printing Office, 1975. p. 75.

[33] U.S. Congress, Senate: Committee on Armed Services, Subcommittee on Arms Control. Soviet Compliance with Certain Provisions of the 1972 SALT I agreements. Hearing. 94th Cong., 1st sess. Mar. 6, 1975. Washington, U.S. Government Printing Office, 1975. 22 pp. Other committees held executive hearings on this subject, which had not been printed as of this writing.

Congressional drive to strengthen policymaking

Another area of arms control in which the Congress has sought to exercise some influence is that of the machinery and process of policymaking. During 1974 and 1975, there had been an increased congressional interest in the U.S. Arms Control and Disarmament Agency (ACDA) and its role within the U.S. Government. That interest culminated with the enactment in November 1975 of the Foreign Relations Authorization Act (Public Law 94–141)[34], which includes a number of substantive changes in the Agency's enabling legislation, the Arms Control and Disarmament Act.

By enacting these changes in ACDA's legislation, the Congress appears to have been striving for two major objectives: (1) That an arms control perspective be taken into account by different groups responsible for policymaking, including those officials associated with weapons acquisition, and (2) that the Congress have adequate information about ACDA and its work.

The principal changes by which the Congress sought to attain these objectives include the following: (1) A change in the law which gives the Agency the authority to perform certain functions—under the direction of the President and the Secretary of State—previous legislation merely assigned the Agency the ability to perform them; (2) the ACDA Director is made a principal adviser on arms control and disarmament to the National Security Council, a position comparable to that of the Joint Chiefs of Staff; (3) the deletion of a provision which prohibits the dissemination of propaganda about the work of the Agency, a provision which some viewed as inhibiting the Agency's public information function; (4) a comprehensive description of the type of information required in the ACDA annual report to the Congress; and (5) consultation with the ACDA Director during several stages in the process by which conventional arms transfers are decided.

Arms control impact statements

Possibly the most important change in ACDA's legislation concerns the requirements for arms control impact statements. The law defines a number of weapons programs which are affected by the requirements. The programs are all those involving nuclear weapons, those weapons programs with an overall cost of $250 million or an annual cost of $50 million, and those which could have a significant impact on arms control policy and negotiations. At the time when "any Government agency [is] preparing any legislative or budgetary proposal" for any of the programs described, the law requires, the ACDA Director is to be provided with detailed information on the program. The Director is also required to assess the program's arms control impact and advise and make recommendations to the National Security Council, the Office of Management and Budget and the Government agency proposing the program. Finally, the 1975 legislation requires that any request to the Congress for authorization of appropriations for the weapons program, "shall include a complete statement analyzing

[34] See also U.S. Congress. House: Committee on International Relations Arms Control and Disarmament Act Amendments of 1975. June 11, 1975. Report to accompany H.R. 7567. 94th Congress, 1st sess., House Rept. No. 94–281. Washington, U.S. Government Printing Office, 1975. 22 pp.

the impact of such program on arms control and disarmament policy and negotiations." [35]

The enactment of this legislation is a move by the Congress to define more clearly and expand the purposes which the U.S. Arms Control and Disarmament Agency should serve. In addition, the legislation broadens congressional participation in this area.

ADDITIONAL REFERENCES

Arms Control Amendments Approved, Arms Control Today vol. 5, No. 12, December 1975: 3–4.

Frye, Alton. A Responsible Congress: The Politics of National Security. New York, McGraw-Hill (Council on Foreign Relations), 1975. 238 pages. See especially pages 67–116.

Kahan, Jerome H. Security in the Nuclear Age. Developing U.S. Strategic Arms Policy, Washington, Brookings, 1975. 361 pages. See especially pages 263–340.

Maxfield, David M. Disputes over New Weapons Imperil Arms Pact. Congressional Quarterly, November 29, 1975: 2583–88.

Nitze, Paul H. Assuring Strategic Stability in an Era of Détente. Foreign Affairs vol. 54, No. 2, January 1976: 207–232.

Weller, Lawrence. Strategic Cruise Missiles and the Future of SALT. Arms Control Today vol. 5, No. 10, October 1975: 1–4.

[35] In the case of those programs which might have a significant impact on arms control, the determination must be made by the National Security Council before the report to the Congress is required.

RELATIONS WITH THE THIRD WORLD

Foreign Aid*

In 1975, five major pieces of foreign aid legislation received congressional attention: The 1975 foreign assistance authorization, delayed consideration of the fiscal year 1975 foreign assistance appropriation, initial consideration late in the year of the administration's fiscal year 1976 security assistance program request, the 1975 replenishment of the Inter-American Development Bank capital stock, and the issue of aid to South Vietnam and Cambodia and Laos.

Because of the widely divergent problems, programs, and congressional reactions, it would be unwise to generalize about a single congressional position on foreign aid. Each set of circumstances reflected in the consideration of the various bills is unique, and for this reason, it is more realistic to discuss each bill separately.

1975 Foreign Economic Assistance Act

The 1975 Foreign Assistance Act (H.R. 9005, known as the International Development and Food Assistance Act of 1975, Public Law 94–161) reflected growing congressional concern over the direction and implementation of U.S. policies on food aid and on bilateral assistance to less developed countries designed to increase food output capabilities. This concern arose primarily from three events: The impact of the 1972 Russian grain deal on the size of the U.S. food for peace program (Public Law 480), existence of famine and near famine in several areas of the world from 1972 through 1974, and the 1974 World Food Conference.

In the aftermath of the Soviet grain deal in 1972, U.S. grain reserves were seriously depleted and grain prices rose to unprecedented levels, dramatically increasing prices and decreasing supplies of the major food items in the food-for-peace program. The decreases in food supplies available under Public Law 480 took place during a period of famine in the Sahel region of Africa, in Bangladesh, and in Ethiopia, and of short supplies in various other regions. For the less developed countries as a group, 1971 and 1972 saw an actual decline in food production. The World Food Conference, held in Rome in November 1974, served as the focal point for an examination of the world food situation and particularly for an examination of the future food situation in the less developed countries. The congressional members of the U.S. delegation to the Food Conference actively participated in the sessions of the Conference and strongly influenced the position eventually taken by the United States on the advisability of establishing a world food reserve.

For the first time, both Houses agreed to separate development assistance from military assistance. The 1975 Foreign Assistance Act

* Prepared by Theodor Galdi, analyst in international relations.

authorized economic aid of $1,567,150,000 for fiscal year 1976 and $1,496,800,000 for fiscal year 1977, slightly more than requested by the President. The measure reaffirmed previous congressional directives that U.S. foreign economic assistance should attempt to increase the amount of aid going to the world's poorest nations and to focus that aid more directly on the poorest people in those countries through such programs as food and nutrition, population planning, health, and agricultural assistance to small farmers. This philosophy of economic assistance was enunciated initially by the Congress in the Foreign Assistance Act of 1973 (Public Law 93–189) which substantially reformed U.S. foreign aid policy.[1]

Substantive changes contained in the 1975 act include a requirement that at least 75 percent of Public Law 480 food sold abroad go to those countries with a per capita gross national product of $300 or less, and a directive that two-thirds of the funds authorized for population planning and health programs be used directly in population activities. In addition, the act urged the President to negotiate for an international system of food reserves, increased emphasis on disaster assistance funding and assistance to countries in meeting their energy requirements, and required the President to submit to Congress an assessment of global food production, the steps being taken by other countries to increase their food assistance, and the relationship of U.S. aid to that of other countries. (Additional specific items in Public Law 94–161 are discussed in other sections of this report: See human rights and Africa sections in particular.)

Both the House International Relations and the Senate Foreign Relations Committees initiated a new procedure for consideration of H.R. 9005, conducting simultaneous hearings and markup during open sessions, with representatives of executive agencies and other witnesses available for direct questioning during the markups.

The extremely large majority for passage of the foreign aid authorization in the House (244–155) would seem to indicate a degree of support in the body for economic assistance that has been absent for several years. Some concern has been expressed that the separation of economic aid from military aid would jeopardize the passage of both. Clearly, this was not the case. The passage of the "new directions" reforms in 1973, and the increasing awareness of Congress of the nature of these changes, seems to have been a major element of the support received in the House. The changes made in Public Law 480 policy this year also were very widely supported. In the Senate, the same factors contributed to a 12-vote increase in the margin favorable to passage compared to the vote on last year's foreign aid authorization.

Probably the most significant factor in the passage of this year's foreign aid authorization was the dominant role that Congress played in drafting the final legislation. Of the three titles in H.R. 9005, titles I and II were almost entirely the result of congressional initiative. Like the congressionally initiated "new directions" in 1973, the changes

---

[1] For more detailed discussion of these reforms, see:
U.S. Congress, House:
Committee on Foreign Affairs. Mutual Development and Cooperation Act of 1973. H. Rept. No. 93–388. July 20, 1973. U.S. Government Printing Office., 1973 and
Committee on International Relations. Implementation of "New Directions" in Development Assistance. (Committee print) U.S. Government Printing Office, July 22, 1975. 86 pp.

made this year in Public Law 480 policy, and to a lesser extent the consolidation of disaster assistance legislation, were designed to reorient U.S. aid policy in a direction which is supported by large congressional majorities.

1975 Foreign Assistance Act Legislative History

May 15, 1975—President Ford submitted $1.51 billion fiscal year 1976 and $1.45 billion fiscal year 1977 foreign economic assistance request to Congress. H. Doc. 94–158.
Aug. 1, 1975—House International Relations Committee reports out H.R. 9005, the International Development and Food Assistance Act of 1975. H. Rept. 94–442.
Sept. 10, 1975—H.R. 9005 passed by House, 244–155
Oct. 1, 1975—Senate Foreign Relations Committee reported out H.R. 9005. S. Rept. 94–406.
Oct. 28, 1975—H.R. 9005 favorably reported by Senate Agriculture and Forestry Committee. S. Rept. 94–434.
Nov. 5, 1975—H.R. 9005 passed by Senate, 54–41.
Dec. 4, 1975—Conference report filed. H. Rept. 94–691. Senate agreed to conference report by voice vote.
Dec. 9, 1975—House approved conference report, 265–150.
Dec. 20, 1975—Measure signed into law. Public Law 94–161.

Foreign aid appropriations

Because of the late passage of the 1974 foreign assistance authorization, final congressional approval of a fiscal year 1975 foreign assistance appropriation was not forthcoming until March 1975, close to the end of the fiscal year. The measure eventually reported and passed (H.R. 4592, Public Law 94–11) appropriated $3.67 billion in economic and military assistance for the year, $2.1 billion less than authorized, and 40 percent below the administration's budget request. Substantial cuts were made in nearly all programs, with the exception of security supporting assistance and the Middle East special requirements fund, which were funded at the same level as they had been in fiscal year 1974.

Summary of Major Provisions of Public Law 94–11, Fiscal Year 1975 Foreign Assistance Appropriation Compared With Amounts Appropriated for Fiscal Year 1974

[In millions of dollars]

	Fiscal year—	
	1975	1974
Title I:		
Food and nutrition	$300	$500
Population planning and health	125	165
Education and human resources	82	92
Selected development problems	37	53
Selected countries and organizations	30	39
Indochina postwar reconstruction	440	617
Middle East Special Requirements Fund	100	100
Security supporting assistance	660	660
Military assistance	475	600
Title II: Foreign military credit sales	300	405
Title III:		
Peace Corps	77	76
Refugee assistance	148	174
International financial institutions	619	788

The very lukewarm support for the appropriation was probably due to several factors. Among the most prominent were concern over the recession and the very large projected Federal budget deficits for fiscal years 1975 and 1976; a reluctance to provide any further aid to South

Vietnam and Cambodia; and the feeling by many that the funds could better be used in this country. In addition, some Members indicated that too much attention in the aid program was devoted to political and economic considerations and not enough to humanitarian considerations.

Fiscal year 1976 foreign assistance appropriations were also delayed; H.R. 12203 was reported by the House Appropriations Committee on March 1, 1976 (H. Rept. 94–857), and passed by the House on March 4. As passed by the House, the bill provides a foreign assistance appropriation of $4.98 billion, $1.3 billion above the fiscal year 1975 measure, and $775 million below the administration request, with a large part of the increase attributed to Middle East programs. The measure was passed by the Senate on March 23, 1976 (S. Rept. 94–704) and a conference report (H. Rept. 94–1006), has not been approved in both Houses as of this writing.

FISCAL YEAR 1975 FOREIGN ASSISTANCE APPROPRIATION LEGISLATIVE HISTORY

Feb. 20, 1975—House Appropriations Committee reports out House Joint Resolution 219 to continue foreign assistance funding through March 31, 1975. H. Rept. 94–16.

Feb. 28, 1975—House passed House Joint Resolution 219. House Joint Resolution 219 passed by Senate, amended to eliminate funds for AID and other foreign aid programs as a demonstration of Senate dissatisfaction with repeated funding of foreign assistance through continuing resolutions.

Mar. 6, 1975—Conference committee on House Joint Resolution 219 agreed to extend funding through March 25, with understanding that fiscal year 1975 foreign assistance appropriation would be reported out promptly. H. Rept. 94–44.

Mar. 11, 1975—House Appropriations Committee reported out H.R. 4592, fiscal year 1975 foreign assistance appropriation. H. Rept. 94–53.

Mar. 13, 1975—H.R. 4592 passed by House, 212–202.

Mar. 17, 1975—H.R. 4592 reported by Senate Appropriations Committee. S. Rept. 94–39.

Mar. 19, 1975—H.R. 4592 passed by Senate, 57–40.

Mar. 24, 1975—House and Senate agreed to conference report on H.R. 4592. H. Rept. 94–108.

Mar. 26, 1975—Measure signed into law. Public Law 94–11.

Security assistance legislation

On October 30, 1975, 5½ months after the original submission of the administration's request for the 1975 Foreign Assistance Act, the President sent to Congress a message and draft legislation for the security assistance programs. Asserting that the delay had been due to the administration's review of Middle East policy and the rapidly changing events in Indochina, the President proposed a security assistance package of $3.4 billion, which would finance a $4.6 billion program. There were no major policy changes proposed except for the addition of a new section on military training and the repeal of part V, Indochina Postwar Reconstruction, of the Foreign Assistance Act.

By program, the President's request was broken down as follows:

	Thousands
Military assistance program	$409,000
Security supporting assistance	1,800,000
Foreign military credit sales	2,324,000

The largest portion of the request, some $3.4 billion, was intended for four Middle East countries: Israel, $2.2 billion in foreign military credit sales and security supporting assistance; Egypt, $750 million in security supporting assistance; Jordan, $250 million in military as-

sistance, foreign military credit sales, and security supporting assistance; and Syria, $90 million in security supporting assistance. In other areas, significant amounts were requested for Greece ($225 million), Turkey ($205 million), and South Korea ($200 million). Portugal was programed for $55 million in security supporting assistance.

The response in Congress to the security assistance request was mixed. In the recent past, congressional concern over U.S. arms aid has been directed mostly at the grant military assistance program. With the continuing increase in foreign military credit sales, some Members of Congress have questioned all U.S. arms transfers, whether by grant, credit, or cash. Because many of those who favored cutting military aid significantly at the same time supported the $2.2 billion request for Israel, the exact legislative impact of their general opposition to military aid is difficult to assess. In the Senate, S. 2662, submitted by Senator Humphrey on November 13, 1975, contained many provisions advocated by opponents to military aid. Among its most significant provisions, it would abolish the military assistance program, except for training, by the end of fiscal year 1976; prohibit military aid to any country that discriminated against U.S. arms sellers on the basis of race, religion, national origin, or sex; create a process whereby Congress could disapprove of any arms transfer exceeding $25 million; and create a process whereby the President or Congress could designate a country ineligible for any form of military aid.

At the adjournment of Congress in December 1975, no security assistance bill had been reported in either House.[2]

Inter-American Development Bank and African Development Fund

The House of Representatives indicated its support for multilateral as well as bilateral foreign assistance in 1975 when it passed H.R. 9721, the Inter-American Development Bank (IDB) and African Development Fund (AFDF) Act of 1975. The measure authorizes $2.25 billion as the U.S. share of a replenishment of IDB funds and $25 million subscription to the AFDF, the first U.S. participation in that Fund. The $2.25 billion IDB authorization would require congressional appropriation of $1.32 million and cash outlay of $720 million over the next 4 years. The U.S. share of the capital increase is broken down among the various IDB funds as follows:

[In millions of dollars]

	Fiscal year—				
	1976		1977 approximation	1978 approximation	1979 approximation
	Authorization	Appropriation			
Total IDB	$2,250	$240	$440	$440	$200
Fund for special operations	600	(1)	200	200	200
Capital shares	1,650	240	240	240	0
Interregional callable	930	0	0	0	0
Interregional paid-in	120	40	40	40	0
Ordinary callable [2]	600	200	200	200	0

[1] The administration is requesting $275,000,000 in fiscal year 1976 to complete the U.S. commitent under 1970 IDB replenishment.

[2] Callable ordinary capital requires a congressional appropriation but does not involve an actual budgetary cash outlay. It is used by the bank as collateral.

[2] S. 2662 (S. Rept. 94-601, Jan. 30, 1976) was passed by the Senate on Feb. 18, 1976. H.R. 11963 (H. Rept. 94-848, Feb. 24, 1976), the House version of the fiscal year 1976 foreign military assistance measure, was passed by the House on Mar. 3, 1976.

Two amendments were added to H.R. 9721 during floor debate, The first is consistent with language in the International Development and Food Assistance Act of 1975 (Public Law 94–161) and directs the U.S. Governor to the IDB to vote against assistance to any country engaging in a consistent pattern of gross violations of human rights; the second instructs the U.S. Executive Director to the IDB to propose a resolution which would make intermediate technologies major facets of the Bank's development strategy and to report to the Congress on the progress of this resolution.

The large majority of House Members favoring final passage of H.R. 9721 (249–166) came as a surprise to both supporters and opponents of the bill. One factor may have been that it immediately preceded the lopsided House vote to accept the conference report on H.R. 9005, the International Development and Food Assistance Act of 1975. In any case, it seems clear that the comment of the bill's floor manager that H.R. 9721 reflects the House Banking and Currency Committee's view that U.S. foreign economic assistance efforts should emphasize multilateral as well as bilateral channels applies equally to the whole House.

INTER-AMERICAN DEVELOPMENT BANK AND AFRICAN DEVELOPMENT FUND
LEGISLATIVE HISTORY

Oct. 8, 1975—H.R. 9721 reported by the House Banking and Currency Committee, authorizing a $2.25 billion U.S. contribution to the Inter-American Development Bank replenishment and a $25 million U.S. contribution to the African Development Fund. H. Rep. 94–541.

Dec. 9, 1975—House passed H.R. 9721, 249–166.

Mar. 1, 1976—H.R. 9721 reported by the Senate Foreign Relations Committee. S. Rept. 94–673.

Mar. 30, 1976—Senate passed H.R. 9721.

May 11, 1976—Senate agreed to conference report. H. Rept. 94–1121.

May 20, 1976—House agreed to conference report.

May 31, 1976—Approved by President. Public Law 94–302.

*Indochina assistance**

Congress' decision in 1975 to reject the administration's request for additional military assistance to South Vietnam and Cambodia completed a 2-year period of decline in congressional support for American military aid to the non-Communist states of Indochina. Congressional cuts in military aid in fiscal years 1973 and 1974 pointed up the growing differences between the administration and Congress over the nature and scope of the American commitment to the Governments in Saigon, Phnom Penh, and Vientiane in their conflicts with Communist forces. Public opinion polls indicated that the American people increasingly favored the position held by the congressional opponents of aid.[3]

Congressional sentiment against new military aid hardened with the advent of 1975 despite two developments. First were the numerous press reports, beginning in the summer of 1974, that cuts in military aid had seriously affected South Vietnam's military capabilities by creating shortages of spare parts for aircraft and artillery and short-

* Prepared by Larry Niksch, analyst in Asian affairs.

[3] For example, a Gallup poll conducted in January 1973 immediately following the signing of the cease-fire agreement found that 50 percent of the American people opposed military aid to South Vietnam in the event North Vietnam launched an offensive; 38 percent favored aid under those circumstances.

ages of ammunition.[4] The second development was the appearance of signs that North Vietnam was preparing a major offensive against South Vietnam in 1975.[5] In January 1975, the North Vietnamese launched a large-scale attack in Phuoc Binh Province and seized the Province. High ranking Communist officials since have disclosed that the purpose of the Phuoc Binh offensive was to test the South Vietnamese Army and the reaction of the United States.[6]

Simultaneous with the Phuoc Binh offensive was the increasingly eroded military position of the Cambodian Government's Army. By early January, Khmer Rouge Forces had cut all land supply routes into Phnom Penh and had made increasingly difficult the U.S.-directed effort to supply the capital by way of Mekong River convoys.

On January 28, 1975, President Ford requested supplemental fiscal year 1975 military aid appropriations of $300 million for South Vietnam and $222 million for Cambodia. He stated on February 9 that he was willing to work out with Congress a plan to terminate all military and economic aid to South Vietnam after 3 years. However, the House Democratic Caucus voted 189 to 49 on March 12 against any new military aid to South Vietnam and Cambodia for fiscal year 1975. The Senate Democratic Caucus followed suit on March 13 by voting 38 to 5 against additional aid to Cambodia and 35 to 6 against aid to South Vietnam.

The deteriorating situation of the Khmer Republic prompted Congress to deal first with the request for Cambodia. The Senate Foreign Relations Committee reported a bill on March 21 (S. 663, S. Rept. 94–54) which authorized $155.4 million in supplemental military and economic assistance ($82.5 million in military aid) for Cambodia. The bill prohibited further aid after June 30, 1975. However, the House International Relations Committee voted on March 15 to adjourn for the Easter recess without acting on a bill put forth by its Subcommittee on Special Investigations. Moreover, the administration asserted that it could not accept legislation that would cut off aid after June 30, because such a prohibition would end any possibility of negotiations. However, by early March, senior analysts in the Defense Department and the CIA reportedly gave the Khmer Republic little chance of survival, and CIA Director William Colby reportedly expressed this

[4] Senator Sam Nunn stated in a February 1975 report on his inspection trip to South Vietnam that congressional cuts in aid were responsible for the shortages which, in turn, had a "negative psychological effect" on South Vietnamese Forces. Representative Paul McCloskey also cited a relationship between aid levels and ammunition shortages in reporting on his February 1975 visit to South Vietnam (see Congressional Record, Mar. 14, 1975: E1183–E1187). Both Nunn and McCloskey noted that the South Vietnamese had been trained in American tactics with heavy emphasis on the use of airpower, artillery, and armor, thus necessitating high levels of outside military aid. In a series of articles published in April 1976, North Vietnam's Chief of Staff, Gen. Van Tien Dung, stated that congressional aid cuts had resulted in a 60-percent reduction in South Vietnamese firepower and a 50-percent reduction in South Vietnamese mobility.

[5] In October 1974, the Vietnamese Communists escalated their conditions for negotiations with the South Vietnamese Government, demanding President Thieu's resignation as a precondition for talks to resume. In late December 1974, a Soviet mission headed by the Russian Armed Forces Chief of Staff visited Hanoi and reportedly pledged a four-fold increase in Soviet military aid to support an offensive (see Robert Shaplen's "Letter from Saigon" in the New Yorker, Apr. 21, 1975). Also in December, North Vietnam's Defense Minister Vo Nguyen Giap, in two major speeches, described the balance of forces in Vietnam as increasingly favorable to the revolution because of the decline of morale and combat effectiveness of the South Vietnamese Forces and the "political confusion and a weakened political position" of the United States. In his April 1976 series of articles, North Vietnam's General Dung disclosed that the Hanoi Politburo believed as early as October 1974 that the United States would not intervene against a North Vietnamese offensive in the South because of its "internal contradictions," particularly President Nixon's resignation and the economic problems.

[6] Chanda, Nayan. "Suddenly Last Spring." Far Eastern Economic Review, v. 89, Sept. 12, 1975: 35. This article is based on interviews with leading Communist officials in South Vietnam.

pessimistic view to the House Committee on Special Investigations on March 10.[7]

On March 10, North Vietnamese Forces launched major attacks in the central highlands of South Vietnam. On March 18, President Thieu ordered a general withdrawal from the northern provinces of military regions I and II, but the withdrawal quickly became a disorganized disintegration of South Vietnamese forces in the north. By the end of the first week in April, six of South Vietnam's 13 combat divisions had ceased to function, and North Vietnam controlled approximately two-thirds of South Vietnam and had some 300,000 regular troops in the country.

Congress reconvened from its Easter recess on April 7 faced with the critical situation in South Vietnam and strong public sentiment against new military aid to South Vietnam and Cambodia. A Gallup poll of March 9 and a Harris poll of April 10 showed respectively 78 and 75 percent of the American people opposed to President Ford's aid requests.

On April 10, President Ford put forth a revised proposal for aid to South Vietnam: $722 million in military assistance and $250 in economic assistance for the remainder of fiscal year 1975. Bills were introduced in the House and Senate to increase the total authorization of military aid from $1 billion to $1.2 billion (S. 1451) and $1.42 billion (H.R. 5929). Neither bill was reported out of committee.

After April 15, administration officials acknowledged that the military situation in South Vietnam was untenable but argued that additional military aid might contribute to a negotiated transfer of power to the Communists rather than a total North Vietnamese military victory. However, the surrender of the Khmer Republic on April 17 and the bleak military prospects for South Vietnam prompted Congress to attempt legislation for humanitarian assistance and evacuation of Americans and South Vietnamese from South Vietnam. The House and Senate passed separate bills on April 23 (S. 1484 and H.R. 6096) that authorized $150 million for evacuation and humanitarian assistance and granted the President limited authority to use U.S. Armed Forces to evacuate American citizens and certain categories of Vietnamese. On April 25, conferees approved a report (S. Rept. 94–97) providing $327 million in refugee, evacuation, and humanitarian aid, and retaining the Senate bill's evacuation authority. However, before a vote could be taken on this measure, South Vietnam surrendered to the Communists on April 30; and President Ford sent American troops into the Saigon area to assist in evacuation. On May 1, the House rejected the conference report, thus killing the bill.

Shortly after South Vietnam's surrender, the Communist Pathet Lao took effective control of the Government of Laos. Anti-American demonstrations inspired by the Pathet Lao resulted in harassment of U.S. officials and seizure of some U.S. facilities. The United States and Laos agreed on May 27 to close the Agency for International Development mission in Laos and withdraw all employees. Reacting to this situation, Congress in June placed a provision in a continuing appropriations resolution for fiscal year 1976 (H.J. Res. 499, Public Law 94–41) that prohibited the use of any funds in the bill for financial aid to Laos, and also to North and South Vietnam and Cambodia.

---

[7] Lyons, Richard. "Colby Skeptical on Cambodia." Washington Post, Mar. 11, 1975. Getler, Michael. "Experts Fear Aid Too Late for Cambodia." Washington Post, Feb. 27, 1975.

Multilateral Economic Relations With Developing Countries*

In 1975, the United States participated in two major forums at which overall economic relations with the less-developed countries (LDC's) were the primary topic of discussion: The two energy producer-consumer preparatory conferences and the resultant Conference on International Economic Cooperation, and the Seventh Special Session of the United Nations General Assembly on Development and International Cooperation.

In the spring of 1975, Congress held hearings on U.S. preparations and the issues that were likely to be discussed at the Seventh Special U.N. General Assembly. Congressional advice on policy formulation was given to the administration during the summer, and a large congressional delegation attended the Special Session.

The short background which follows is included in order to understand the events which lead to the producer-consumer conferences and the Seventh Special General Assembly. A summary of Secretary Kissinger's speech to the Special Session is included because its proposals, if pursued seriously by the United States and accepted as the basis for concrete negotiations by the less developed countries, could form the agenda for the North-South economic discussions for the next several years.

Background

The year 1974 had been marked by major confrontations between the United States and LDC's on international economic matters. At the Sixth Special U.N. General Assembly on Energy and Development held in April and May, the General Assembly adopted a declaration and program of action on the establishment of a new international economic order, which had been proposed by the Group of 77, the more than 100 less developed countries so named because they numbered 77 when they first organized at the UNCTAD III conference in 1971. The acceptance of the Declaration and Program of Action on the Establishment of a New International Economic Order was due mainly to the cohesion of the LDC's, which had been strengthened by the lack of response of the developed countries to the Arab oil boycott and the OPEC oil price increases, and by the failure of the United States and the developed countries to provide any coherent opposition to the new international economic order proposals. The acceptance of the declaration and program of action was followed in December by the adoption of the Charter of Economic Rights and Duties of States at the 29th U.N. General Assembly by a vote of 120 in favor; 6, including the United States, opposed; and 12 abstentions.

In the New International Economic Order and the Charter of Economic Rights and Duties of States, the LDC's presented their concept of a completely new structure of economic relations between the developed and less developed countries. In the most significant provisions of these two sets of documents, the LDC's demands included:

(a) Full and permanent sovereignty over their raw materials and resources;

(b) Special access to developed country markets for their exports, including nonreciprocal tariff preferences;

(c) The creation of integrated commodity markets through,

* Prepared by Theodor Galdi, analyst in international relations.

among other mechanisms, commodity agreements and producers associations;

(d) Indexation of prices on raw material with those of manufactured goods;

(e) Increased automatic aid flows;

(f) Monetary reform, including a link between SDR's and new development aid;

(g) Greater participation by the LDC's in the affairs of the international financial institutions;

(h) Greater access to technology; and

(i) Stringent controls over multinational corporations.

In addition to opposing the adoption of important policy decisions by majority voting without opportunity for debate, the United States had opposed the New International Economic Order and the Charter of Economic Rights and Duties of States because of their nonmarket biases and because of the nonreciprocal nature of many of their provisions.

The Energy Producer-Consumer Conferences

It was against this background of LDC cohesiveness and militance that the energy producer-consumer preparatory conference was scheduled to take place in Paris from April 7 to April 16, 1975. The United States at that time was reluctant to attend such a conference because it felt that the bargaining position of the industrialized oil-consuming countries was particularly weak. Attendance at the preparatory conference was made conditional upon achievement of a three part energy program: the adoption of conservation and floor price policies by the International Energy Agency (IEA) and OECD acceptance of a standby $25 billion financial support fund to insure that industrialized countries would not encounter serious problems financing oil purchases.[8]

The preparatory conference adjourned without reaching final agreement on an agenda. Disagreement centered around the unwillingness of the developed countries to accede to LDC and oil-producing nation demands that the plenary conference consider a full range of development-related issues.[9] Following bilateral discussions with the French, other developed countries, oil producers, and LDC's a second preparatory conference was held in Paris on October 13–16. Agreement was reached on an aide-memoire drafted by France before the meeting. The aide-memoire stated that eight representatives of industrialized nations and 19 from LDC's should attend the conference, and that four commissions—on energy, raw materials, development, and financial affairs were to be established.

The Conference on International Economic Cooperation was held in Paris December 16–19, 1975. The United States was especially interested in six areas: the price of oil and the security of oil supply as they affected the world economy; the serious balance-of-payments problems of the LDC's; the conditions of international investment;

[8] The proposed policies were accepted by the IEA in February and March, and on April 9, all of the members of the OECD except Australia agreed to participate in the financial support fund

[9] The United States continued to oppose expanding the negotiations to include development issues for slightly less than four weeks following the collapse of the preparatory conference. On May 16, 1975, in a speech given to the Kansas City International Relations Council, Secretary of State Kissinger announced that the United States was prepared to attend a new preparatory meeting, and that U.S. thinking on the issue of raw materials, and the manner in which it could be addressed internationally had moved forward.

commodity issues, especially food; trade problems; and the pressing needs of the poorest LDC's.

The final communique of the conference reflected the terms of the French aide-memoire. Four commissions, each consisting of 15 members, were established. The United States and the European Community were represented on all four commissions, with the United States and Saudi Arabia assigned to be cochairman of the Energy Commission. The commissions were to begin their work on February 11, 1976. The subjects to be discussed by each of the commissions were not spelled out in the final communique.

Thus did 1975, a year which had started marked by intense confrontation and conflict between the United States and the LDC's, end on a note of tentative compromise. The total disagreement between the industrialized and less developed countries which had manifested itself at the April energy producer-consumer preparatory conference had been softened somewhat by the final resolution of the Seventh Special U.N. General Assembly. By the time of the Conference on International Economic Cooperation in December, there seemed to be a substantial decrease in rancor and an increased willingness to negotiate on the part of all parties. Whether the substantive points of difference between the United States and the LDC's, such as indexation, mandatory controls over multinational corporations, and multiple commodity agreements can be reconciled, still remains to be determined.

The Seventh Special United Nations General Assembly on Development and International Cooperation

Unlike the case of the Sixth Special U.N. General Assembly which had been called hurriedly into session by Algeria, planning for the Seventh Special General Assembly on Development and International Cooperation began during the 29th regular General Assembly session held at the end of 1974. A preparatory committee for the seventh special session met several times in March, April, May, and June of 1975.

At the May 2, 1975, meeting of the U.N. Preparatory Committee, the Group of 77 LDC's circulated a provisional list of specific areas for consideration at the special session. These were: International trade, transfer of real resources and monetary reform, science and technology, industrialization, and structural reform of the United Nations. The United States felt that this list was an advance over previous Group of 77 generalized demands for the immediate implementation of a new international economic order. In pursuing bilateral contacts with LDC's the United States suggested its own list of agenda topics. These were international commodity trade, international food needs, transfer of financial resources, problems with the poorer LDC's, and structural changes in the U.N. system.

(1) *Secretary of State Kissinger's Speech to the Seventh U.N. General Assembly.*—At the opening session of the Seventh Special General Assembly on September 1, 1975, U.S. Ambassador Moynihan read Secretary Kissinger's speech to the General Assembly—one of the most important and comprehensive presentations ever made by the United States to the United Nations. After the introductory portion, the speech set out five areas that the United States felt were fundamental to an effective development strategy: Ensuring basic economic security, accelerating economic growth, trade and development, commod-

ities, and assisting the poorest countries. Some 41 proposals were made for action to meet the demands of the Group of 77.

Under the heading, "Ensuring Basic Economic Security," Kissinger proposed the creation of a new development security facility in the IMF to stabilize the overall export earnings of the less developed countries, by making loans of up to $2.5 billion a year to sustain development programs in the face of export earnings fluctuations.

Under "Accelerating Economic Growth," Kissinger identified three basic requirements for accelerating the growth of LDC's: Providing better access of LDC's to capital markets, promoting the transfer of technology to them, and reaching an international consensus on the principles to guide the operations of multinational corporations. To meet the first of these requirements, Kissinger urged several policies:

(1) The expansion of the activities of the World Bank and the regional development banks;

(2) U.S. support for a major expansion of the International Finance Corporation, the World Bank affiliate charged with helping private enterprise in LDC's, and the creation of an International Investment Trust in the IFC to mobilize portfolio investments in LDC local firms; and

(3) The provision of U.S. expertise in helping LDC's ready to enter long-term capital markets.

In the area of technology transfer, Kissinger promised U.S. support for increased energy exploration and development through the creation of an International Energy Institute, and for greater food production through increased U.S. bilateral agricultural training; and for industrialization through creation of an International Industrialization Institute and an International Center for the Exchange of Technological Information.

Commenting on the role of multinational corporations, Kissinger said that the time had come for the international community to articulate standards of conduct for multinational corporations and for host country governments. Among the principles that should be agreed upon were: (*a*) Host countries should treat multinational corporations equitably, without discrimination, and in accordance with international law, (*b*) multinational corporations and host governments should both respect the contractual obligations they undertake, and (*c*) standards should apply not only to private enterprises but also to mixed and state-owned enterprises.

Under the heading, "Trade and Development," after observing that for the LDC's, trade was perhaps the most important engine of development, Kissinger outlined U.S. policy in this area:

(1) LDC's in their early stages of development should receive special treatment through a variety of means;

(2) The manufacturing sectors of the LDC's should be given greater opportunities through tariff preferences; in keeping with this, the U.S. Generalized System of Preferences was to be put into effect January 1, 1976;

(3) Nontariff barrier limitations should be adjusted to take into consideration the special circumstances of the LDC's;

(4) The United States was willing to work for early agreement on tariffs for tropical products, and to negotiate to permit certain subsidies for LDC products; and

(5) The United States was willing to join other participants in Geneva to negotiate changes in the current system of tariff escalation on raw materials whereby tariffs were lowest for unprocessed raw materials and highest on manufactures or other processed goods.

In return, the LDC's and the developed countries had an obligation to create a system in which no nation withheld or interfered with normal exports of raw materials.

In the section, "Commodity Trade and Production", Kissinger observed that exports of primary products were crucial to the incomes of the LDC's, and that both industrial and developing countries would benefit from more stable conditions of trade and an expansion of productive capacity in commodities. Kissinger restated the details of earlier U.S. proposals for the creation of a system of nationally held world food reserves, and indicated that the United States was ready to discuss new arrangements for individual commodities on a case-by-case basis. He recommended that a consumer-producer forum be established for every key commodity to discuss how to promote the efficiency, growth, and stability of its market. Kissinger announced that the United States was actively participating in negotiations on a coffee agreement, was willing to join in forthcoming cocoa and sugar negotiations, and was prepared to sign the international tin agreement. In addition, Kissinger stated that the United States would support liberalization of the existing IMF buffer stock financing facility, would support the role of the World Bank in a new international effort to expand raw material production in LDC's, and would contribute to and support the new United Nations revolving fund for natural resources in its encouragement of worldwide mineral exploration and development.

In the section of the speech, "The Poorest Nations", Kissinger discussed the particular needs of the poorest countries and concluded that their elemental economic security could be assured through adoption of proposals the United States had already made. These were: (1) The November 1975 U.S. offer to establish a $2 billion trust fund in the IMF for emergency balance-of-payments relief to the poorest countries, (2) creation of a development security facility in the IMF to deal with LDC balance-of-payments fluctuations due to unstable export earnings, and (3) U.S. programs designed to decrease the large food losses in LDC's due to inadequate storage facilities and from pests.

Finally, in the section, "The Political Dimension", Kissinger set out the principles he felt should govern the exercise of the responsibilities of the increased role sought by the LDC's in international institutions and negotiations.

(1) The process of decision should be fair. No country should have exclusive power in areas basic to the welfare of others. This principle was valid for oil as well as trade and finance.

(2) The methods of participation must be realistic. Only genuine consensus could generate action. The real diversity of interest among states should not be submerged by bloc discipline or in unrepresentative majorities.

(3) The process of decision should be responsive to change. While changes in relative economic power should be reflected in international institutions, continuing basic economic realities, such as the size of economies, participation in world trade, and financial contributions must carry great weight.

(4) Participation should be tailored to fit the issues at hand. The institutions and procedures chosen to deal with problems should be those appropriate for the size and nature of the problem.

He then made several recommendations for restructuring the United Nations to rationalize its fragmented assistance programs, streamline the Economic and Social Council, and develop a mechanism for independent evaluation of U.N. programs. He concluded his speech by observing that the steps to be taken were not limited by technical possibilities, but by political will.

(2) *The Final Resolution of the Seventh Special Session.*—The Kissinger speech, which received an initially favorable response from the LDC's, marked the beginning of 15 days of intensive negotiations on the text of the final resolution for the session, which was accepted by the United States only after extensive last minute negotiations, and after the United States entered reservations to certain sections.

Most of the language in the final resolution paralleled that of the New International Economic Order, with somewhat more ambiguity as to the exact mechanisms to achieve the measures proposed and the time periods to accomplish them. The one-sided responsibilities placed on the developed countries for improvement of the economic conditions of the LDC's remained, although many of the proposals in Kissinger's speech were incorporated into the final resolution. Several of the operational recommendations were to be developed in time for final decision at the May 1976 United Nations Conference on Trade and Development. An ad hoc committee was authorized to report on ways to make the U.N. system more capable of dealing with problems of international economic cooperation and development in an effective manner, responsive to the requirements of the New International Economic Order.

As previously noted, the United States submitted a statement of reservations to the final resolution. In the statement, Ambassador Myerson said that the United States joined in most of the specific undertakings of the final resolution and associated itself with its larger objectives, but did not accept several of its provisions.[10] Assistant Secretary of State Thomas Enders, who served as chief U.S. negotiator at the end of the session, stated that he believed that the final resolution " * * * was responsive to our needs as well as to the poor." [11]

---

[10] Specifically the United States maintained that it did not recognize that the world was embarked on the establishment of a new international economic order; opposed any manipulation of the terms of trade or a policy of indexation; did not believe that specific development aid targets would achieve their goal; did not support any link between the creation of new SDRs and development assistance; believed that decision making in international organizations should take due account of relative economic positions and contributions of resources; disagreed that the creation of a legally binding code of conduct for the transfer of technology was the path to pursue; and did not support those paragraphs of the final resolution relating to consultations by the U.N. Industrial Development Organization on a series of agreements concerning industrialization between the developed and less-developed countries.

[11] Washington Post, Sept. 17, 1975, p. A21.

Role of Congress

On May 19, 21, and July 8, 1975, the Subcommittee on International Organizations of the House International Relations Committee held hearings on the issues that were forthcoming at the Seventh Special Session of the U.N. General Assembly, and on what the expected United States response to these issues was likely to be.[12] The interest exhibited at these hearings and by other members of the International Relations Committee continued to be expressed during the summer both at meetings of committee members and high administration officials and through contacts of committee staff members with the Department of State.

On July 30, 1975, four members of the International Relations Committee, Representatives Fraser, Bingham, Whalen, and Biester sent a letter to Secretary of State Kissinger indicating that they hoped the United States attitude at the Seventh Special Session would be one of accommodation and compromise rather than of confrontation. The letter stated that the American position should avoid the defensive and negative attitude that had previously characterized U.S. policy toward the Third World.[13]

On August 19, 1975, Senators Humphrey, McGee, Percy, Clark, and Javits sent Secretary Kissinger a letter encouraging him to announce constructive U.S. initiatives at the Special Session which would address the concerns of the developing world. The Senators indicated that the current U.S. recession and the income distribution taking place as a result of the oil price increases made it politically unacceptable to advocate greater direct transfers of resources to the developing countries.[14]

On October 13, 1975, the congressional advisers to the Seventh Special Session (Senators McGee, Javits, Clark, Humphrey, Morgan, Gravel, Glenn, Percy, Dole, Domenici, Bellmon, and Packwood, and Representatives Diggs, Obey, Green, Buchanan, Whalen, Biester, Fraser, and Burke) issued a report on their activities.[15] In it the advisers indicated their support for Secretary Kissinger's proposals, and for the final outcome of the session as a step toward bridging the gap separating the rich and poor of the world. In concluding their report, the congressional advisers urged: (1) That the executive branch give the U.N. system the priority in foreign consideration it deserved, (2) that the success of the Seventh Special Session in creating a positive dialogue and an atmosphere of negotiation on North/South issues be carried forward in the U.N. system, the energy producer-consumer conferences and other forums, (3) that the executive branch be receptive to congressional advice during the process of foreign policy formulation, and congressional participation in international conferences and (4) that Congress give prompt and full consideration to the initiatives taken by the executive branch in this area.

---

[12] U.S. Congress. House: Committee on International Relations. Subcommittee on International Organizations. Issues at the Special Session of the 1975 U.N. General Assembly. Hearings. 94th Cong., 1st sess. May 19, 21, and July 8, 1975. Washington, U.S. Government Printing Office, 1974. 274 pp.

[13] National Journal, Oct. 25, 1975, p. 1482.

[14] Ibid., pp. 1482, 1489.

[15] U.S. Congress. House: Committee on International Relations. Senate. Committee on Foreign Relations. Report by Congressional Advisers to the Seventh Special Session of the United Nations. Washington, U.S. Government Printing Office, 1975. 67 pp. At head of title: 94th Cong., 1st sess. Joint Committee Print.

While no Members of Congress attended the Conference on International Economic Cooperation, staff members from the House Banking and Currency, House International Relations, and Senate Foreign Relations Committees attended. The House International Relations Committee issued a committee print,[16] which examined the progress that had been made and the likely direction that the four commissions would take.

---

[16] U.S. Congress. House: Committee on International Relations. North-South Dialogue. 94th Cong. 2d sess. Committee Print. Washington, U.S. Government Printing Office, 1976. 21 pp.

CONGRESS AND THE INTERNATIONAL ECONOMY

International Monetary Affairs*

During 1975, the international monetary system showed its ability to deal with large flows of petrodollars; and steps were taken to make needed reforms in the system. Three issues of monetary reform that were resolved in 1975 were of concern to Congress: (1) The place of floating exchange rates in the IMF regime, (2) the future monetary role of gold, and (3) the revision of IMF quotas.[1] Throughout 1975, Secretary of the Treasury Simon and other administration officials kept Congress informed of the U.S. position and the status of negotiations on international monetary reform.

Appropriate congressional committees considered the problems actively and issued reports and statements in response to executive branch positions, but accomplished little in terms of seeing their views adopted by either the executive branch or the IMF. No legislation was involved in 1975; the Congress will be requested to authorize and appropriate funds to provide for the increase in United States IMF quotas in 1976.

Following joint hearings in July of the Subcommittee on International Trade, Investment, and Monetary Policy of the House Banking and Currency Committee and the Subcommittee on International Economics of the Joint Economic Committee, the two subcommittees issued a joint report.[2] Three of its recommendations are of immediate interest. First, the subcommittees strongly supported the position of Treasury Secretary Simon on exchange rates.[3] They recommended that the floating exchange rate system require no official IMF sanction and that the IMF Articles of Agreement be modified to make either floating or fixed rates equally acceptable policies. The second recommendation was that intervention in exchange markets should take

---

*Prepared by Theodor Galdi, analyst in international relations.

[1] The Sixth General Review of quotas had been scheduled by the International Monetary Fund in 1970 to be completed by February 1975. However, the increase in economic power of the major oil exporting countries, the demands of the less developed countries for increased automatic access to the Fund, and the redistribution and relative reduction in the share of total quotas among the major industrialized countries all caused difficulties that were not finally resolved until just before the IMF annual meeting which began on Sept. 1, 1975. At that time, it was agreed that the total of all quotas in the Fund was to be raised 32.5 percent, to SDR 39 billion ($46.3 billion at the time of the annual meeting). The United States' share of the increased total declined to 20 percent from the previous 24 percent. An amendment to the IMF articles was also negotiated which would require 85 percent instead of the previous 80 percent of the votes of members to adopt decisions of the Fund on important matters. This effectively retained the veto held by the United States in spite of its decreased quota.

[2] U.S. Congress. House: Committee on Banking and Currency. Subcommittee on International Trade, Investment and Monetary Policy, and Joint Economic Committee. Subcommittee on International Economics. Exchange Rate Policy and International Monetary Reform. 94th Cong., 1st sess. Committee Print. Washington, U.S. Government Printing Office, 1975. 11 pp.

[3] After the institution of floating exchange rates by the United States in February 1973, the official U.S. position favored a continuation of the system. Treasury Secretary Simon had repeatedly stated, including at the joint hearing, that the United States continued to favor flexible exchange rates and that he foresaw no circumstances in the immediate future which would justify a return to fixed rates. On the other hand, the French had adamantly opposed the floating rate regime from the beginning and favored the reinstatement of the previous fixed rate system.

place only to combat or prevent the emergence of disorderly conditions. Intervention was not to attempt to influence the trend of exchange rate movements. These two recommendations and the strong support given to the administration's position were extremely important during the negotiations on the continuation of floating exchange rates.[4] In fact, the final configuration of the exchange rate compromise was almost exactly what had been recommended by the subcommittees.

The subcommittees' third recommendation, concerning gold, began what was to be a series of congressional disagreements over the direction that IMF policy on gold was taking.[5] Agreeing that the decisions to abolish the official price of gold and dispose of the Fund's holdings were entirely appropriate, the subcommittees recommended that the IMF adhere to an agreed schedule for disposal of the gold. However, the subcommittees took strong exception to the proposal to sell a portion of the Fund's gold for the benefit of the less developed countries. The basis for this opposition was the belief that the removal of gold from its monetary role should not be determined by the needs of the developing countries. The primary purpose of the gold sale should be reform of the international monetary system, not aid to the less developed countries. It was also feared that use of the profits from the sale in order to help the less developed countries could lead to a commitment by the IMF or its individual members to support a certain price or avoid sales that might depress the market below a certain level. The subcommittees concluded by recommending that U.S. gold sales should be based on a policy of converting this currently unproductive asset into a form yielding the maximum possible returns.

On September 17, 1975, the chairmen of both subcommittees took exception to the final gold sale decisions that had been made by the IMF.[6] Representative Henry Reuss stated that he was opposed to the gold sale plan because it was extremely inequitable and would reward the rich more than the poor. He also indicated that the plan would constitute a partial revaluation of the world's gold stock and thus did not clearly reduce the future role of gold in the international monetary system.[7]

Representative Thomas M. Rees took exception to the plan because it enhanced the possibility that gold, at its higher price, could once

---

[4] Final resolution of the conflict over exchange rates did not take place until the November 15–17 meeting of the heads of state of France, West Germany, Italy, Japan, the United Kingdom, and the United States at Rambouillet, France. There, President Ford and French President Giscard D'Estaing agreed to a system providing for a continuation of floating exchange rates but with a formal mechanism of regular consultation among finance ministers to allow intervention to prevent wide fluctuations in exchange rates. The language that eventually appeared in the new IMF article IV on exchange rates closely followed this agreement. In addition, the amended IMF article stated that any agreement to return to fixed exchange rates would have to be approved by an 85 percent vote of the members.

[5] At its January 1975 meeting, the Interim Committee of the IMF decided to move toward a complete phaseout of the monetary role of gold. In June it was decided that this phaseout would include abolition of an official price for gold and removal of any obligation under the IMF charter requiring the use of gold in transactions between members. The changes were designed to enhance the role of the special drawing right (SDR) as the central asset of the international monetary system. It was also agreed that a portion of the IMF's gold would be sold in the open market with the proceeds to be used for the benefit of the less developed countries.

[6] It had been announced at the IMF annual meeting that one-sixth of the Fund's gold, some 25 million ounces, would be sold in the open market with the difference between the open market price and the official price—the difference being about $100 an ounce at the time of the annual meeting—to be set aside for the benefit of the less developed countries in proportion to their quotas in the Fund. A second one-sixth of the Fund's gold was to be returned to the members in proportion to their quotas.

[7] Reuss, Henry S. The Golden Rule, IMF Style. Remarks in the House. Congressional Record [daily ed.] v. 121, Sept. 17, 1975 : H8776–H8778.

again become the central reserve asset in a new international monetary system. He saw five unfavorable consequences arising from the proposed sale: It would be highly inflationary; the benefits would accrue largely to the richer countries; the real value of the benefits received by the less developed countries would be reduced by the inflationary consequences of the growth of the money supply in developed countries; gold itself would become a much more important monetary asset; and special drawing rights, because of the large increase in liquidity caused by the increased gold prices, would be devalued as the central asset in the international monetary system.[8]

The issue was again raised by Representative Reuss on December 17, 1975 in a report by the Subcommittee on International Economics of the Joint Economic Committee on the proposed IMF gold sale.[9] Repeating his earlier contention that the gold sale would result in a windfall for the richer countries, he advocated that the proceeds from whatever gold was sold by the IMF be given entirely to the less developed countries. Significantly, three other members of the subcommittee, Senators Ribicoff and Taft, and Representative Rousselot, while objecting to the gold sale, disagreed with the Reuss position on the grounds that any changes in the role of gold should be kept separate from development aid questions, and any distribution of gold should be made on the basis of members' quotas in the Fund.

Finally, on December 24, 1975, following confirmation of reports that the Bank for International Settlements was to be used as the agent of the group of 10 industrialized countries to circumvent IMF rules forbidding central banks to purchase gold above the official $42 an ounce price, Representative Reuss indicated that in addition to violating IMF rules, this action would infringe congressional authority. He called upon Treasury Secretary Simon to postpone agreement on the gold sale until Congress had had a chance to review the matter. He warned that Congress would refuse to approve the entire monetary reform package if the gold agreement were not postponed.

On January 10, 1976, following agreement on the entire package of IMF reform proposals at Kingston, Jamaica, Secretary Simon indicated that Congress did not have to approve the gold sale since, in his opinion, gold belonged to the IMF and could be disposed of as the Fund chose. However, the gold price abolition, legalization of floating exchange rates, and the smaller U.S. quota in the Fund all would have to be ratified by Congress.

Foreign Investment Policy*

Foreign investment in the United States

Congressional action regarding control of foreign investments in the United States during 1975 included review of several reports from the executive branch on foreign investment activities in the United States, several hearings on issues raised by the growth of foreign investment in the United States, and study of issues involved in Arab

---

*Prepared by John Costa, analyst in international relations.

[8] Rees, Thomas M. Congressman Rees questions tentative IMF agreement on gold. Remarks in the House. Congressional Record [daily ed.] v. 121, Sept. 17, 1975: H. 8779–H. 8780.

[9] U.S. Congress. Joint Economic Committee. Subcommittee on International Economics. The Proposed IMF Agreement on Gold. 94th Cong., 1st sess., Joint Committee Print. Washington, U.S. Government Printing Office, 1975. 17 pp.

boycotts of U.S. industry. While no final action was taken in 1975, the concern of Congress with the growth of foreign investment in the United States was made evident, and groundwork was laid for possible legislative action during the second session of the 94th Congress.

Pursuant to the terms of the Federal Energy Administration (FEA) Act of 1974 (Public Law 93-275), and the 1974 Foreign Investment Act (Public Law 93-479), several reports were submitted to Congress in 1975. A "Report to Congress on Foreign Ownership, Control and Influence on Domestic Energy Sources and Supply."[10] in response to the 1974 FEA Act, notes that while data on foreign investment is collected by many agencies and departments within the Government, there are no data collection activities oriented specifically toward foreign investment, and that comprehensive improved data collection will be required for such an analysis. These findings were also substantiated by a Joint Council on International Economic Policy/Office of Management and Budget (CIEP/OMB) report,[11] pursuant to the 1975 Foreign Investment Act. The FEA report also notes that while foreign participation in our domestic energy industries is small, it is growing at a faster rate than foreign investment in the rest of the economy.

In October 1975, the Treasury and Commerce Departments issued their respective interim reports on foreign direct portfolio investments in the United States.[12] In addition to these congressionally mandated reports the Congress held extensive hearings in 1975 on foreign investment in United States. The House International Relations Subcommittee on International Economic Policy requested information and data on foreign investment in the United States, and a progress report on the foreign studies, in conjunction with its review of authorizing legislation for the President's Council on International Economic Policy (CIEP). A summary of the committee staff findings was published in the hearing.[13]

A similar review of foreign investment in the United States was also undertaken before the Subcommittee on International Trade, Investment and Monetary Policy of the House Committee on Banking, Currency and Housing.[14] In conjunction with the congressional review, CIEP submitted to the Congress a joint CIEP/OMB study, as the first by the Government "to identify individual foreign investors" and to highlight the reporting requirements of the regulatory agencies which collect data on an individual company and transaction basis.[15]

---

[10] U.S. Federal Energy Administration. Office of International Energy Affairs. Report to Congress on: Foreign Ownership Control and Influence on Domestic Energy Sources and Supply. Washington, U.S. Government Printing Office, 1974. 80 pp.

[11] U.S. Council on International Economic Policy/Office of Management and Budget. U.S. Government Data Collection Activities With Respect to Foreign Investment in the United States. March 1975. Washington, U.S. Government Printing Office, 1975. 300 pp.

[12] U.S. Department of Treasury. Interim Report to Congress on Foreign Portfolio Investment in the United States. U.S. Government Printing Office. 1975. 110 p.; U.S. Department of Commerce. Interim Report to Congress on Foreign Direct Investment in the United States. Washington, U.S. Government Printing Office, 1975. vol. 1, 103 pp., vol. 2, appendices.

[13] U.S. Congress. House: Committee on International Relations. Subcommittee on International Economic Policy. Authorization legislation for and the operations of the Council on International Economic Policy. Hearings. 94th Cong., 1st. sess. Apr. 15, 1975. Washington, U.S. Government Printing Office, 1975. pp. 33-39.

[14] U.S. Congress. House: Committee on Banking, Currency and Housing. Subcommittee on International Trade, Investment and Monetary Policy. Foreign Investment in the United States. Hearings, 94 Cong., 1st sess., Washington, U.S. Government Printing Office, 1975. 216 pp.

[15] U.S. Council on International Economic Policy/Office of Management and Budget, op. cit., pp. 1-6.

Amidst growing national concern over foreign investments in the United States, a number of bills were introduced in 1975 to limit such investments. S. 425, sponsored by Senator Harrison Williams, the Foreign Investment Act of 1975, proposes to amend the Securities Exchange Act of 1934:

> To require notification by foreign investors planning to acquire more than 5 percent of the equity in United States Companies and, if the assets of such company exceed $1,000,000, requires that such notification be given at least 30 days before acquisition.

It further: (1) authorizes the President to prohibit such acquisition as appropriate for the national security, to further the foreign policy, or to protect the domestic economy of the United States; and (2) requires issuers of registered securities to maintain and file with the Securities and Exchange Commission (SEC) a list of names and nationalities of the beneficial owners of their equity securities. The bill was referred to the Senate Committee on Banking, Housing, and Urban Affairs.

The Ford administration revised its policy on foreign investment in the United States, as Congress called for more statutory restrictions. President Ford signed Executive Order 11858 on May 7, 1975, creating a high-level interagency committee, the Foreign Investment Committee (FIC), chaired by the Under Secretary of the Treasury, to monitor foreign investment in this country. The committee will track the impact of foreign investment in the United States and coordinate U.S. policy toward foreign investors. It is also hoped that the monitoring system will help guide foreign governments on any major investments they plan to make in the country.

The momentum for restrictions on foreign investments in the United States was intensified with further disclosures of: (1) The Arab boycott of American firms trading with Israel; and (2) the boycott of American companies owned by Jews or employing Jews. In particular, in early 1975 allegations were made that several U.S. companies and Government agencies, the Army Corps of Engineers in particular, were supporting indirectly the Arab boycott of Israel by discriminating against Jews in hiring for jobs in Saudi Arabia. Press reports suggested that Arab States and Arab-owned companies refused to join international financial consortia which involved Jews, "Jewish-owned" companies, or companies on the boycott list. Others expressed fears that Arab oil money invested in the United States companies would both weaken U.S. control over its economy and lead to discriminatory practices by Arab-controlled companies.

In response to these disclosures, Senator Stevenson introduced S. 953 on March 5, 1975, in order to strengthen the antiboycott provisions of U.S. law. S. 953 was referred to the Subcommittee on International Finance along with S. 425, the 1975 Foreign Investment Act, for hearings.[16] On November 7, 1975, the International Finance Subcommittee agreed to recommend to the full committee a composite bill containing features of S. 953 and S. 425. On December 17, 1975, the full commit-

[16] U.S. Congress, Senate: Committee on Banking, Housing and Urban Affairs, Subcommittee on International Finance, Foreign investment and Arab boycott legislation, Hearings, 94th Cong., 1st sess. July 22 and 23, 1975. Washington, U.S. Government Printing Office, 1975. 413 pp.

tee agreed to the subcommittee report. The bill was filed with the Senate on February 6, 1976.[17]

As recommended, title I of S. 953 is to strengthen U.S. law against foreign boycotts and to reduce their domestic impact. In particular, the bill (1) prohibits U.S. firms from furnishing any information regarding the race, religion, or national origin of its employees, shareholders, or directors or similar information on any other U.S. company; (2) prohibits U.S. firms from refusing to do business with other blacklisted firms; and (3) requires semiannual reports to Congress on actions taken by the executive branch to implement antiboycott policies.

Title II of S. 953 would establish methods for identifying the extent of ownership in U.S. companies. Since 1960, foreign investment in the United States has grown at a rate of $600 million a year.[18] Although reserving "broad discretion" to the Securities and Exchange Commission (SEC) for establishing reporting procedures, the committee would require (1) the residence and nationality of persons acquiring more than 5 percent of any registered equity security of a U.S. company; (2) information as required by the SEC by persons having 2 percent or more interest in a U.S. company; and (3) reports by the SEC on August 1, 1976, and August 1, 1977, on implementation of new disclosure standards.

The Arab boycott, discrimination, and the related issue of foreign investment emerged as the subjects of still other congressional committees. The Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee, in particular, studied the impact of the Arab boycott on American industry. At a hearing of the subcommittee (Sept. 22) U.S. Secretary of Commerce Rogers C. B. Morton defied a congressional subpena requesting Commerce Department data on American businesses approached by the Arabs about cutting off trade with Israel. Morton said he was not legally obligated to provide the information. He cited an opinion by Attorney General Edward H. Levi that the Export Administration Act requires that such information remain confidential. A subcommittee move to cite the Secretary for contempt of Congress was averted when Morton agreed to release the reports to the committee on a confidential basis.

The Ford administration is opposed to S. 953 for two basic reasons: (1) The retaliatory nature of the legislation would not alleviate the Arab boycott, but would, instead, risk aggravating it; and (2) Arab nations would turn to other countries for supplies of goods and products, which would damage U.S. interests both domestically and in the Middle East. As an alternative, the Ford administration suggests that the United States promote closer economic ties with all Middle East nations to demonstrate the potential contribution of U.S. firms to their economies, increasing Arab awareness as to the "economic cost" of their boycott.[19]

In a related development, the Senate Foreign Relations Committee included a provision in the fiscal 1976 foreign economic aid authoriza-

---

[17] U.S. Congress, Senate: Committee on Banking, Housing and Urban Affairs. Foreign Boycotts and Domestic and Foreign Investment Improved Disclosure Acts of 1975: Report to Accompany S. 953, 94th Cong., 2d sess. S. Rept. 94-632. Washington, U.S. Government Printing Office, 1976. 33 pp.

[18] Ibid., p. 13.

[19] U.S. Congress, Senate: Committee on Banking, Housing and Urban Affairs. Subcommittee on International Finance. Foreign Investment and Arab Boycott Legislation, op. cit., pp. 2-9.

tion law (Public Law 94–161, sec. 666) to stop Arab discrimination of American Jews. The act prohibits the President from considering race, religion, national origin, or sex when assigning officers or employees to foreign countries.

On December 9 and 10, 1975, the Senate Foreign Relations Subcommittee on Multinational Corporations held hearings on the impact of foreign investment on the U.S. economy. The hearings followed the release of a subcommittee study which analyzes the long-term impact of massive capital exports on the basic structure of the domestic economy in order to understand the distribution of economic returns between capital and labor that results from foreign investment.[20]

Multinational corporations

Both the Subcommittee on International Economic Policy of the House International Relations Committee and the Subcommittee on Multinational Corporations of the Senate Foreign Relations Committee continued their studies of multinational corporations (MNC) activities in 1975. Hearings and reports focused on such topics as multinational oil corporations and U.S. foreign policy, including corporate political contributions to foreign countries, the Eurodollar operations of MNC's, and contributions of U.S.-owned corporations to foreign officials. Legislation was considered which would intensify the monitoring of MNC's activities abroad, as well as obtain certain kinds of information (H.R. 7539, H.R. 7563, H. Res. 1043, H. Res. 1099), and to urge the U.S. Special Representative for Trade Negotiations to work toward the development of a code of conduct for international trade (S. Res. 265). However, no substantive legislation was reported by either committee, whose principal contributions were informational.

From January to March 1975, the Senate Subcommitee on Multinational Corporations held hearings on "Political and Financial Consequences of the OPEC Price Increases."[21] The hearings focused on the following areas: The nature of the international oil crisis; the impact of recent oil price increases on international credit markets; the International Energy Agency (IEA) $25 billion financial solidarity fund; oil import financing; OPEC investments in the United States; the Arab League boycott of multinational corporations; and the outlook for petroleum consumption and prices.

The House International Relations Subcommittee on International Economic Policy focused on somewhat different aspects of multinational activities.[22] In hearings held in June, July, and September 1975, the subcommittee probed contributions by American corporations to foreign officials. The chairman of the subcommittee, Robert N. C. Nix, stated at the opening of the hearings:

* * * Charges that American corporations have maintained secret funds for the payment of gratuities to foreign government and political officials have been

---

[20] U.S. Congress, Senate: Committee on Foreign Relations, Subcommittee on Multinational Corporations. Direct Investment Abroad and the Multinationals: Effects on the United States Economy. Committee print. August 1975. Washington, U.S. Government Printing Office, 1975. 136 pp.

[21] U.S. Congress, Senate: Committee on Foreign Relations, Subcommittee on Multinational Corporations. "Multinational Corporations and United States Foreign Policy." Hearings, pt. 11, 94th Cong., 1st sess. Jan. 29, Feb. 5, 14, 20, 26, Mar. 11 and 18, 1975. Washington, U.S. Government Printing Office, 1975. 476 pp.

[22] U.S. Congress, House: Committee on International Relations, Subcommittee on International Economic Policy. "The Activities of American Multinational Corporations Abroad." Hearings, 94th Cong., 1st sess. June 5, July 17, 24, 29, Sept. 11, 18, and 30, 1975. Washington, U.S. Government Printing Office, 1975. 330 pp.

made and substantiated by the Securities and Exchange Commission and the Civil Aeronautics Board. Such payments to foreign officials are not a violation of American law at present, although they are very often a violation of foreign law. However, it is a requirement of the United States Code that American corporations make full disclosure of their assets and liabilities to the Securities and Exchange Commission, the Civil Aeronautics Board, and the Internal Revenue Service. It is also true that if the purpose of the payments was anticompetitive in intent, the Antitrust Division of the Department of Justice would have a basis to begin legal proceedings.[23]

The State Department opposes any legislation that would be directed to the behavior of U.S. citizens abroad, or relations with foreign officials, in particular. Such legislation would involve the United States in the surveillance of activities taking place in foreign countries, including the behavor of foreign officials, and would fundamentally intrude our moral veiews into a foreign culture.[24] In comments on the possible antitrust ramifications of these activities, Donald I. Baker, Deputy Assistant Attorney General of the Antitrust Division, Department of Justice, observed that:

> While bribery has not been explicitly at issue up to now in cases involving international trade * * * there is no logical reason why bribery of foreign officials may not be involved in future international activities which are the subject of antitrust litigation.[25]

In summer 1975 the Senate Subcommittee on Multinational Corporations also held hearings on "political contributions to foreign governments."[26] The investigation focused on the following areas: (1) The circumstances that led to corporate payments abroad; (2) the legality of these payments; and (3) whether companies that made corporate payments abroad have investments which are guaranteed, in whole or in part, by the U.S. Government. Primary focus of the hearing concerned overseas payments by Exxon, Gulf Oil, Mobil, Northrop, and Lockheed. The subcommittee was particularly concerned about alleged Lockheed Aircraft Corp. kickbacks to Saudi Arabian sales agents, as well as hiring these agents for political influence rather than for their expertise in selling aircraft to the Middle Eastern nations. According to Lockheed chairman Daniel J. Haughton: "Lockheed does not defend or condone the practice of payments to foreign officials," but rather, "the practice exists, and that in many countries it appeared, as a matter of business judgment, necessary in order to compete against U.S. and foreign competitors."[27]

In February 1976, the Senate Subcommittee on Multinational Corporations resumed its hearings on political contributions to foreign governments, revealing information detailing an extensive pattern of Lockheed payments to influential persons in Japan, Italy, the Netherlands, West Germany, and Turkey. As a result of the disclosures many of these countries began their own investigations. On March 3, 1976, the House amended the International Security Assistance Act of 1976 (S. 2662) to permit a cutoff of military aid to countries that extort or receive bribes from U.S. corporations doing business overseas.[28]

---

[23] Ibid., p. 1.
[24] Ibid., p. 24.
[25] Ibid., p. 88.
[26] U.S. Congress, Senate: Committee on Foreign Relations, Subcommittee on Multinational Corporations. Multinational Corporations and United States Foreign Policy. Hearings, part 12. 94th Cong., 1st sess. May 16, 19, June 9, 10, July 16, 17, and Sept. 12, 1975. U.S. Government Printing Office, 1975. 1175 pp.
[27] Ibid., p. 346.
[28] Pickle, J. J. International Security Assistance Act of 1976. Remarks in House. Congressional Record [daily edition] vol. 122, Mar. 3, 1976: H1560.

(At the time of this writing the House-Senate versions of S. 2662 have been referred to conference committee.) On March 28, 1976, President Ford announced the creation of a cabinet level task force to investigate the alleged misconduct of American corporations abroad.[29] In late 1975 the Senate agreed to Senate Resolution 265, stating the sense of the Senate that the Special Trade Representative for Trade Negotiations (STR) should develop a code of conduct in international trading. According to Senator Curtis:

> The basic thrust of the resolution is to express the resolve of the Senate that appropriate officials in the executive branch undertake to negotiate an international code to eliminate bribing, indirect payments, kickbacks, and other unethical or questionable practices which burden international trade * * * I submit * * *we are confronted here with an international problem requiring an international solution.[30]

Hearings were conducted in mid-1975 with respect to the domestic international sales corporation. At issue is continued Federal support of the controversial tax deferral privilege offered American companies that ship goods abroad. Companies with overseas subsidiaries are privileged to defer payment of taxes on their foreign earnings until and unless those earnings are repatriated in the form of dividends to U.S. stockholders. Critics maintain that the deferred payment, or so-called deferment, can become a permanent waiver of the tax payment. Supporters of the DISC program contend that the tax deferral benefits allowed stimulate U.S. exports and help create a favorable balance of international trade. They also argue that the tax break is needed to encourage exports as an alternative to relying on sales by foreign subsidiaries of American companies. Still others maintain that the DISC program should be maintained as a bargaining chip at the international trade negotiations now in progress in Geneva. On July 23 the House Ways and Means Committee heard these arguments and others from the representatives of major exporters on whether or not to alter the tax deferral benefits of the DISC system.[31]

In fall 1975 the Ways and Means Committee recommended curbing the authorities of the DISC system. In particular, the committee recommended: (1) Restricted use of existing provisions allowing a corporation to indefinitely defer taxes on 50 percent of income from exports through a DISC; (2) denied DISC benefits for exporting military equipment and agricultural products not in surplus in the United States after October 2, 1975; and (3) allowed DISC benefits to continue for 5 years on exports of natural resources and energy products under fixed price or fixed quantity contracts despite repeal of the benefit for such exports by 1975 tax cut legislation.[32] Whereas the House approved these controversial curbs to the DISC program,[33] the

---

[29] President expects to detail antibribery plans this week: Panel of four due to aid Richardson. New York Times, Mar. 29, 1976: C45.

[30] Curtis, Carl T. U.S. trade abroad. Remarks in Senate. Congressional Record [Daily edition] vol. 121, Nov. 12, 1975: S. 19799.

[31] U.S. Congress, House: Committee on Ways and Means. Tax Reform. Hearings. 94th Cong., 1st sess. July 23, 1975. Washington, U.S. Government Printing Office, 1975. 374 pp.

[32] U.S. Congress, House: Committee on Ways and Means. Tax Reform Act of 1975: Report to Accompany H.R. 10612, 94th Cong., 1st sess. (Rept. No. 94-638). Washington, U.S. Government Printing Office, 1975. 476 pp.

[33] H.R. 10612 was reported to the House by the full committee on Nov. 12, 1975, and approved by the House of Representatives on Dec. 4, 1975.

Senate Finance Committee held up action on these and other measures until the second session of the 94th Congress.

April 14–16, 1975, members of the House of Representatives participated in the seventh meeting between U.S. Members of Congress and members of the European Parliament to discuss "The Multinationals: The View From Europe." The members of the Committee on International Relations filed a summary report of their activities to the full committee, which was published in September 1975.[34]

International Trade*

Early in 1975 the 1974 Trade Reform Act (Public Law 93–618) became law, with provisions affecting U.S. foreign economic and political relations with the rest of the world, particularly with Communist countries and much of the developing world. The law represents an important example of congressional impact on the formulation of U.S. foreign policy.

The 1974 Trade Act, signed into law by President Ford on January 4, 1975, includes the Jackson-Vanik provision which prohibits granting most-favored-nation status and U.S. Government credit terms to countries which restrict free emigration of their countries. (See pp. 60–63.) Section 501 of the trade law provides for duty-free treatment for any eligible articles from certain developing countries while excluding various nations and all members of the Organization of Petroleum Exporting Countries (OPEC). At a January 20, 1975, meeting of the Organization of American States (OAS), 16 Latin American countries attacked the new U.S. Trade Act as "discriminatory" and "coercive," because Ecuador and Venezuela, members of OPEC, were affected by the trade law restrictions. President Ford voiced similar objections to the congressionally imposed trade restrictions, especially as they affected the extension of U.S. trade preferences to Ecuador and Venezuela. The President noted that the provision had "seriously complicated our new dialog with our friends in the hemisphere." He made a similar observation with respect to the trade bill provision that had linked trade preferences for the Soviet Union to its emigration policies for Jewish citizens, and had limited the amount of U.S. credits and investment guarantees.

With the enactment of the 1974 Trade Act, the United States was enabled to renew its trade negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT). A central element of the Trade Act is a system for congressional approval of trade agreements negotiated by the executive at the GATT session. The Trade Act requires that most agreements, along with legislation to implement them, must be submitted to Congress for approval or disapproval within 60 legislative days after submission (or in the case of bills involving revenue, 90 days). Special provisions of the act guarantee that the legislation will be brought up for a vote within that time,

---

* Prepared by John A. Costa, analyst in international relations.

[34] U.S. Congress. House: Committee on International Relations. The Multinationals: The View From Europe. Munich: 1975. Report on the Seventh Meeting of Members of Congress and of the European Parliament, April 1975. Pursuant to H. Res. 315. Washington, U.S. Government Printing Office, 1975. 129 p.

meeting the objections other countries raised during earlier trade negotiations that Congress would not act promptly on those agreements that required legislative approval. Both Houses must approve such implementing legislation, by majority vote of the Members present and voting, before agreements negotiated can enter into force for the United States.

In addition, the new procedure requires the President to consult with Congress, or at least with those five Senators and five Representatives designated as congressional advisers. In 1975, the Ford administration and key Members of Congress attempted to devise a system that will keep the legislative branch informed about the developing U.S. negotiating positions before they are finally adopted: congressional advisers and designated committee aides have been given access to U.S. position papers and to the cable messages that flow between Washington and Geneva, and briefed by the negotiators. Also, the administration promised to submit informally its draft of a proposed export subsidies code to congressional advisers in order to obtain their views before transmitting the proposals to Geneva.

On February 4, 1975, shortly after enactment of the Trade Act of 1974, the Subcommittee on Trade of the House Committee on Ways and Means issued a print entitled "Background and Status of the Multilateral Trade Negotiations." [35] This print described the work in the GATT and in the Organization for Economic Cooperation and Development (OECD) during the period from the conclusion of the Kennedy round in 1967 until the opening of the multilateral trade negotiations (MTN) with the signing of the Tokyo Declaration in September 1973. It also described in some detail the preparatory work of the United States and the ministerial level Trade Negotiations Committee (TNC), which is in charge of the MTN. Finally, that print outlined preparatory work for the MTN within the U.S. Government, particularly the establishment of the Government/private sector advisory committee structure as required under the Trade Act of 1974. A second print [36] (supp. I) issued on September 19, 1975, summarized the progress and status of each of the six MTN areas during the first phase of the actual negotiations between February and July 1975 meetings of the TNC. It also comments on the timing and outlook for the MTN in the near term, including important facts of which the House Ways and Means Committee should be aware in its trade oversight and advisory functions.

Additional References

U.S. Congress. Senate. Committee on Foreign Relations. Subcommittee on Multinational Corporations in Brazil and Mexico: Structural Sources of Economic and Noneconomic Power. Committee Print. August 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 212 pp.

The primary objective of the study, prepared for the Subcommittee by Richard S. Newfarmer and Willard F. Mueller of the University of Wisconsin, was to develop reliable economic knowledge about such issues as industrial denationalization, the determinants of market power and its use by MNC's, and the role of the state in host nations as a countervailing force in coping

[35] U.S. Congress. House: Committee on Ways and Means. Subcommittee on Trade. "Background and Status of the Multilateral Trade Negotiations." Committee Print. 94th Cong., 1st sess. Feb. 4, 1975. U.S. Government Printing Office, 1975. 35 pp.

[36] U.S. Congress. House: Committee on Ways and Means. Subcommittee on Trade. "Background and Status of the Multilateral Trade Negotiations: Supplement I." Committee Print. 94th Cong., 1st sess. Sept. 19, 1975. U.S. Government Printing Office, 1975. 35 pp.

with multinational corporations. The authors believe that only if policy-makers have such a foundation of reliable knowledge of how things are and what makes them so can they decide how a foreign policy of mutual benefit to the United States and other nations in which MNCs operate might be constructed.

Multinational Corporations in the Dollar Devaluation Crisis: Report on a Questionnaire. A Staff Report. Committee Print. June 1975. 94th Cong. 1st sess. Washington, U.S. Government Printing Office, 1975. 122 pp.

The Subcommittee staff also prepared a report on "Multinational Corporations in the Dollar Devaluation Crisis: Report on a Questionnaire." The study is based on the responses of multinational companies, trading companies and small international concerns to a questionnaire requesting data on various types of currency and billing operations during the two-stage dollar-devaluation crisis of February and March of 1973, and data for the corresponding months of 1972, permitting for the first time an examination of the Eurodollar operations of multinational corporations, as well as the way in which these corporations manage the timing of billing and payments. Also included are a breakdown of worldwide cash and liquid assets, by currency, with a separation of dollar and Eurodollar holdings; information on trade accounts receivable and payable by currency; information on short-term bank borrowing, by currencies; and data on short-term forward purchases and sales by currency. The study suggests that U.S. multinational corporations did not use the forward market or the banking sector to hedge short-term against the devaluation of the dollar in the first quarter of 1973. However, the authors do argue that some of these firms did protect themselves against the anticipated devaluation over a longer term by shifting the currency composition of liquid assets and debt and by preparing accounts payable in currencies expected to be devalued.

Multinational Oil Corporations and U.S. Foreign Policy. Report. Committee Print. January 2, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 172 pp.

A narrative analysis of the American corporate presence in the major Middle Eastern oil producing countries, the report examines the U.S. Government's active intervention in behalf of Exxon, Mobil, Texaco, Standard Oil of California and Gulf and the foreign policy role of these countries, the system of supply allocation that the established international majors used to run Middle Eastern oil during the 1950s and 1960s, and the decline of Anglo-American dominance of Middle East oil since 1970.

The report, which grew out of hearings held in 1973 and 1974, brings into focus several issues, including whether or not the U.S. Government should become more involved in the decision-making and negotiating process for foreign oil purchasing. The Subcommittee was of the view that it would not be advisable to organize a Federal Energy Corporation to replace the oil companies as bargaining and purchasing agents, and that it is not realistic or desirable to return to the company run system of the past.

Committee on the Judiciary. Subcommittee on Antitrust and Monopoly. International aspects of antitrust laws. Hearings. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 1437 pp.

This hearing includes material in the following areas: list of criminal and civil cases brought by the Department of Justice involving the Webb-Pomerene Associations; list of Federal Trade Commission (FTC) cases against Webb-Pomerene Associations; list of completed Webb-Pomerene cases classified by violation; Department of Justice memorandum analyzing the antitrust issues underlying twelve cases thought by some to be examples of how the antitrust laws may deter United States exports; the United Nations Economic and Social Council Report, The Impact of Multinational Corporations on the Development Process and on International Relations; and the National Association of Manufacturers study document, The International Implications of U.S. Antitrust Laws.

PARTICIPATION IN THE UNITED NATIONS SYSTEM*

Possibly the most significant change in U.S. policy toward the United Nations during 1975 was the development of new approaches and attitudes in U.N. forums. In part, this change was due to the actions taken in 1974 by both the Sixth Special Session and the 29th Regular Session of the U.N. General Assembly. Illustrative of the new approaches were: (1) The vigorous campaign waged by the newly installed Permament Representative to the United Nations Daniel P. Moynihan during the 30th Regular Session of the General Assembly; (2) the substantive proposals made by the United States at the Seventh Special Session in September; and (3) the delivery of the first major address by Secretary of State Henry Kissinger on the United Nations to a U.S. audience since he became Secretary of State.

Congressional activities in this area during 1975 were aimed at: (1) Generating new U.S. policies, (2) preventing the occurrence of actions considered inimical to U.S. interests, and (3) reacting to events that had already occurred. Both the Senate Committee on Foreign Relations and the House International Relations Committee surveyed the impact of actions during 1974 and explored the nature of U.S. policy in the future. This included active promotion of the development of U.S. proposals in preparation for the Seventh Special Session of the General Assembly. Members of the Senate supported efforts of the executive branch in opposing any action within the U.N. General Assembly aimed at expelling or suspending Israel from the United Nations or from participation in the General Assembly. The Congress restricted funding for U.S. contributions to UNESCO and to the International Labor Organization in response to actions taken within those bodies aimed at isolating Israel and acceptance of participation by the Palestine Liberation Organization as observer.

Review of 1974 General Assembly

The Subcommittee on International Organizations of the House Committee on International Relations held hearings to review the 1974 U.N. General Assembly and the U.S. position in the United Nations. In opening the hearings, Chairman Donald M. Fraser observed that:

> Certain actions of the 1974 U.N. General Assembly became the subject of considerable controversy among Members of Congress last fall, reflecting the controversy that was apparent among the American people in general. * * * In each case the United States and other industrialized nations were outvoted by a wide margin which included the developing countries of the Third World. These actions were met with strong criticism in the United States, and led the U.S. representative at the U.N., Ambassador Scali, to warn the Assembly of the tyranny of the majority and that American support for the U.N. was eroding—in our Congress and among the people.
>
> Controversy over the U.N. became intensified with a decision at the UNESCO General Conference in November which cut off support for that agency's regional

*Prepared by Marjorie Ann Browne, analyst in international organization.

programs in Israel on the grounds that Israel had ignored U.N. resolutions against altering the cultural character of Jerusalem [sic]. * * *

The opening days of the 94th Congress seem to be a particularly appropriate time for this subcommittee to review both the actions of the recent U.N. General Assembly and the U.S. position in the U.N. system. We will be interested in learning more about the causes and consequences of the controversial measures. But we also hope to take this opportunity to assess other activities of the U.N. and to examine U.S. interests in relation to them.[1]

Participation of the U.S. delegation to the 1974 General Assembly

Each year, two Members of the House (alternating with the Senate) serve as representatives on the U.S. delegation to the General Assembly during its regular September through December session. In 1974, Senators Charles H. Percy and Stuart Symington participated in the delegation and each submitted a report to the Senate Foreign Relations Committee on that session.

Senator Symington's report in May 1975[2] emphasized the disarmament and arms control issues before the Assembly since this area was the one assigned to him for coverage. However, he also made a few comments on the procedure for the development of U.S. positions on U.N. issues:

(1) The Secretary of State should remain in New York for a longer period during the session, thereby giving evidence to "a real U.S. interest" in the U.N. At least, "he should avoid being out of the country during the course of a session."[3]

(2) "The role of Congress in formulating foreign policy might be entirely ignored were it not for the custom of appointing two Members of Congress each year to the U.S. delegation. Even so, the congressional viewpoint is treated as largely irrelevant. * * * A meaningful relationship between Congress and the U.S. Mission is mutually desirable. The burden is on both—on Congress to have more frequent, serious consultations with top officials of the Mission and on the Mission to know congressional actions and views."[4]

Senator Percy, in his March 1975 report,[5] made the following recommendations:

(1) The United States should listen attentively and react positively to any constructive proposal espoused by the developing world.

(2) We should continuously review our position on U.N. issues in the light of the constantly changing circumstances and avoid being cast as the principal proponent of the status quo.

(3) High-level official attention should be given to issues before the General Assembly and decisions made at that level and not routinely down the line.

(4) We should raise our profile and speak more often in a reasoned, frank manner to advance positive proposals of our own to dispel any impression that we are withdrawn or aloof and not taking the business of the General Assembly seriously.[6]

Senator Percy also proposed:

* * * that the Committee on Foreign Relations of the United States schedule in 1975 a series of intensive hearings on the United Nations and our participation

---

[1] U.S. Congress. House: Committee on Foreign Affairs. Subcommittee on International Organizations. Review of the 1974 General Assembly and the U.S. Position in the United Nations. Hearings. 94th Cong., 1st sess., Feb. 4–5, 1975. Washington, U.S. Government Printing Office, 1975. p. 1–2.

[2] U.S. Congress. Senate: Committee on Foreign Relations. The United Nations, the United States, and Arms Control. Report by Senator Stuart Symington, member of the delegation of the United Nations. May 1975. 94th Cong., 1st sess., Committee print Washington, U.S. Government Printing Office, 1975.

[3] Ibid., p. 6.

[4] Ibid., p. 6–7.

[5] U.S. Congress. Senate: Committee on Foreign Relations. The United Nations. Report, by Senator Charles H. Percy, U.S. Representative to the 29th Session of the General Assembly of the United Nations. Mar. 14, 1975. 94th Cong., 1st sess., Committee Print. Washington, U.S. Government Printing Office, 1975.

[6] Ibid., p. 22–23.

in it. This would serve many useful purposes: (1) It would provide suggestions for improvement of the U.N. machinery to be shared with an Ad Hoc Committee of the General Assembly just established to institute proceedings for a review of the U.N. Charter; (2) it would provide a forum to our citizens and officials to express their concerns and suggestions with respect to our participation in the various organs of the United Nations; and (3) it would give guidance to Congress in the consideration of proposals to alter the basis of our financial contributions to these organs.

It has been 20 years since the committee last reviewed U.S. participation in the United Nations. This year the General Assembly will have its 30th session. I cannot think of a more appropriate time for the committee to lend its auspices for a most sensitive reassessment of the United Nations and our role in it.[7]

Senate Foreign Relations Committee on the United States and the United Nations

The Senate Foreign Relations Committee responded favorably to Senator Percy's proposal and during May 1975 held six sessions of hearings on the United States and the United Nations.[8] A summary of the hearings released by the committee[9] identified the primary concerns voiced by witnesses on U.S. participation in the United Nations. The major issues discussed included—

U.S. participation in the United Nations;
economic and social issues (relations with the Third World);
membership and voting procedures;
peacekeeping; and
human rights.

Nomination of Moynihan as U.S. representative

By the start of the May hearings on the United States and the United Nations, the name of Daniel P. Moynihan had emerged as the President's choice for next permanent representative to the United Nations, replacing John Scali. Ambassador Moynihan had been invited to participate in the hearings but had declined, because of his impending nomination. However, the question of Moynihan and the views set forth in his article in the March 1975 issue of Commentary[10] were referred to throughout the hearings. Moynihan had suggested "that the United States speak out firmly in support of its positions in the United Nations without hesitating to criticize Third World countries of the Soviet Union."[11]

On May 21, 1975, the White House announced the President's intention to nominate Moynihan. The Foreign Relations Committee considered the nomination in public hearings on June 4 and after the committee's approval, the Senate, on June 9, confirmed the nomination. Moynihan started to work on July 1.[12]

---

[7] Ibid., p. 23.

[8] U.S. Congress. Senate: Committee on Foreign Relations. The United States and the United Nations. Hearings 94th Cong., 1st sess., on the United States and the United Nations and the nomination of Daniel Patrick Moynihan to be U.S. Representative to the United Nations with the rank of Ambassador. Washington, U.S. Government Printing Office, 1975. 538 pp.

[9] U.S. Congress. Senate: Committee on Foreign Relations. The United States and the United Nations. Summary of testimony and issues in hearings held • • • May • • •, 1975. 94th Cong., 1st sess. Committee print. Washington, U.S. Government Printing Office, 1975. 38 pp. Prepared by the Foreign Affairs Division, Congressional Research Service, Library of Congress.

[10] Moynihan, Daniel P. The United States in Opposition. Commentary, v. 59, March 1975: 31–44.

[11] Senate, Summary, p. 31.

[12] Moynihan resigned on Feb. 2, 1976, effective at the end of the month. William W. Scranton was sworn in as the new U.S. Representative to the United Nations on March 15, 1976.

Seventh Special Session, September 1975: Preparations and Results

Early in May 1975 a group of Members from the House and Senate began a 4-month dialog with Secretary of State Kissinger, aimed at developing substantive U.S. proposals to be presented at the Special Session on Development and International Economic Cooperation. Meetings were held throughout the summer also at the staff level. According to a report by the congressional advisers to the Seventh Special Session—

> the input of Members from the House and Senate * * * was important to achieving this goal.[13]

At the same time, Representative Fraser's Subcommittee on International Organizations held three sessions of hearings during May and July on issues at the special session. According to Fraser:

> We would * * * like to encourage full public discussion of the various options open to the United States before this country's positions on the major issues are set. These hearings are an attempt to get on the record the views of nongovernmental experts, as well as the views of the executive branch witnesses * * *.[14]

When the Seventh Special Session was convened on September 1, U.S. Representative Moynihan read a 90-minute statement for Kissinger, who was out of the country. The speech, entitled "Global Consensus and Economic Development," outlined an array of proposals and set the stage for the dialog which marked the 2-week session. (See pp. 94–97.)

Participation in the 30th Session

Representative Donald M. Fraser and Representative J. Herbert Burke were appointed to the U.S. delegation for both the Seventh Special Session and to the 30th regular session of the General Assembly. Their reports on their participation in the 30th session have not yet been published.

During the 30th session, the General Assembly considered 126 agenda items and passed an estimated 178 resolutions. Six nations became U.N. members, bringing the total membership to 144. The U.S. position on issues at the Assembly was forcefully asserted by Ambassador Moynihan, who implemented a policy of speaking out in response to attacks against the United States made in U.N. forums. This policy and Moynihan's style at the United Nations made the Assembly an arena of controversy. Some observers indicated that at last a U.S. representative was speaking as the average man on the street would in response to the comments made at the U.N. Others remarked that the actions of the U.S. representative were indications that the U.S. took the U.N. seriously and cared enough about the organization to assure that U.S. interests and policies were heard and understood. Still other commentators viewed the Moynihan style as counterproduc-

---

[13] U.S. Congress. House: Committee on International Relations. Senate: Committee on Foreign Relations. Report by congressional advisers to the seventh special session of the United Nations. 94th Cong., 1st sess. Joint committee print. Washington, U.S. Government Printing Office, 1975. p. 31.

[14] U.S. Congress. House: Committee on International Relations. Subcommittee on International Organizations. Issues at the Special Session of the 1975 U.N. General Assembly. Hearings, 94th Cong., 1st sess., May 19, 21, and July 8, 1975. Washington, U.S. Government Printing Office, 1975. p. 1.

tive, favoring instead a quieter diplomatic style. In general, one might view U.S. activities at the 30th session as well as at the seventh special session as initial steps in the reexamination of U.S. relations with the Third World and toward rebuilding the role of the United States as an active participant at the United Nations.

Congress and Financing the U.N. System

Congressional influence on U.S. policy toward the U.N. system has been most frequently exercised through the appropriations process. U.S. assessed contributions to the regular budgets of the United Nations and its agencies are financed by Congress through the Department of State Appropriations Act, while U.S. voluntary contributions to the special programs carried on by the U.N. system are financed by Congress through the Foreign Assistance Appropriations Act.

While some legislative proposals were introduced in 1975 to reduce the level of U.S. contributions to the United Nations or to the U.N. system, the Congress funded, through the State Department Appropriations Act, the full amount requested for contributions to the regular budgets of the U.N. system, except for funding of UNESCO and ILO (discussed below). Appropriations for U.S. contributions to U.N. system special programs, such as the United Nations development program, the U.N. Children's Fund (UNICEF), the U.N. Relief and Works Agency, and the World Food program, are still pending in the Foreign Assistance Appropriations Act. The House, on March 4, 1976, adopted legislation which reduced appropriations for "international organizations and programs" from the requested $189.5 million to $160 million. While the reductions were not specified, this would have the effect of reducing the appropriation for UNDP from the requested $120 million to $85.5 million. The Senate Appropriations Committee made no reductions in the funds requested for this category.

UNESCO

Much of the legislative activity affecting the United Nations and the U.N. system was taken in response to the actions or threat of actions within the United Nations to isolate Israel or to grant special status to the Palestine Liberation Organization. In 1974 the Congress had amended the Foreign Assistance Act (Public Law 93–559, 88 Stat. 1798) so that—

> No funds should be obligated or expended, directly or indirectly, to support the United Nations Educational, Scientific, and Cultural Organization until the President certifies to the Congress that such organization (1) has adopted policies which are fully consistent with its educational, scientific, and cultural objectives, and (2) has taken concrete steps to correct its recent actions of a primarily political character.

In keeping with this limitation, which was in response to the adoption by the 1974 General Conference of UNESCO of three resolutions aimed at Israel, the Congress did not authorize or appropriate any funds for U.S. contributions to the regular budget of UNESCO. Congress deleted from the Department of State Appropriations Act (Public Law 94–121) funds which had been requested for completion of prior year (calendar year 1974) assessments for UNESCO ($2.7 million) and funds requested for UNESCO for calendar years 1975 and 1976 (fiscal year 1976 and the transition period).

International Labor Organization

In June 1975 a committee of the International Labor Conference defeated a U.S.-worker sponsored resolution requiring any liberation movement seeking observer status at the conference to "recognize the right of existence" of ILO member states, including Israel. The International Labor Conference admitted the PLO to observer status at the conference, after which the entire U.S. delegation walked out of the Conference. In response to this action and testimony by AFL–CIO President George Meany, Congress deleted from the Department of State Appropriations Act $5.6 million for the rest of calendar year 1975 funding and $16.7 million budgeted in the transition period for U.S. contributions to the ILO for all of calendar year 1976.

On November 5, Secretary of State Kissinger, by letter to the Director General of ILO, gave formal notice of the U.S. intention to withdraw from ILO, explaining the reasons for this action and emphasizing U.S. determination to assist in creating conditions that would obviate the necessity of final withdrawal at the end of the 2-year waiting period. The letter was transmitted pursuant to article 1, paragraph 5 of the ILO Constitution which provides for withdrawal after a notice of intention has been given 2 years earlier and subject to the member having at that time fulfilled all financial obligations arising out of its membership. In his letter Kissinger identified "four matters of fundamental concern" to the United States:

(1) The erosion of tripartite representation;
(2) Selective concern for human rights;
(3) Disregard of due process; and
(4) The increasing politicization of the organization.

On the next day President Ford established a Cabinet level committee to consider how the United States could help the ILO return to its basic principles and to a fuller achievement of its fundamental objectives. This committee is to consult with worker and employer representatives and "enter into the closest consultations with the Congress * * * ." The four members of the committee are Secretary of Commerce, Assistant Secretary of State for International Organization Affairs, Director of the National Security Council, and the Secretary of Labor, who will serve as chairman.

The Status of Israel

After the UNESCO General Conference action against Israel in 1974 and the action by the U.N. General Assembly which suspended South Africa's delegation from further participation in the 1974 session of the Assembly, it became probable that attempts would be made during 1975 to suspend or otherwise isolate Israel at the United Nations. The question of the proper U.S. response to these possibilities had been paramount throughout the hearings on the United States and the United Nations undertaken in May by the Senate Foreign Relations Committee. For example, Ambassador Arthur Goldberg had recommended that the United States announce it would suspend its participation in the U.N. General Assembly if Israel were suspended from participation by a vote of the Assembly. In addition, Goldberg indicated the United States might withhold from its financial contributions that portion which would pay for the operation of the

Assembly. Ambassador John Scali told the committee he would recommend "concrete action" to show that the United States would not countenance such a suspension. Ambassador Moynihan told the committee he favored Goldberg's proposal and added that the United States should publicly state its position soon, in order to have the maximum impact on nations considering support of such a move. During his Milwaukee address on the United Nations on July 14, Kissinger implied that the United States would not sit idly by in the event the U.N. General Assembly suspended Israel from participation in that assembly. Later that month Kissinger stated that the United States would take "definite and clear action."

On July 18, the Senate, supporting the administration's position that suspension of Israel by the U.N. Assembly would not be ignored by the United States, adopted Senate Resolution 214, expressing concern over persistent attempts to expel Israel from membership in the United Nations. The resolution further indicated that if Israel were expelled, the Senate would review all present U.S. commitments to the Third World nations involved in the expulsion and would consider seriously the implication of continued membership in the United Nations.

Zionism-racism

During early October a draft resolution was submitted in the United Nations Assembly which equated Zionism to racism. On October 17, the draft resolution was passed by a committee of the Assembly (70 in favor; 29, including the United States, opposed; 27 abstentions). Throughout October and November U.S. spokesmen urged that the resolution be rejected by the Assembly when it was brought to a vote in plenary. Moynihan contended that the real target of the resolution was Israel, not Zionism. On October 28, the Senate passed a resolution (S. Res. 288) on this subject declaring:

> **That the United States Senate strongly condemns the resolution adopted by the Third Committee of the United Nations General Assembly on October 17, 1975, in that said resolution wrongfully associates and equates Zionism with racism and racial discrimination; and urges the United Nations General Assembly to disapprove that said resolution, if and when it is presented for a vote before that body.**

A similar resolution was pending in the House but was not acted upon. However, on November 10, the U.N. General Assembly, by a vote of 72 in favor, 35 (U.S.) opposed, with 32 abstentions, adopted the resolution which "determines that Zionism is a form of racism and racial discrimination."

On November 11, the day after the U.N. vote, the Senate agreed to Senate Concurrent Resolution 73, whereby the Congress (1) sharply condemned the U.N. resolution, (2) opposed any form of participation of the U.S. Government in the Decade for Action to Combat Racism and Racial Discrimination so long as Zionism was identified as one of the targets of that decade, (3) urged reconsideration of the U.N. resolution, and (4) called on the Senate Foreign Relations and House International Relations Committees to begin hearings immediately to reassess further participation by the United States in the U.N. General Assembly.[15]

---

[15] During February and March 1976 the Subcommittee on International Organizations of the House International Relations Committee and the Senate Foreign Relations Committee each held hearings on U.S. Participation in the United Nations.

The House, on November 11, by a vote of 384 yeas and 0 nays, adopted House Resolution 855, relating to the Zionism resolution. The House resolution was identical to that passed by the Senate on the same day except that it did not include a call for hearings. An earlier unanimous consent request for House consideration of House Concurrent Resolution 475, which was identical to the Senate concurrent resolution, was objected to by Representative Robert W. Kastenmeier who explained he was opposed to any threat of a U.S. withdrawal from the General Assembly.

In a recent development during January 1976, press reports indicated that a policy of linking U.S. foreign assistance to votes in the United Nations had been initiated at the Department of State.[16] This might be viewed by some as a direct result of the numerous General Assembly votes contrary to U.S. interests. However, the new office of Deputy Assistant Secretary for Multilateral Affairs in the Bureau of International Organization Affairs was created with broader functions, aimed at coordinating and focusing attention on U.S. policy interests within all international forums.

Other Congressional Activities

U.S. policy on review of the U.N. Charter

In July 1975, the International Organizations Subcommittee held hearings to consider House Concurrent Resolution 206 and identical resolutions concerning U.S. policy on review of the U.N. Charter.[17] These resolutions called on the President to direct the Department of State to formulate constructive proposals for changes in the U.N. Charter and procedural changes that may not require amendment of the charter. They also requested that the President report to the Senate Foreign Relations and House International Relations Committees on the position of the United States and the proposals submitted. Introduction and consideration of this resolution was linked to the work being done in the United Nations by an ad hoc committee of the General Assembly on U.N. Charter review, which met in August 1975 to consider the question. Because the time before this meeting was short, passage of the concurrent resolution was deemed impossible. A subcommittee report was filed on the issue, in lieu of a full committee report on House Concurrent Resolution 206.[18] This report, published in November, summarized the arguments in support of and against charter review and identified the conclusions and recommendations of the subcommittee on charter review. In particular, the subcommittee supported the U.S. position against comprehensive charter review and in support of specific charter amendments and reforms which would not require charter revision.

---

[16] Gelb, Leslie H. U.S. Linking Aid to Votes at U.N. New York Times, Jan. 9, 1976, p. 1, 5; Marder, Murrey. U.S. to Link Foreign Aid, U.N. Votes. Washington Post Jan. 10, 1976, pp. A1, A3.

[17] U.S. Congress. House: Committee on International Relations. Subcommittee on International Organizations. United States Policy on Review of the United Nations Charter. Hearing, 94th Cong., 1st Sess., on H. Con. Res. 206. Jul. 17, 1975. Washington, U.S. Government Printing Office, 1975. 63 pp.

[18] U.S. Congress. House: Committee on International Relations. Subcommittee on International Organizations. The Question of U.N. Charter Review; Report. 94th Cong., 1st sess. Committee print. Washington, U.S. Government Printing Office, 1975. 20 pp.

Reimbursement for protection of missions to international organizations

Since 1961, numerous legislative proposals have been unsuccessfully introduced to authorize the reimbursement of the city of New York for extraordinary expenditures associated with the location of the U.N. headquarters in the city. The annual session of the U.N. General Assembly has drawn to the city each fall many heads of government and other significant personages. In addition, the U.N. buildings and those of the U.N. missions of now 144 member states have been the object of intense demonstrations and occasional attacks. It has been the responsibility of the local authorities to bear the full financial responsibility to assure the safety of foreign diplomatic missions and their personnel. In 1975, a bill which authorizes reimbursement under specific circumstances was enacted (H.R. 11184, Public Law 94–196). The legislation provides that in cities where 20 or more foreign diplomatic missions are located, reimbursement of State or local governments may be made if—

(1) there is an "extraordinary protective need"; and
(2) the "need arises in association with a visit to or occurs at a permanent mission to an international organization * * * or an observer mission invited to participate in the work of such organization."

There is a ceiling of $3.5 million on the funds that can be reimbursed during each fiscal year.

PROBLEMS OF GLOBAL RESOURCE MANAGEMENT

CONGRESS AND U.S. FOREIGN ENERGY POLICY*

In the area of international energy policy in 1975, the United States tried to deal with the long-range effects of the oil price increases and Arab oil embargo of 1973–74. The primary U.S. response in 1974 to the energy crisis had been to provide the leadership that resulted in the creation of an international energy program and the International Energy Agency in the fall of 1974, and the $25 billion OECD financial support fund in the spring of 1975.

The international energy program and the International Energy Agency

As one of the immediate reactions to the Arab oil embargo and oil price increases, the U.S. Government called a conference of major industrialized energy consumers for February 1974. While this conference, held in Washington, substantively produced meager results, 12 of the 13 countries present agreed to create an Energy Coordinating Group to develop a program to deal with the long- and short-term issues facing them. The Energy Coordinating Group worked during the following months and, on September 27, 1974, an agreement was signed in Brussels, Belgium, establishing an international energy program.

Less than a month later, on November 18, 1974, the International Energy Agency was created as an autonomous organization within the Organization for Economic Cooperation and Development (OECD) to implement the international energy program. The United States acceded to the Brussels agreement on a provisional basis pending passage of certain domestic legislation which would allow it to comply fully with the provisions of the agreement.[1]

Congressional action on IEA enabling legislation

Title XIII of the administration's Energy Independence Act, submitted to Congress on February 4, 1975, was intended to provide the

---

*Prepared by Theodor Galdi, analyst in international relations.

[1] The international energy program as set out in the Brussels agreement has four basic elements:

1. A three-part emergency oil sharing arrangement designed to limit the vulnerability of IEA members to actual or threatened oil embargoes: (*a*) an agreement to create certain agreed-upon common levels of emergency reserves; (*b*) a promise to develop standby demand restraint programs to enable consumption to be cut without delay in case of a supply interruption; and (*c*) a readiness, in the event of an embargo, to allocate remaining available oil from all sources, domestic and imported, to spread the shortfall evenly among IEA members.

2. A long-term cooperative program to reduce member's dependence on imported oil through conservation and cooperative efforts in research and new energy supply development.

3. An oil market information system consisting of two parts: a general section to include data on the international oil market and the operations of the major oil companies in normal times, and a special section designed to provide the additional information necessary to efficiently operate the emergency oil allocation program during crises.

4. development of a program for coordinating consumer/producer relations.

At the time the Brussels agreement was signed, it was to be brought fully and definitely into force by the members in accordance with their respective constitutional and legal processes by May 1, 1975, and remain in effect for 10 years.

74-032—76——9

legislative authority needed to implement several key provisions of the Brussels agreement. Sections 1304 and 1305 provided the authority needed to order the maintenance of at least 60-day reserves in case of an oil embargo. Sections 1306 and 1307 granted the authority needed to develop a mandatory oil conservation program to allow the United States to cut consumption by agreed upon amounts during an embargo. Section 1311 provided authority to order oil companies to implement allocation among IEA members during embargoes as set out by the Brussels agreement. In keeping with the needs of the oil import allocation program, section 1312 authorized voluntary agreements among oil companies to enable them to prepare for and carry out the mandatory oil allocation program without risk of liability under U.S. antitrust laws.

After 5 days of debate, on April 19, 1975, the Senate passed S. 622 containing, among other provisions, its version of the IEA authorities requested by title XIII of the administration's bill. The House considered its bill, H.R. 7014, during 11 different days in July, August, and September, finally passing it on September 23, 1975. In both Houses, the lengthy debate that took place centered mainly around disagreements over the oil price decontrol and mandatory conservation sections of the bills. The provisions of the reported bills concerning IEA authority were uncontroversial. After a great deal of parliamentary maneuvering in September, October, November, and December, a conference report on S. 622 was finally accepted on December 18, 1975. President Ford signed the Energy Policy and Conservation Act on December 22, 1975 (Public Law 94-163) despite opposition to the oil price decontrol provisions of the bill.

Title II of the Energy Policy and Conservation Act is headed "Standby Emergency Authorities." "Part A: General Emergency Authorities," contains sections 201-203. Section 201 grants the President general authority to submit for congressional approval energy conservation plans and energy rationing plans to be put into effect following a severe energy supply interruption or to fulfill the obligations of the United States under the international energy program. Actual implementation of the rationing plan or the conservation plan would require congressional approval. Sections 202 and 203 provide the specific authority and standards for creation of the energy conservation and energy rationing contingency plans respectively.

"Part B, authorities with respect to international energy program," contains sections 251 through 255. Section 251 gives the President authority to implement the international oil allocation program after notifying Congress of his intentions. The lengthy section 252 provides authority and standards to be used in developing and implementing the oil company voluntary agreements and plans of action needed to carry out the oil allocation and oil market information system provisions of the international energy program. Section 253 provides authority for the Administrator of the Federal Energy Administration to establish advisory committees to help carry out the planning and implementation of the allocation of petroleum and creation of the oil market information system. Section 254 authorizes the Secretary of State to exchange with the IEA the information and data gathered from the energy industry for the energy market information system. Finally, section 255, which originated in the Senate Interior and In-

sular Affairs Committee, specifically declared that while the bill authorized the standby emergency authorities required to execute the international energy program, that it "* * * shall not be construed in any way as advice and consent, ratification, endorsement or other form of congressional approval of the specific terms of the (IEP) executive agreement or any related annex, protocol, amendment, modification, or other agreement which has been or may in the future be entered into." The Senate report on S. 622 (S. Rept. 94-26) stated that that language was included in the bill specifically to indicate that there was no congressional approval for any oil floor price proposal. Such a proposal had formally been made to the IEA Board of Governors in February 1975, and, after being opposed by the Japanese and some Europeans, had been accepted in principle as part of a series of compromises among IEA members prior to the April 1975 Paris energy producer-consumer preparatory conference. Exactly what legal effect the seven-dollar-a-barrel floor price agreed to by the IEA on December 19, 1975, will have is presently unclear.

In examining the actions of Congress in regard to the IEA enabling legislation, the main changes made in the administration's proposals did not concern substance, but rather process. Three primary congressional concerns are made manifest in the bill. First, and most important, in granting the President the standby authorities in title II, Congress made certain that it would have a direct role in approval of the emergency plans prepared and would also be given the opportunity to disapprove the implementation of those plans. Second, sections 252 and 253 are an indication of the determination of Congress that any cooperative efforts by oil companies, advisory groups and the administration be open to public access as much as is possible. Finally, section 255 is a clear indication that Congress will not approve some IEA related proposals unless consultations take place and specific approval is given.

It is not clear what consultation, if any, occurred between the executive branch and Congress during the negotiations of the executive agreement in Brussels, or that if any such talks did occur they were anything more than select conversations in which certain Members of Congress were generally informed about events.

State Department guidelines for the negotiations of international agreements (including executive agreements) provide that one of the responsibilities of the office or officer conducting negotiations is to make sure that "* * * the appropriate congressional leaders and committees are advised of the intention to negotiate significant new international agreements, consulted concerning such agreements, and kept informed of developments affecting them including especially whether any legislation is considered necessary or desirable for the implementation of the new treaty or agreement." (Section 723.1e of circular 175.) It would appear that in making the Brussels agreement the executive branch did not consult with Congress in the manner provided for by the State Department circular. Rather, Congress was presented with a fait accompli, and was asked only to pass the necessary implementing legislation.

It could also be noted that although the Brussels agreement could be considered a major national commitment of the kind which the Senate, in its 1969 National Commitments Resolution, had said should

be presented as a treaty, there is no indication that such a step was considered by the executive branch.

Other congressional activities concerning the IEA

In addition to the hearings and reports on the IEA authorizing bills, two hearings were held during the year in this area by subcommittees of the House International Relations Committee. The earlier hearing, Legislation on the International Energy Agency, was held on March 26, 1975, jointly by the Subcommittees on International Organizations and International Resources, Food, and Energy.[2] The latter hearing, U.S. International Energy Policy, was held on May 1, 1975, by the Subcommittee on International Resources, Food, and Energy.[3]

On June 27, 1975, the Subcommittee on International Economics of the Joint Economic Committee issued a report, "The State Department's Oil Price Proposal: Should Congress Endorse It"?[4] The report recommended, with dissenting and supplemental views, that:

> A minimum price for oil imports is not an appropriate method to protect domestic investments in conventional energy sources from becoming noncompetitive if world energy prices drop. The U.S. Government should cease immediately its efforts in the International Energy Agency to set a minimum import price until such time as Congress authorizes the Executive to seek such an agreement. Existing legislation, such as the Trade Expansion Act of 1962, section 232, should in no way be construed as authority to set a floor price.[5]

The OECD Financial Support Fund

On November 11, 1974, Secretary of State Kissinger unveiled a five part strategy for oil consumer cooperation designed to bring about lower prices, and, in the interim, to protect the vitality of consuming country economies. Kissinger saw two immediate problems that had to be dealt with: (1) The threat of a new oil embargo; and (2) the possible collapse of the international monetary system in attempting to recycle huge flows of petrodollars from oil producers to borrowers in order to manage the chronic balance-of-payments deficits of some countries. To meet these challenges, Kissinger advocated cooperation in five policy areas: Conservation, alternative energy sources, relations with producers, relations with the developing world, and financial solidarity. In the last section of the November 11 speech he proposed that the governments of Western Europe, North America, and Japan create a common loan and guarantee facility capable of redistributing up to $25 billion in 1975 and a similar account in 1976. The facility was not to be a new aid institution funded by additional taxes, but a mechanism for recycling, at commercial interest rates, funds flowing back to the industrialized countries from the oil producers. Support from the facility was to be contingent upon a full resort to private financing and on reasonable self-help measures. On November 18, 1974, Secretary of the Treasury Simon elaborated upon the Kissinger proposal in a speech given in New York.

---

[2] U.S. Congress, House: Committee on International Relations, Subcommittees on International Organizations and International Resources, Food, and Energy. Legislation on the International Energy Agency. Hearings, 94th Cong., 1st sess. Mar. 26, 1975. Washington, U.S. Government Printing Office, 1975. 79 pp.

[3] U.S. Congress, House: Committee on International Relations, Subcommittee on International Resources, Food, and Energy. U.S. International Energy Policy. Hearings, 94th Cong., 1st sess. May 1, 1975. Washington, U.S. Government Printing Office, 1975. 189 pp.

[4] U.S. Congress, Joint Economic Committee: Subcommittee on International Economics. The State Department's Oil Floor Price Proposal: Should Congress Endorse It? Joint Committee Print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 14 pp.

[5] Ibid., p. 9.

Immediately following the public presentation of the Kissinger-Simon proposal in November 1974, U.S. officials began a series of consultations to try to obtain European support. A compromise was reached at the January 14, 1975, meeting of the Group of Ten finance ministers whereby support for an expanded IMF oil facility, favored by the Europeans, was obtained in exchange for European support for the Kissinger-Simon proposal. After further negotiations in January, February, and March, the OECD Financial Support Fund was initialed by all OECD members except Turkey and Australia on April 9, 1975.

The Financial Support Fund was established for 2 years and open to all OECD members. Each participant was given a quota which served as the basis for determining its obligations, borrowing rights, and relative voting power. The distribution of quotas was based mainly on GNP and foreign trade. Of the SDR 20 billion total for the Fund, the United States had SDR 5.5 billion, West Germany SDR 2.5 billion, Japan SDR 2.3 billion, France SDR 1.7 billion, and the United Kingdom SDR 1.6 billion. Smaller amounts were established for the other members. Approval of loans was to be based on requiring increasingly larger voting percentages by the Fund's governing board as larger amounts of loans were made in relation to the borrower's quota. The Fund was intended to be used as a measure of last resort, with all loans granted conditional upon the borrower's following "appropriate" economic policies. All participants were to share jointly in any default risks in proportion and up to the limits of their quotas. Borrowings were to be financed through guarantees, either individual or group, or through direct appropriations by members.

Congressional action on the Financial Support Fund

As early as November 25, 1974, Treasury Secretary Simon gave testimony to the Joint Economic Committee on the status of the proposed Financial Support Fund.[6] Joint hearings on the IEA and the Financial Support Fund were also held by the Subcommittees on Foreign Economic Policy and International Organizations and Movements of the House Foreign Affairs Committee on December 18 and 19, 1974.[7] At that time, many of the procedural details, the overall size of the U.S. quota, and the methods to be used to finance the facility still remained to be negotiated. In the fiscal year 1976 budget, submitted to Congress on February 3, 1975, the administration proposed for the Financial Support Fund budget authority of $7 billion with expected outlays in fiscal year 1976 to be $1 billion.

Legislative jurisdiction over the Financial Support Fund lies with the Senate Foreign Relations Committee and the House Banking and Currency Committee, which shares oversight with the House International Relations Committee. While the Financial Support Fund agreement was initiated in Paris on April 9, 1975, the administration did not submit draft legislation to Congress until the end of May. In the meantime, hearings dealing with the Fund were held by the Sub-

---

[6] U.S. Congress, Joint Economic Committee. Kissinger Simon proposals for financing oil imports. Hearings. 93d Cong., 2d sess. Nov. 25, 27, and 29, 1974. Washington, U.S. Government Printing Office, 1974. 109 pp.

[7] U.S. Congress, House; Committee on Foreign Affairs, Subcommittees on International Organizations and Movements and Foreign Economic Policy. U.S. policy and the International energy agency. Hearings. 93d Cong., 2d sess. Dec. 18 and 19, 1974. Washington, U.S. Government Printing Office, 1975. 59 pp.

committee on International Trade and Commerce of the House International Relations Committee on May 5, 1975.[8]

In the Senate, S. 1907, to authorize U.S. participation in the Financial Support Fund, was introduced by Senator Sparkman on June 10, 1975. H.R. 8175, for the same purpose, was introduced in the House on June 24, 1975, by Representative Thomas M. Rees. Hearings were held by the Senate Foreign Relations Committee on the Financial Support Fund July 30 and 31 (not printed), and in the House Banking and Currency Subcommittee on International Trade, Investment, and Monetary Policy on September 18, 1975.[9] As of the adjournment of Congress in December 1975, no bill had been reported out in either House.

The amount of executive-legislative contact prior to the conclusion of the Financial Support Fund agreement is noteworthy when compared to the complete lack of contact prior to the conclusion of the Brussels agreement.

Secretaries Kissinger and Simon indicated initial U.S. interest in the creation of the Financial Support Fund in speeches given on November 14 and November 18, 1974. One week later, on November 25, 1974, the Joint Economic Committee began hearings on the Fund with testimony from Treasury Secretary Simon and Under Secretary Jack Bennett. The Financial Support Fund issue was again examined on December 18, 1974, at a joint hearing of two subcommittees of the House International Relations Committee. However, after these two sets of hearings, there was no further official contact between the administration and the responsible legislative committees until after the Financial Support Fund agreement had been initialed in Paris in April. The experience of Congress in this area demonstrates clearly that there will be little executive branch prior consultation on international energy matters unless that consultation is initiated by Congress.

U.S. International Food Policy*

The world food problem is today one of the dominant issues of an increasingly interdependent world. As a political, economic, and social issue vital to our relations with developed and developing countries, with an impact on the U.S. domestic economy as well as on international markets, and as a major contributing factor to political instability in the world, it represents an important issue for the U.S. Congress and administration and for many international organizations.

In Congress, much legislation was introduced in 1975 concerning U.S. food policy in terms of its impact on both U.S. foreign policy and the domestic economy. Many hearings on a wide range of food-related subjects by several congressional committees attest to a growing congressional awareness of the many dimensions of this problem. Although the International Food and Development Assistance Act of 1975 was the single major legislation passed on this issue, Congress

---

*Prepared by Marion M. Montague, analyst in U.S. foreign policy.

[8] U.S. Congress. House: Committee on International Relations. Subcommittee on International Trade and Commerce. The OECD Financial Support Fund ($25 Billion Safety Net) hearings, 94th Cong., 1st sess. May 5, 1975. Washington, U.S. Government Printing Office, 1975. 79 pp.

[9] U.S. Congress. House: Committee on Banking and Currency. Subcommittee on International Trade, Investment, and Monetary Policy. To authorize U.S. participation in the Financial Support Fund. Hearings, 94th Cong., 1st sess., on H.R. 8175. Sept. 18, 1975. Washington, U.S. Government Printing Office, 1975. 56 pp.

and the administration are engaged in an ongoing evaluation of U.S. food policy.

The global food problem, which had reached crisis proportions as a result of the simultaneous intermeshing of a variety of related events--drought, diminished food reserves, the energy crisis, and resulting increases in the price of fertilizers and grains--showed slight improvement in 1975. Weather conditions improved, grain production increased, a world record rice crop was harvested, and U.S. planting restrictions have been lifted, boosting U.S. agricultural production. However, it is estimated that over half a billion people in the world today lack sufficient nourishment. The worldwide recession and inflation particularly affected the developing countries, and as export prices have fallen, prices for basic food, fuel, and agricultural equipment have continued to rise. In addition, attempts at land reform and other modernization techniques have moved slowly in many developing countries.

Based on past trends, and barring major crop failures and other unforeseen exigencies, it is anticipated that world food demand will increase at the rate of approximately 2.4 percent a year until 1985 (a 2-percent growth as a result of increased population, and 0.4 percent resulting from increased income). However, the expected increase in demand in developing countries is estimated at 3.6 percent, compared to a 2.6 percent food production increase. According to papers prepared for the World Food Conference, world production of cereal grains (now about 1.2 billion metric tons) must expand by nearly 25 million tons per year to meet rising demand brought about by population increases. In the developing countries, the cereals deficit is expected to reach about 85 million tons per year by 1985, as compared to a 16-million-ton shortfall in 1969-72.

The role of Congress in determining U.S. international food policy

For the United States, implementation of many of the recommendations made by the World Food Conference--held in Rome in 1974--requires specific congressional action. The Congress held a number of hearings on the implementation of Conference proposals in 1975, with both the foreign affairs and agriculture committees sharing concern for the issues involved.[10] The issues stemming from the Conference proposals relate to the need for increased food aid to developing countries, measures to increase world food production, establishment of a world food security reserve system, and coordination of global food policy.

---

[10] U.S. Congress:
House: Committee on International Relations, Subcommittee on International Resources, Food, and Energy. Food problems of developing countries: implications for U.S. policy. Hearings, 94th Cong., 1st sess. May 21, June 3, 5, 1975. Washington, U.S. Government Printing Office, 1975. 355 pp.
Senate: Committee on Agriculture and Forestry. Hunger and diplomacy: a perspective on the U.S. role at the World Food Conference. 94th Cong., 1st sess. committee print. Washington, U.S. Government Printing Office, 1975. 169 p.
Senate: Subcommittee on Foreign Agricultural Policy. Foreign food assistance and agricultural development. Hearings, 94th Cong., 1st sess. Apr. 17, 1975. Washington, U.S. Government Printing Office Office, 1975. 106 pp.
Senate: Implementation of World Food Conference recommendations. Hearings, 94th Cong., 1st sess. May 1, 1975. Washington, U.S. Government Printing Office, 1975. 95 pp.
Senate: Implementation of World Food Conference recommendations. Hearings, 94th Cong., 1st sess. Nov. 6, 1975. Washington, U.S. Government Printing Office, 1975. 128 pp.
Senate: Committee on the Judiciary. Subcommittee on Refugees and Escapees. World hunger, health, and refugee problems. Part 6. Special study mission to Africa, Asia, and the Middle East. Hearings, 94th Cong., 1st sess. June 10, 11, 1975. Washington, U.S. Government Printing Office, 1975. 617 pp.

Throughout 1975, numerous bills were introduced concerning implementation of these proposals and related issues including various aspects of the international grain trade. The thrust of many of these legislative proposals were incorporated into the International Development and Food Assistance Act of 1975, Public Law 94-161 (see pp. 84-86 for a discussion of other aspects of this measure and a complete legislative history).

(1) *Increased food aid.*—One of the basic issues involved in the debate about U.S. international food policy concerns methods for providing needed food aid to other countries without disrupting the U.S. economy by reducing grain reserves and increasing food costs to U.S. consumers. While sharing a concern for the necessity for U.S. food aid and thus the potential impact on the U.S. economy, there was disagreement between Congress and the executive branch—as well as within the Congress itself—on emphasis, timing, amounts of food aid, and on the extent to which political as well as humanitarian considerations should be involved in aid distribution plans.

Some Members of Congress have maintained that the United States, the world's leading agricultural producer with a long history of humanitarian assistance, can both provide substantial food aid abroad and protect U.S. domestic interests. They indicated that such aid should go to those countries designated by the World Bank as most seriously affected; that is, with an average per capita annual income of less than $300. Others in Congress have urged a more restrained or conditional food aid policy. This view was reflected in proposals to prohibit Public Law 480 assistance to countries which did not take reasonable measures to control population, and to prohibit food aid abroad if all domestic programs were not fully provided with adequate food.

The administration maintained that while some increase in food assistance is necessary, the real solution requires a long range plan for expansion of food production in the developing countries. In addition, the executive branch has insisted that food aid should be used for political as well as for economic and humanitarian purposes.

The Foreign Assistance Appropriation Act of 1975 (Public Law 94-11) passed in March 1975, provided $300 million for food assistance, less than the administration's request. However, the International Development and Food Assistance Act, Public Law 94-161, which emerged from Congress in December 1975, authorized $618.8 million for food and nutrition programs for fiscal year 1976 (and the transition quarter), and included a number of policy statements directing the disposition of those funds. The measure allocates 75 percent of food aid to those countries designated most seriously affected, and assures a minimum level of 1.3 million metric tons in food commodity grants distributed under title II of Public Law 480 annually, and a minimum of 1 million metric tons for distribution abroad through private voluntary organizations and the world food program.

(2) *Increased food production.*—The 1975 International Development and Food Assistance Act provides for various programs to assist in increasing world food production. The measure calls for enlarging U.S. university research capabilities in the area of increasing agricultural production. U.S. support for international agricultural research centers, and for the establishment of land-grant type colleges

abroad to further research and its application toward increasing food production. A seven member board for international food and agriculture development is to be appointed to administer the programs aimed at increasing world food production.

(3) *Establishment of a world food security reserve system.*—One of the most controversial issues both in international forums and within the U.S. Government concerns the establishment of world food stockpiles. Initially, the idea of world food reserves was supported by the State Department, but opposed by the Department of Agriculture, which had maintained that reports on the world hunger situation were exaggerated, that grain stockpiles were costly to maintain and could seriously upset international grain trade if released, and that free enterprise and increased food production in the developing countries were the best methods for promoting world food security. With strong support from the congressional delegates, the United States put forward a proposal at the World Food Conference for the negotiation of an agreement on a grain reserves system.

A subsequent conference, held in London in September 1975, with participants from the major grain exporting and importing countries—including the Soviet Union—considered a more detailed U.S. proposal for an international food reserve system.[11] However, due to differences between the U.S. position, which emphasized food security, and the position of the European Common Market countries and other countries with grain marketing boards which places greater importance on market stability, an international food reserve agreement has not yet been reached.

Congressional support for a system of food reserves continued in 1975 with the introduction of several bills calling for such a system and the eventual inclusion of language in Public Law 94–161 which authorized and encouraged the President to negotiate an international system of food reserves, with any agreement subject to congressional approval.

(4) *Coordination of global food policy.*—The proposals of the World Food Conference placed great emphasis on the need for greater international coordination of global food policy. The International Development and Food Assistance Act calls for the appointment of a special U.S. coordinator for international disaster relief, and authorizes eventual U.S. participation in an International Fund for Agricultural Development, with a maximum U.S. contribution of $200 million.[12]

Inability to reach an international agreement on food reserves, the continuing differences between developed and developing countries, and the problems encountered at the multilateral trade negotiations all illustrate the fact that effective international coordination of food policy is as yet unachieved. However, four new entities have been organized and are now functioning:

(1) The World Food Council—a political body established primarily to implement and coordinate the recommendations of the World Food Conference;

[11] U.S. Congress. House. The U.S. Proposal for an International Grain Reserves System. Report of a staff study mission to the Sept. 29–30, 1975 meeting of the International Wheat Council Preparatory Group. Committee print. 94th Cong., 1st sess. Washington, U.S. Government Office, November 1975.

[12] Working groups, including U.S. representatives, have been meeting to develop the articles of agreement for an international fund for agricultural development. The fund was originally proposed at the World Food Conference by the oil producing countries as a means of mobilizing additional concessional resources to promote agricultural development.

(2) The Consultative Group for Food Production and Investment—established under the joint auspices of the Food and Agriculture Organization (FAO), the United Nations Development Program and the World Bank to encourage a flow of resources to developing countries for food production, to improve the coordination of assistance and to insure a more effective use of resources;

(3) The Committee on World Food Security—a group established by the FAO to keep abreast of world food stock levels and recommend appropriate policy action when and where appropriate; and

(4) The Global Warning and Information System—established under FAO to inform the World Food Council periodically concerning the world food situation.

U.S. international grain policy

U.S. international grain policy is an important component of overall U.S. food and foreign policy, in terms of its importance in international trade and in its role in U.S. food aid programs. Three developments relating to grain policy received close attention from the administration and Congress in 1975: The revelations concerning the grain inspection fraud, the sudden intervention of the Soviet Union into the U.S. grain market, and the subsequent negotiation of a U.S.-U.S.S.R. grain agreement.

(1) *Grain inspection standards.*—The Federal Government in May 1975 began an investigation into alleged corruption in the grain inspection system, involving allegations of bribery, adulteration of grain, misgrading, and shortweighting of grain in American ports. The investigation, by the year's end, resulted in more than 50 indictments and 40 guilty pleas.

The investigations determined that grain shipments on both the commercial market and those destined for humanitarian aid had been of inferior quality. Because agricultural exports represent an important source of U.S. foreign exchange earnings, the reputation of U.S. grain on the international market is important to both farmers and to the overall U.S. economy.

A number of bills directed toward improving grain standards were introduced in Congress in 1975. Primary attention was given to Senate Joint Resolution 88, the Emergency Grain Standards Act of 1975,[13] a proposal to increase the authority of the Secretary of Agriculture to strengthen the system for grain inspection, handling, and export procedures. The measure was passed by the Senate on September 25, 1975, and referred to the House Committee on Agriculture. (There was no further action on the measure in 1975.)[14]

(2) *Soviet grain purchases.*—Announcements of renewed Soviet negotiations for the purchase of U.S. grain in July 1975, prompted concern in the Congress and the executive branch that renewed Soviet grain purchasing might bring about disruptions in the grain market; 1972 Soviet purchases of 19 million metric tons of U.S. grain had depleted U.S. grain reserves, increased prices for U.S. consumers and

[13] U.S. Congress. Senate: Committee on Agriculture and Forestry. Emergency grain standards amendments of 1975. S. Rept. 94-386. Washington, U.S. Government Printing Office, 1975. 45 pp.

[14] H.R. 12572, the Grain Standards Act of 1976 was passed by the House and Senate in April 1976.

the price of U.S. food aid programs, and seriously distorted the international grain market.

In view of the concern of many Members of Congress that not enough understanding or basic facts were available on the impact of the grain sale, several hearings were held to examine the issue,[15] and the relationship between United States-Soviet grain sales and oil trade. Senate Resolution 269, passed by the Senate on October 2, expressed the sense of the Senate that the President, during negotiations with the Soviet Union on a multiyear grain trade agreement, should attempt to negotiate a "short term" agreement for the sale of Soviet oil to the United States at a price less than that set by the OPEC countries.

(3) *United States-Soviet grain agreement.*—The United States and the Soviet Union signed an agreement October 20, 1975, to permit the sale of 6 to 8 million metric tons of U.S. grain from private commercial sources to the Soviet Union annually for 5 years, beginning October 1, 1976, without additional government consultation. Soviet purchases are to be scaled down if U.S. supplies fall below 225 million metric tons. The agreement covers only corn and wheat sales, and was negotiated primarily to permit a better U.S. assessment of world import demand each year and to try to avoid the market fluctuations that had been triggered by previous Soviet grain buying. It also specifies that shipment of grain under the agreement is to be in accord with the U.S.-U.S.S.R. Maritime Agreement.

When the concluded agreement was announced, it was criticized by several Members of Congress for a variety of reasons. Senator Clifford Case, ranking minority member of the Senate Committee on Foreign Relations, maintained that the agreement should have been transmitted to the Senate for ratification as a treaty. Adlai Stevenson, chairman of the Subcommittee on International Finance of the Senate Banking, Housing and Urban Affairs Committee warned that the agreement masks fundamental problems, such as enforcement. Another concern expressed by members of the Agriculture Committees was that the Agriculture Department appeared to be taking a back seat to the State Department in matters pertaining to international agricultural trade. On October 20, the Senate passed Senate Resolution 285, expressing the sense of the Senate that the Secretary of Agriculture be included in all negotiations with foreign governments concerning the exportation or importation of agricultural commodities.

Other issues concerning the grain agreement were raised in hearings[16] and by various groups. Certain farm groups objected to the

---

[15] U.S. Congress, Senate: Committee on Agriculture and Forestry. Russian grain sale. Hearings, 94th Cong., 1st sess. Sept. 4, 1975. Washington, U.S. Government Printing Office, 1975. 87 pp. Committee on Government Operations. Permanent Subcommittee on Investigations. Grain sales to the Soviet Union. Hearings, 94th Cong., 1st sess. July 31, Aug. 1, 1975. Washington, U.S. Government Printing Office, 1975. 149 pp.

[16] U.S. Congress:

House: Committee on Agriculture. Grain sales to Russia (statement of Under Secretary of State for Economic Affairs). Hearings, 94th Cong., 1st sess. Dec. 3, 1975. Washington, U.S. Government Printing Office, 1976. 48 pp.

House: Committee on International Relations. U.S. grain and oil agreements with the Soviet Union. Hearings. 94th Cong., 1st sess. Oct. 28, 1975. Washington, U.S. Government Printing Office, 1976. 71 pp.

House: Subcommittee on International Resources, Food, and Energy. U.S. International grain policy sales and management. Hearings, 94th Cong., 1st sess. Nov. 10, 1975. Washington, U.S. Government Printing Office, 1976.

Senate: Committee on Banking, Housing, and Urban Affairs. United States-Soviet grain agreement. S. 2492, and other matters. Hearings, 94th Cong., 1st sess. Dec. 9 and 10, 1975. Washington, U.S. Government Printing Office, 1976. 212 pp.

agreement on the grounds that government-to-government trading is wrong in principle, because it means sharing world markets on the basis of political determination and that the agreement established a precedent for more serious restrictions on farm exports. They also regard the agreement as a sellout to the AFL–CIO maritime unions in view of the higher rates to be paid on grain export shipments, which can be regarded as restrictive to the promotion of foreign trade. Some producers fear that there are government controls built into the agreement which could mean decreased exports and lower prices in the future.

Negotiations concerning Soviet oil sales went on concurrently with the negotiation of the grain agreement. However, though an oil agreement was not concluded with the grain agreement, the day that the grain agreement was signed a letter of intent addressed to the Soviet Minister of Foreign Trade by the Under Secretary of State for Economic Affairs was issued confirming the commitment of both countries to conclude an agreement on the sale of U.S.S.R. petroleum and petroleum products to the United States.

Other related congressional actions

The Senate passed two food related resolutions in early 1975; Senate Resolution 101 and Senate Resolution 122, expressing the sense of the Senate that the Secretary of Agriculture should take immediate steps to distribute surplus peanuts and potatoes where needed in the United States and abroad under domestic food assistance and Public Law 480 programs.

In addition, several committees held hearings on various issues related to the international food problem. Some of those not already mentioned include:

1. U.S. Congress: House: Committee on International Relations. Subcommittee on International Trade and Commerce. Export licensing of humanitarian assistance to Vietnam. Hearings, 94th Cong., 1st sess. Sept. 9, 1975. Washington, U.S. Government Printing Office, 1975. 46 pp.
2. U.S. Congress: Senate: Committee on the Judiciary. Subcommittee to Investigate Problems connected with Refugees and Escapees; and Committee on Labor and Public Welfare. Subcommittee on Health. World hunger, health, and refugee problems. Part VI: special study mission to Africa, Asia, and Middle East. Hearings, 94th Cong., 1st sess. June 10 and 11, 1975. Washington, U.S. Government Printing Office, 1975. 617 pp.
3. U.S. Congress: Senate: Select Committee on Nutrition and Human Needs. Report on the eighteenth session of the Conference on Food and Agriculture Organization of the United Nations. Hearings, 94th Cong., 1st sess. Dec. 15, 1975. Washington, U.S. Government Printing Office, 1976. 45 pp.

On December 1, 1975, the Senate ratified the protocols to extend until June 30, 1976, the International Wheat Agreement of 1971. The agreement consists of the Wheat Trade Convention, which provides an administrative mechanism (the International Wheat Council) for international cooperation in matters relating to the production and sale of wheat, and the Food Aid Convention, which permits its parties to provide minimum annual quantities of food aid to developing countries.

Congress and the Law of the Sea*

Developments over the past quarter century have increasingly emphasized the degree to which traditional international maritime law

*Prepared by Marion M. Montaigne, analyst in U.S. foreign policy.

has become outmoded. Though in detail and implementation perhaps no international law has been more conflicting and contradictory than that pertaining to the sea, in essence it was based on the principle of freedom on the high seas, and recognition by all nations of a 3-mile territorial limit over which each coastal nation maintained sovereignty. However, many recent developments have made it clear that the law of the sea must be revised and augmented to relate more effectively to the realities of the last quarter of the 20th century, and to the possibilities for the future.

The Congress and the executive branch share an awareness and concern about this issue, but lack a common methodology for resolving the problems presented. Moreover, there are differences both within the Congress and the executive branch. During the first session of the 94th Congress, Congress for the most part was divided between efforts to satisfy the specific interests of various constituents while at the same time endeavoring to consider foreign policy interests as a whole.

The essential framework for evolving international oceans and fisheries policies has been the series of U. N. Law of the Sea Conferences, initiated in 1958, with the fourth session of the Third Conference meeting in New York, March 15–May 7, 1976.[17] Virtually every piece of fishery- or ocean-related legislation before the Congress has to take into consideration the potential impact on the Law of the Sea negotiations, as well as on U.S. domestic and foreign policy.

During 1975, a number of congressional committees and the National Ocean Policy study group have held hearings on the conference and on several marine issues. The most important issues before Congress have concerned proposals for the unilateral extension of U.S. fisheries jurisdiction from 12 to 200 miles, and for the unilateral authorization of licensing of deep sea mining claims by U.S. companies. The executive branch has opposed both these proposals "except as a last resort," on the grounds that unilateral action by the United States would jeopardize the Law of the Sea treaty negotiations.

Other congressional activities related to fisheries and oceans included legislation concerning the Atlantic Tunas Convention Act of 1975 and the 1975 Brazilian Shrimp Agreement, regulations relating to safety at sea, amendments of the Intergovernmental Maritime Consultative Organization (IMCO), and control of marine pollution.

Congress and the Law of the Sea Conference

The purpose of the Third U.N. Law of the Sea Conference—made up of delegates from 156 nations—is to draft a new Law of the Sea Treaty. Progress, in the view of many observers, including many Members of Congress, has been slow, as negotiations have been hampered by the unwieldy size of the Conference, the complexity of issues before it,

---

[17] The First Law of the Sea Conference in 1958 drafted four international conventions: The Convention on the Territorial Sea and Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the living Resources of the High Seas, and the Convention on the Continental Shelf. The Second U.N. Law of the Sea Conference in 1960 failed to reach agreement on delineation of the territorial sea and establishment of a fishing zone.

The Third U.N. Law of the Sea Conference held an organizational session (New York, 1973) and two substantive sessions (Caracas, 1974, and Geneva, 1975) prior to its fourth session. The New York meeting begins negotiations on 304 draft articles which were prepared by the 1975 Geneva session, and is focusing on three main issues: The nature of the international regime for the exploitation of deep seabed resources; the degree of control that a coastal state can exercise in an offshore economic zone; and the extent of the territorial sea and the related issue of guaranteed transit passage through international straits.

and by the fundamental differences in philosophy and interests between the industrialized and the developing nations, between maritime powers and those countries with limited shipping, and between the coastal and landlocked states.

Congress is obviously interested and involved with many aspects of the negotiations. The Conference deals with an all encompassing array of marine issues—territorial waters, a 200-mile economic zone, fishing rights of coastal states, the preservation of the marine environment, mineral rights to the deep sea bed, freedom of passage of commercial and naval vessels and regulation of scientific research—all of which impact on U.S. domestic and international policies in terms of peace and security, food supply, energy, natural resources, industry, transportation, and trade.

Nine Senators and seven Members of the House of Representatives were designated as advisers to the U.S. delegations to the Caracas and Geneva sessions of the Third Law of the Sea Conference.[18] In addition, 14 Members of Congress have served on the Law of the Sea Advisory Committee. This committee, composed of approximately 80 persons representing the different interests affected by the Conference, advises the Secretary of State and the Interagency Task Force on the Law of the Sea, which drafts U.S. policy positions for the Conference. Evidence of congressional interest in the Law of the Sea Conference is also indicated by the January 22, 1975, letter from 22 Senators to President Ford urging "that Secretary of State Kissinger take personal command" of the law of the sea negotiations for the United States, and that other nations be encouraged to carry on negotiations at least at the ministerial level.

During 1975, hearings on the status of the Conference were held by various Senate committees and the Senate National Ocean Policy Study Group: The Senate Foreign Relations Committee on May 22: the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs on June 4, and on October 29; and by the study group on June 3–4. In addition, hearings and debate on fisheries and deep sea mining legislation in both the House and the Senate have considered the potential impact of a Law of the Sea Treaty. Indeed, some Members of Congress, citing the long delays and inability of the participating states to agree on fundamental aspects of a treaty, have become convinced that a Law of the Sea Treaty cannot be negotiated through the United Nations, and that the United States must act independently and immediately with its own legislation to protect its vital interests.

Congressional action on marine issues

(1) *200-mile fisheries jurisdiction.*—Congressional debate in 1975 over the question of extending U.S. fishing jurisdiction from 12 to 200 miles centered on two highly controversial bills: H.R. 200, the Marine Fisheries Conservation Act of 1975, and S. 961, the Emergency

---

[18] U.S. Congress. Senate. Committee on Foreign Relations. Third U.N. Law of the Sea Conference. Report to the Senate by Senators Claiborne Pell, Edmund Muskie, Clifford Case, and Ted Stevens, advisers to the U.S. delegation, Caracas, June–August 1974. Committee print. 94th Cong., 1st sess. Feb. 5, 1975. Washington, U.S. Government Printing Office, 1975. 85 pp. Third U.N. Law of the Sea Conference, Geneva session, March–May 1975. Report to the Senate by Senators Claiborne Pell, Thomas McIntyre, Clifford Case, Charles Mathias. Committee print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 156 pp.

Marine Fisheries Protection Act of 1975. Though H.R. 200 and S. 961 are directed to the same purpose, to extend the U.S. fishing jurisdiction from 12 to 200 miles in order to conserve fish stocks and to protect the U.S. fishing industry, and to the same broad scope, to provide for regulation of foreign fishing within the 200-mile zone, and to establish fishery management programs, they differ considerably in emphasis and detail. H.R. 200 provides for certain congressional oversight functions that involve U.S. foreign policy, which S. 961 does not; H.R. 200 diminished the role of the Secretary of State in relation to that of the Secretary of Commerce with regard to foreign fishing while S. 961 provides for joint authority between the two Secretaries; and H.R. 200 places much less emphasis than does S. 961 on the interim character of the measure until an international treaty enters into force.

In the House, H.R. 200 was referred to the House Committee on Merchant Marine and Fisheries, which favorably reported the measure on August 20, 1975 (H. Rept. 94–445). In addition, the House Committee on International Relations requested sequential referral of the bill, claiming that the measure "* * * impinges upon the committee's jurisdiction over relations with foreign countries generally, the establishment of boundary lines between the United States and foreign nations, international conferences and congresses, and U.N. organizations." [19] After the Speaker ruled against this request, the International Relations Committee, in accordance with the Rules of the House which grant it special oversight functions concerning international fishing agreements, held oversight hearings on September 24 and October 3 and 4, and submitted a report to the Speaker recommending against House passage of H.R. 200. On October 9, the House passed H.R. 200 by a vote of 208–101.

In the Senate, S. 961 was reported favorably by the Senate Commerce Committee (S. Rept. 94–416, Oct. 7, 1975) and by the Senate Armed Services Committee (S. Rept. 94–515, Dec. 8, 1975), but was reported unfavorably by the Senate Foreign Relations Committee (S. Rept. 94–459, Nov. 18, 1975).

Congressional debate on H.R. 200 and S. 961 as reflected by the differing views set forth in the various reports, indicates the problem of reconciling essentially domestic interests of conservation and protection of the U.S. fishing industries with such U.S. foreign policy interests as avoiding possible retaliatory action by other nations, successfully concluding an international oceans agreement, and protecting existing international law. It is also worth noting that the major legislation relating to fisheries, and also to mining and Outer Continental Shelf jurisdiction—all of which if passed or implemented would have profound impacts on U.S. foreign policy and on international law—was not initiated in the Foreign Relations or International Relations Committees, but in such committees as the Commerce Committee and the Merchant Marine and Fisheries Committee. Moreover, through various procedural maneuvers, the Foreign Affairs and International Relations Committees were actually restricted in the degree of influence they could exercise over this legislation.

[19] U.S. Congress. House: Committee on International Relations. Potential impact of the proposed 200-mile fishing zone of U.S. foreign relations. H. Rept. 94–542. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

In summarizing its reasons for objecting to H.R. 200, the Committee on International Relations stated in its report:

> The broad range of U.S. ocean interests can best be protected by international agreements, not by unilateral actions.
>
> H.R. 200 would damage U.S. objectives at the law of the Sea Conference including our efforts to obtain special regimes for salmon and for distant-water fisheries such as tuna and shrimp.
>
> There are alternative means of achieving a transition to a 200-mile coastal fisheries zone by international agreements, not by unilateral action.
>
> Unilateral action will adversely affect other important U.S. foreign policy interests:
>
> H.R. 200 would provoke retaliatory action by other nations.
>
> H.R. 200 is unenforceable.
>
> H.R. 200 is inconsistent with longstanding U.S. policy.
>
> H.R. 200 violates U.S. treaty obligations.
>
> H.R. 200 is not an interim measure.

The adverse report of the Senate Foreign Relations Committee on S. 961 argued: (1) That the measure is inconsistent with the spirit of existing U.S. international legal obligations, particularly the 1958 Convention on the High Seas which identifies freedom of fishing as an essential element of high seas freedom; and (2) that S. 961 might undermine current efforts of the Third U.N. Law of the Sea Conference to reach agreement on this and other marine issues.

The principal arguments put forward by proponents of the proposal to establish a 200-mile U.S. fisheries zone concerned the need to protect U.S. fishing interests from the increasing foreign fishing activity of recent years and to conserve fish stocks. In answer to the expressed fears of the House and Senate Foreign Affairs Committees, supporters maintained that extension of U.S. jurisdiction over a 200-mile economic zone would be an interim measure contingent on eventual passage of an international treaty, and that enactment of such a law might provide needed stimulus toward completion of an international agreement. Further, the proponents claim that a unilateral U.S. action would not violate international law, for countries have the right to take measures necessary to conserve their stocks of fish, that no international treaty limits national fisheries to 12 miles, and that the bills provide for renegotiation of existing fisheries treaties to which the United States is party.

While some opponents claimed that extension of U.S. fishery jurisdiction to 200 miles could cause retaliatory action which could jeopardize national defense by limiting freedom of navigation and overflight rights, the report of the Senate Armed Services Committee argued that a fisheries management proposal is clearly distinguishable from jurisdictional extensions infringing on military ocean rights, and that considerations of national defense and security were not arguments relative to the merits of S. 961.[20]

(2) *Deep seabed mining.*—Legislation was reintroduced in the 94th Congress (H.R. 1270, S. 713) to protect U.S. investments in deep seabed mining operations. These bills are similar to the proposed Deep Seabed Hard Minerals Act (S. 1134) of the 93d Congress, which, though favorably reported by the Senate Committee on Interior and

---

[20] S. 961 was passed by the Senate, 77–19, on Jan. 28, 1976, and the conference report reconciling S. 961 and H.R. 200 (H. Rept. 94–948) was agreed to by the Senate on Mar. 29, 1976, and by the House on Mar. 30, 1976. The measure was signed into law (Public Law 94–264) on Apr. 13, 1976.

Insular Affairs,[21] died in the Senate Foreign Relations Committee at the end of the Congress. In the 94th Congress, H.R. 1270 was referred to the House Committee on Merchant Marine and Fisheries, and S. 713 to the Senate Committee on Interior and Insular Affairs, but with a stipulation that when reported, it is to be subsequently reported to the Committees on Armed Services, Commerce, and Foreign Relations simultaneously for 30 days. No action on either the House or Senate proposals had transpired by the end of 1975.

Like the fisheries management measure, the deep seabed mining proposals must respond to both domestic and international concerns. The bills would give the Secretary of the Interior authority to issue licenses to U.S. nationals engaging in exploration and commercial recovery of deep seabed mineral resources. The proposal would establish an interim measure until a Law of the Sea Treaty becomes effective, with any licenses issued under the U.S. law becoming subject to the treaty's provisions, and compensation provided for certain losses incurred through differing requirements of an international treaty.

The passage of a Deep Seabed Hard Minerals Act is favored by the mining industry, which fears that without the investment protection provided for in the proposed legislation, further deepsea mining development will become financially too risky, that the United States may fall behind technologically, and that international mineral cartels may develop if U.S. dependence on foreign sources continues.

The executive branch has opposed the deep seabed mining proposals on the grounds that such unilateral action might jeopardize the Law of the Sea negotiations, but it has initiated several actions to assist the deep seabed mining industry. The Department of State has taken the position that under existing international law, mining of the deep seabed beyond limits of national jurisdiction may proceed as a freedom of the high seas.

(3) *Other Continental Shelf.*—Since the energy crisis, interest in the production of oil and gas from the sea floor adjoining U.S. coasts, and in the establishment of deepwater ports, has intensified. Besides U.S. concern over the need to avoid marine pollution and the jurisdictional disputes between the Federal and State Governments, the question has also prompted jurisdictional assertions among the member nations negotiating the Law of the Sea Treaty.

In a controversial memorandum dated September 18, and released October 4, 1974, the Department of the Interior ordered a firm leasing schedule for Outer Continental Shelf lands which included: (1) 10 million acres leased in 1975; (2) a sale in 1975 in both Alaska and the Atlantic; and (3) an alternative plan if the second condition was not met, which would still allow for the leasing of 10 million acres.

This schedule was opposed on a number of grounds. Certain Congressmen objected to it on the premise that the full truth of the leasing had not been revealed. They also raised the question of infringement of states rights. This opposition has caused delay in the implementation of the schedule.

Considerable legislation was introduced in 1975 concerning the Outer Continental Shelf, and on April 22, 1975, the House passed

---

[21] U.S. Congress. Senate: Committee on Interior and Insular Affairs. Deep Seabed Hard Minerals Act: report to accompany S. 1134. S. Rept. 93–1116. 93d Cong., 2d sess. Washington, U.S. Government Printing Office, 1974. 68 pp.

House Resolution 412 approving the establishment of the ad hoc Select Committee on the Outer Continental Shelf for the purpose of considering H.R. 6218. This bill would amend the Outer Continental Shelf Lands Act of 1953, to establish a policy for the management of oil and natural gas in the OCS, and for the protection of the marine and coastal environment. The measure was not reported in 1975.[22]

(4) *Fishery and ocean conventions, treaties, and regulations.*—On August 5, 1975, the President approved the Atlantic Tunas Convention Act of 1975 (Public Law 94–70) to implement the 1966 Convention for the Conservation of Atlantic Tunas. The purpose of this law is to provide an overall conservation program, agreed to on an international basis, for the conservation of the highly migratory tunas, and to carry out U.S. responsibilities under the convention. The law authorizes the appointment of U.S. Commissioners to the International Commission for the Conservation of Atlantic Tunas (ICCAT), which is the decisionmaking organ of the convention, and authorized the creation of a U.S. Advisory Committee.

On October 28, 1975, the Senate ratified the 1975 Brazilian Shrimp Agreement, to establish a basis for regulating the conduct of shrimp fishing in a defined area off the coast of Brazil. The new treaty differs from the 1972 agreement in that it reduces the number of U.S.-flag vessels which may fish within the designated fishing area at any time during the second year of the agreement, increases the amount of money the United States must pay the Brazilian Government to exercise its enforcement responsibilities, and provides for cooperation in issues related to the fishing industries and exchange of scientific information. The President signed enabling legislation (H.R. 5709) into law July 24, 1975 (Public Law 94–58).

Also, on October 28, 1975, the Senate agreed to resolutions of ratification of the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Ex. W, 93d Cong., 1st sess.), amendments to the International Convention for the Safety of Life at Sea (Ex. K, 93d Cong., 2d sess.) and amendments to several articles of the Convention on the Intergovernmental Maritime Consultative Organization (Ex. F, 94th Cong., 1st sess.).

(5) *Marine pollution.*—Congress passed two laws pertaining to marine pollution in 1975. Public Law 94–62 (H.R. 5710), approved July 15, 1975, amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for fiscal year 1976 and the transition period July 1–September 30, 1976, as follows: Title I, ocean dumping permit program—$5.3 million for fiscal year 1976 and $1.325 million for the transition period; title II, research program on the effects of ocean dumping on the marine environment—$6 million for fiscal year 1976 and $1.5 million for the transition period; and title III, marine sanctuaries areas—$6.2 million for fiscal year 1976 and $1.55 for the transition period. The law also changes from January to March, the month in which the Secretary of Commerce must file his annual report on the effects of ocean dumping on the marine environment.

---

[22] U.S. Congress, House, Ad Hoc Select Committee on the Outer Continental Shelf. Outer Continental Shelf Lands Act Amendments. Hearings, 94th Cong., 1st sess. Numerous dates, 1975. Pts. 1 and 2. Washington, U.S. Government Printing Office, 1975. 1,835 pp.

A transportation bill—Public Law 94–134 (H.R. 8365)—approved November 24, 1975, includes an appropriation of $10 million for the Coast Guard Pollution Control Fund to insure immediate clean up of oil spills.

Legislation was introduced but not passed in 1975 (S. 2162 and H.R. 9294) to implement the 1969 Convention on Civil Liability for Oil Pollution Damage, and the 1971 Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, although neither convention has been ratified by the Senate. Another proposal concerned with marine pollution control (S. 1341) would amend the Federal Water Pollution Control Act Amendments of 1972 and the Ports and Waterways Safety Act of 1972 to extend U.S. vessel pollution control jurisdiction to 200 miles from U.S. coasts. No action was taken on this proposal in 1975.

Other References

Browne, Marjorie Ann. Law of the Sea Conference. Washington, Library of Congress Congressional Research Service. Issue Brief IB74104. Updated periodically. 18 pp.

Dyas, Norma. Oil and Gas Development on the Continental Shelf. Washington, Library of Congress Congressional Research Service. Issue Brief IB74061. Updated periodically. 14 pp.

Space Research*

The foreign policy aspects of outer space programs drew little attention from Congress as a whole during 1975. Authorization for the National Aeronautics and Space Administration (NASA) passed both Houses of Congress with little discussion and little change from the administration request of approximately $3.5 billion. The final section of the NASA Authorization Act of 1976 did make specific reference to the administration's making "every effort to enlist the support and cooperation of appropriate scientists and engineers of other countries and international organizations" in monitoring and conducting research on the ozone layer of the upper atmosphere.

During 1975 the congressional committees concerned with outer space continued their interest in and encouragement of cooperation among nations in the use and exploration of outer space for peaceful purposes.[23] International cooperation in space was brought up many times during the extensive investigation by the Subcommittee on Space Science and Applications of the House Committee on Science and Technology on the topic, "Future Space Programs, 1975." Hearings were held by the subcommittee on 5 days in July and numerous additional papers as well as the conclusions and recommendations of the subcommittee were published in a two-volume committee print. Included in the committee print was a paper by Howard and Harriet Kurtz, in which they advocated "the development of pro-human U.S. global space power initiatives as the centerpiece for a new, and larger, and more effective U.S. foreign policy." [24]

---

*Prepared by Vita Bite, analyst in international relations.

[23] See U.S. Congress. Senate. Committee on Aeronautical and Space Sciences. Convention on Registration of Objects Launched into Outer Space: Analysis and background data. Committee print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[24] U.S. Congress. House: Committee on Science and Technology. Subcommittee on Space Science and Applications. Future Space Programs, 1975. 94th Cong., 1st sess. Committee print. Washington, U.S. Government Printing Office, 1975. vol. 2, p. 503.

Among the conclusions of the subcommittee was that international participation is one of the major policy factors which need to be evaluated on a recurring basis in order to provide for an effective space program. Another conclusion was that:

> In addition to the programs on international space cooperation currently underway, efforts should be made to reinforce U.S. activity to assure that the space programs serve as a tool for and as a positive impetus to:
> (1) Realizing the equitable and efficient use and conservation of natural resources;
> (2) Expanding the educational opportunities and medical services for all people;
> (3) Providing new opportunities for exchange of information and lessening of international tensions; and
> (4) Providing increased business and social communications between nations.[25]

The exploration, use, and exploitation of outer space have been conducted mainly on a national basis. Yet by their very nature these activities transcend national boundaries and create problems that can be solved only within an international framework. The uses of outer space have created a vast potential for the solution of problems on a global and regional level and thus require an inherently international approach.

At present there is significant international cooperation in outer space. Yet full realization of certain new outer space activities will require new international approaches, because of the political problems which purely national or even regional approaches generate, and because of technical requirements inherent in fully and efficiently utilizing the potential of outer space activity.

Remote sensing from space will be of particular significance in predicting crop production and water availability, monitoring and predicting climactic trends and severe storms, and monitoring the environment. In addition, space activities have the potential to contribute to our Nation's energy needs. In addition to the prediction of water availability and climate trends, space observations could provide geological maps. Beyond that it may be possible to generate energy in space and transmit it to Earth and to launch nuclear waste from Earth-based generators to outside of our Solar system. Utilitarian applications, however, raise a host of problems of economic, social, military, political, and legal character on both the domestic and international levels.

The United States is committed by statute to the advancement of the peaceful uses of outer space for the benefit of all mankind, and to conduct its civil space activities in cooperation with other nations and groups of nations. Pursuant to this mandate, it has developed an effective and ongoing program of international cooperation in space research and development.

However, there are several areas in which further action is needed. In the future, Congress may want to explore possible U.S. policy directions in this area. The International Relations and Foreign Relations Committes may be especially interested in exploring the foreign policy implications of various space developments such as the experimental Earth resources satellites and the possibility of direct broadcast satellites. In the case of Earth resources satellites, there is the

---

[25] Ibid., vol. 1, p. 64.

fear that pictures taken from outer space could be used by the launching nation to exploit the natural resources of other states. While there has been widespread endorsement and international cooperation in the U.S. program for the development of remote sensing technology (some nations already operate or intend to acquire Landsat Earth stations of their own) a number of nations have expressed strong concerns about data secured over their territories, and the U.S. policy of unrestricted availability of such data to all who wish to have it. The U.S. Government position on this has been to acknowledge the existence of these concerns without agreeing with the underlying reasoning and the risks perceived by other nations in the present U.S. policy. The capabilities of the new satellites to look down upon all humanity and to invade the privacy of all nations, is so far beyond any human experience that it is almost beyond imagination. Information derived from the Landsat program raises important questions, such as: To whom does the information belong; who has the right to its use; and who has the right of access. Answers to these questions involve a very difficult process, in which Congress may wish to participate, of developing a doctrine in a novel field of international legislation.

In the case of direct broadcast satellites, fear exists that free flow of information might result in the subjection of receiving nations to undesirable broadcasts. Many countries have expressed fears that the new technology will bring them programs which may contain propaganda, culturally offensive material, or trivia. Some countries have made proposals for regulating direct broadcast programs, but these proposals have raised the counterconcern that regulation might severely limit the free flow of information.

The present state of policy in these areas is a manifestation of the need for a more effective machinery for the formulation and implementation of policies related to issues in which science, technology, and foreign affairs intersect.

Other International Environmental Issues*

Some of the concerns of the Congress on international environmental matters have been treated in the other parts of this chapter.

Protection of the marine environment

Protection of the marine environment is one area where Congress has not yet acted to implement some of the significant international treaties adopted. Among the treaties pending before the Senate Foreign Relations Committee are the:

—1969 Convention on Civil Liability for Oil Pollution Damages, and the

—1971 Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage.

Further Senate consideration of these documents appears to have been postponed until the Congress has enacted implementing legislation. Such legislation, originally introduced during the 93d Congress, was reintroduced during the 94th Congress (S. 2162/H.R. 9294). In the Senate the legislation was referred to three committees: Commerce, Interior and Insular Affairs, and Public Works; no hearings on these

*Prepared by Marjorie Ann Browne, analyst in international relations.

bills were held during 1975. In the House, the companion bill was referred to the following three committees: International Relations, Merchant Marine and Fisheries, and Public Works and Transportation. A subcommittee of the House Merchant Marine and Fisheries Committee held hearings between October 1975 and January 1976. Meanwhile, the 1969 convention entered into force on June 19, 1975, without U.S. participation.

Two significant treaties made under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO) during 1973 have not yet been transmitted to the Senate:

—Convention for the Prevention of Pollution from Ships, and

—Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil.

The first treaty includes five annexes and two protocols and is quite lengthy. The second treaty is a protocol which supplemented the 1969 Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties. The 1969 convention entered into force on May 6, 1975. Implementing legislation for the 1973 protocol was introduced in late 1975 (S. 2549/H.R. 11406) and referred to the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee. No hearings have been held.

A useful source of information on the problems of the protection of the marine environment was prepared by the CRS at the request of the National Ocean Policy Study and published in May 1975.[26] The report describes most of the salient aspects of ocean pollution and both domestic and international efforts to control pollution in the marine environment.

Antarctic policy

During 1975, the Subcommittee on Oceans and International Environment of the Senate Foreign Relations Committee held hearings, in executive session, on U.S. policy with respect to mineral exploration and exploitation in the Antarctic. The purposes of the hearing, according to Chairman Claiborne Pell, were:

> (*a*) To determine the current U.S. policy on this subject; (*b*) to discuss the possible alternatives available to the United States on this issue; and (*c*) to review the consequences such policy will have on the Antarctic Treaty and its 10 years of successful cooperation.[27]

Dr. Dixy Lee Ray, then Assistant Secretary of State, and Chairman of the Antarctic Policy Group, indicated that "an internationally agreed approach for any commercial exploration and exploitation of Antarctic mineral resources is the advisable course of action."[28] In response to questions on the environmental aspects of Antarctic mineral exploitation and the U.N. environmental program (UNEP), Dr. Ray stated that the UNEP governing council had decided that the Antarctic Treaty was the best framework for the consideration of such

---

[26] U.S. Congress. Senate: Committee on Commerce. National Ocean Policy Study. "Effects of Man's Activities on the Marine Environment." Prepared at the request of Hon. Warren G. Magnuson, chairman, Committee on Commerce, and Hon. Ernest F. Hollings chairman, National Ocean Policy Study. 94th Cong., 1st sess. Committee print. Prepared by James E. Mielke, Congressional Research Service. Washington, U.S. Government Printing Office, 1975. 135 pp.

[27] U.S. Congress. Senate: Committee on Foreign Relations. Subcommittee on Oceans and International Environment. "U.S. Antarctic Policy." Hearing, 94th Cong., 1st sess., May 15, 1975. Washington, U.S. Government Printing Office, 1975. p. 2.

[28] Ibid., p. 6.

questions. Senator Pell urged that Congress be kept informed of executive branch considerations, even at the early stages of negotiations and the establishment of broad policy.

Other pending treaties

Other treaties still pending before the Senate Foreign Relations Committee which deal with international environmental questions were transmitted to the Senate in December 1975:

—Agreement on Conservation of Polar Bears, November 1973, and

—Convention for the Conservation of Antarctic Seals, June 1972.

United Nations Environment Program (UNEP)

In 1972, after considerable planning, delegations from 113 nations met at Stockholm for the United Nations Conference on the Human Environment. This Conference adopted a declaration on the human environment and an action plan of approximately 200 recommendations for both national and international action to assess the global environment and to devise management programs and agreements for its improvement. In addition, the Conference provided for the establishment of institutional apparatus (consisting of Executive Director, Governing Council, Environment Secretariat, Environment Coordination Board, and Environment Fund), under a United Nations environment program. The costs of servicing the Governing Council and operating the Secretariat are borne by the United Nations regular budget while the fund, supported from voluntary contributions, provides for the financing of new environmental initiatives within the U.N. system. The United States has contributed $12.5 million, between 1973 and 1975. For the same period the U.N. Environment Fund has received a total of $43.1 million from all contributing countries.

In the United Nations Environment Program Participation Act of 1973 (Public Law 93-188) the Congress authorized U.S. participation in the UNEP and an appropriation of $40 million for U.S. contributions to the UNEP, but limited appropriations to not more than $10 million for use in fiscal year 1974. The Congress, through the Foreign Assistance Appropriations Act, appropriated $7.5 million in fiscal year 1974 and $5 million in fiscal year 1975. An appropriation of $7.5 million is pending in the conference report of the Foreign Assistance Appropriations Act for fiscal year 1976 (H.R. 12203; H. Rept. 94-1006). An appropriation of $5 million has been requested for fiscal year 1977.

International law and the Concorde

The approach of 1976, when the British-French supersonic transport, the Concorde, would become operational, signaled an increased concern in the United States over the impact of the SST. The major environmental issues surrounding the Concorde relate to airport-area noise levels that can be generated by the Concorde and the unknown effect that high altitude flights by supersonic aircraft might have on the ozone layer in the upper atmosphere. Congressional efforts with respect to limiting the Concorde's entry into the United States have frequently been linked to noise abatement. Congressional attempts during July 1975 to adopt amendments to the Department of Trans-

portation appropriations bill which would have banned the Concorde were defeated by narrow margins in the House and Senate. In December the House passed an amendment to the Airport and Airway Development Act of 1970 (H.R. 9771) banning for 6 months the use of supersonic aircraft with noise levels above the limits set by Federal Aviation Administration (FAA) regulations for subsonic planes. Similar amendments were defeated in the Senate in March 1976.

With regard to the effects on the ozone layer, Secretary of Transportation William T. Coleman, Jr. indicated in February 1976 that the FAA would proceed with a proposed high altitude pollution program to produce a data base necessary for the development of national and international regulations of aircraft operations in the stratosphere. This program is subject, however, to Office of Management and Budget clearance and to congressional authorization. In addition, Coleman said he would request President Ford to instruct the Secretary of State to initiate negotiations with France and Great Britain so that an agreement to establish a monitoring system for measuring ozone levels in the stratosphere could be concluded quickly among the three countries. He also requested that the Secretary of State initiate discussions through the International Civil Aviation Organization (ICAO) and the World Meteorological Organization on the development of international stratospheric standards for the SST.

Executive branch activities on the Concorde climaxed on February 4, 1976, when Secretary of Transportation Coleman approved Concorde flights to New York and to Washington for a 16-month trial period "under certain precise limitations and restrictions." According to Coleman, his decision was based, among other factors, on provisions of the 1944 Chicago Convention on International Civil Aviation, the 1946 Bermuda Agreement with the United Kingdom, and a 1946 bilateral agreement with France. "These provisions," he said, "and a sense of justice as well, demand that the laws of this country be applied fairly and without discrimination."

The judiciary branch has also been involved with the Concorde. Suits have been submitted by both sides in various judicial forums, including the U.S. District Court for the Southern District of New York, the U.S. District Court in Washington, D.C., and the U.S. Court of Appeals in Washington. None of the suits have been resolved.

Several foreign relations and international legal factors have been cited during the debate within the executive and legislative branches and before the judiciary. Some observers have called upon the role of France and the United Kingdom as two of America's closest allies and the need for the United States to support them in this endeavor which has required the investment of considerable amounts of time and money: 10 years at $2 billion, according to one source. Both proponents and opponents of the view that the Concorde should be allowed to land and operate at U.S. airports call upon international treaty law to support their arguments. On December 11, 1975, the Aviation Subcommittee of the House Public Works and Transportation Committee held hearings on the international legal considerations involved in the domestic regulation of aircraft noise. The British and French have argued that refusal to permit landings would be a violation of certain treaties governing international aviation. The State Department's

Assistant Legal Adviser for Economic and Business Affairs Phillip R. Trimble presented a statement to rebut that argument:

> [Under existing treaty law] a country has the right to impose nondiscriminatory requirements relating to the entry and operations of the aircraft of other parties into its territory.
>
> * * * * * * *
>
> We have concluded that noise regulation is legally permissible under the bilateral and other agreements.
>
> * * * * * * *
>
> Although we have concluded that a nation retains the legal right to impose laws and regulations relating to noise standards applicable to aircraft within its territory, Article 11 makes it clear—along with Article 15 and other provisions that these national laws and regulations must be applied without distinction as to nationality,—i.e., in a fair and non-discriminatory fashion.[29]

During the question-and-answer period, however, Trimble acknowledged that arguments could be made on the other side and that his statement had been drafted toward a specific conclusion. Thus, it could also be argued that the United States is legally bound, under international agreements, to permit the Concorde to land at its airports. Hearings on FAA certification of the SST were also held by the Subcommittee on Government Activities and Transportation of the House Committee on Government Operations.

Another international legal factor was raised by Senator Gaylord Nelson who expressed the view that under the provisions of the Chicago Convention, any of the other 133 states parties should "be given equal nondiscriminatory treatment in regard to landing rights. If the Soviets request permission to operate their SST within the United States, they will have to be given that right. If Japan or China or Iran obtains a Concorde then "* * * they have the right to fly supersonic planes into this country." According to Nelson:

> If the Congress does not overturn this—the Coleman—decision, the door to a large number of daily SST flights will be flung wide open. A treaty we have ratified with over 100 other nations will bind our future course of action. Decisions will become increasingly difficult. The adverse environmental impacts will multiply.[30]

---

[29] Congressional Record [daily edition] vol. 122, Feb. 3, 1976: H 662-663.
[30] Nelson, Gaylord, The Concorde Dilemma. Congressional Record [daily edition] vol. 122, Feb. 19, 1976: S1984-1986.

CONGRESS AND INDIVIDUAL RIGHTS: HUMAN RIGHTS AND MIA'S

Human Rights*

In 1975, Congress prodded the administration to assure that U.S. foreign policy actions include consideration of the status of human rights in other countries. In some areas the prodding appeared to be producing positive results, while in others Congress moved to institute certain legislative mechanisms to assure greater attention to the human rights factor in foreign policy considerations.

Organizational changes in State Department

In the spring of 1974 the Subcommittee on International Organizations and Movements of the House International Relations Committee had issued a committee print presenting policy recommendations on international protection of human rights.[1] Later that year Congressman Fraser reported that, "many of the organizational changes recommended by the subcommittee have been accepted by the Department."[2]

Among such recommendations was the designation of human rights officers in all State Department geographic bureaus. A further recommendation, for appointment of a special assistant on human rights in the Deputy Secretary's Office to insure the consideration of human rights factors at the policy making level, was implemented in mid-1975 by creation of an Office of Humanitarian Affairs. The creation of such an office had been strongly urged by a group of Members of Congress, including Senator Cranston and Congressman Fraser, Bingham, and Fascell, at three meetings with Secretary of State Kissinger in late 1974 and early 1975. At those sessions Secretary Kissinger had reportedly been told that the Department of State had no one with whom Congress could discuss human rights and that someone should be put in charge of this problem immediately.

U.S. policy at the United Nations

Another arena where official U.S. policy appeared to be following the recommendations of the International Organizations subcommittee was in voicing a stronger concern for human rights violations in such international organizations as the United Nations. In March 1975, U.S. Ambassador to the United Nations, John Scali, in a speech which deplored the lack of progress in human rights made by the United Nations in over 30 years, announced that the United States would take a new approach to human rights at the United Nations. He explained that on February 6, 1975, Secretary Kissinger had instructed the U.S. Delegation to the Human Rights Commission in Geneva to support

---

*Prepared by Vita Bite, analyst in international relations.

[1] U.S. Congress, House: Committee on Foreign Affairs. Subcommittee on International Organizations and Movements. Human Rights in the World Community: A Call for U.S. Leadership. 93d Cong., 2d sess. Committee Print. Washington, U.S. Government Printing Office, 1974.

[2] Congressional Record [daily edition], vol. 121, Sept. 23, 1974: p. E 5953.

thorough studies by the Commission of alleged human rights violations anywhere in the world—whenever complaints to the Commission indicate a consistent pattern of gross and reliably attested violations. The new policy would mean that the United States would support international inquiries into alleged human rights violations in nations regarded as friends as well as adversaries. Thus in following this new policy the United States announced support for the U.N. Human Rights Commission's study of the situation in Chile. Later, when Chile refused to permit the Commission to do on-the-scene investigation of human rights conditions within the country, the United States criticized Chile for reneging on its earlier promise to allow such an investigation.

Another official U.S. action at the international level was the introduction by U.S. Ambassador Moynihan (who succeeded Scali) on November 12, 1975, before the U.N. General Assembly of a resolution calling for an unconditional amnesty for all political prisoners worldwide, and for strengthened efforts by and greater cooperation with the U.N. Commission on Human Rights in its efforts on behalf of political prisoners. This U.S. public declaration of respect and concern for human rights was commended by Members of Congress who usually criticize the administration for failure to place sufficient value on human rights issues in its foreign policy decisionmaking.[3] The resolution, however, was withdrawn a few days later after numerous amendments were submitted which would have drastically changed its original intent.

Foreign assistance

During the past 2 years Congress has been especially concerned with respect for internationally recognized human rights in countries receiving U.S. assistance. Thus on September 20, 1974, Congressman Fraser delivered to Secretary of State Kissinger a letter signed by 105 Members of Congress stating that their support for foreign aid legislation in the future would be influenced by the extent to which U.S. foreign policy shows more concern for human rights in recipient countries. The Foreign Assistance Act of 1974, section 502B, stated the sense of the Congress that "except in extraordinary circumstances the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights." The President was to advise Congress of extraordinary circumstances necessitating security assistance to any government engaging in such human rights violations.

The State Department reportedly had planned to respond to the requirements of this section by submitting to Congress a country-by-country analysis of how would-be aid recipients handled human rights problems, and why security requirements dictated continued aid. Such a draft was, however, not submitted to Congress. Instead a bland, unsigned summary report, entitled "Report to the Congress on the Human Rights Situation in Countries Receiving U.S. Security Assistance," was transmitted on November 14, 1975, to the Senate Foreign

---

[3] See for example, Congressional Record [daily edition], vol. 121, Nov. 19, 1975: S20403-S20404, and Dec. 5, 1975: S21241-S21244.

Relations Committee and the House International Relations Committee. The report stated that the Department viewed section 502B as an authoritative expression of congressional concern for human rights in all countries receiving assistance. Accordingly the State Department had issued a series of instructions to U.S. missions in the field calling for comprehensive reports on the human rights situation in each country. Such classified reports had been submitted and extensively analyzed by the Department.

The report then posited the conclusion that:

Repressive laws and actions, arbitrary arrest and prolonged detention, torture or cruel, inhuman or degrading treatment or punishment, unfair trials or other flagrant denials of the rights of life, liberty and the security of the person are not extraordinary events in the world community. These are all too common, occurring within both those countries receiving U.S. security assistance and those that do not.

Moreover, the report continued:

Experience demonstrated that the political, social, and cultural problems which can cause seemingly intractable human rights abuses to occur need to be resolved before real improvements in human rights conditions can apparently take place—with or without bilateral or international pressure. In most of the world the problems associated with poverty and the evolution from traditional to more modern societies seem to take precedence over respect for human rights.

Thus:

In view of the widespread nature of human rights violations in the world, we have found no adequately objective way to make distinctions of degree between nations. This fact leads us, therefore, to the conclusion that neither the U.S. security interest nor the human rights cause would be properly served by the public obloquy and impaired relations with security assistance recipient countries that would follow the making of inherently subjective U.S. Government determinations that "gross" violations do or do not exist or that a "consistent" pattern of such violations does or does not exist in such countries.

The report concluded that "quiet but forceful diplomacy" continued to be the best way to improve human rights matters.

Adverse congressional reaction to this report was an element in the continued strengthening of the human rights section in the International Development and Food Assistance Act of 1975, H.R. 9005 (Public Law 94–161).

The final text of this reads:

SEC. 116. HUMAN RIGHTS.—(a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives may require the administrator primarily responsible for administering part I of this act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this act.

(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

(d) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section.

The human rights section of the security assistance authorization bill (which is the subject of legislation separate from economic aid) S. 2662, as worked out by conference committee of both Houses calls for establishment within the Department of State of a Coordinator for Human Rights, who is to be appointed by the President with the advice and consent of the Senate. The bill permits the Congress to adopt concurrent resolutions by which security assistance to countries in violation of internationally recognized standards of human rights may be reduced or ended. The reports of international organizations are to be used to determine whether such violations are occurring.

Hearings

In other action as part of an ongoing, long-term study of international human rights and U.S. foreign policy, the Subcommittee on International Organizations of the House International Relations Committee held hearings on human rights in Korea and the Philippines[4] on several days in June and on human rights in Haiti[5] in November and on Chile[6] in December.

Women's rights

Another human rights issue which was the focus of some congressional attention during the past year was women's rights. The United Nations designated 1975 International Women's Year, and on January 9, 1975, the President by Executive Order No. 11832 created a National Commission for the Observance of International Women's Year to reinforce the national commitment to women's rights, and 2 months later, four members of Congress were named to the Commission: Senators Bayh and Percy, and Congresswomen Abzug and Heckler. Funding for International Women's Year activities on a national basis was incorporated in State Department authorizations and appropriations.

The House by voice vote on May 20 agreed to House Resolution 371 to send a congressional delegation to the International Women's Year Conference held in Mexico City between June 19 and July 2. The Speaker on June 13 appointed Representatives Sullivan, Mink, Holtzman, Schroeder, Boggs, Keyes, and Holt as delegates to the Conference. The four congressional members of the National Commission also attended the Conference.

---

[4] U.S. Congress, House, Committee on International Relations, Subcommittee on International Organizations, Human Rights in South Korea and the Philippines: Implications for U.S. Policy, Hearings, 94th Cong., 1st sess., May 20–June 24, 1975. Washington, U.S. Government Printing Office, 1975. 520 pp.

[5] U.S. Congress, House, Human Rights in Haiti, Hearing, 94th Cong., 1st sess., Nov. 18, 1975. Washington, U.S. Government Printing Office, 1975. 137 pp.

[6] U.S. Congress, House, Human Rights in Chile, Hearing, 94th Cong., 1st sess., Dec. 9, 1975. Washington, U.S. Government Printing Office, 1976. 36 pp.

In his report on the Conference[7] Senator Percy stressed the importance of U.S. Government implementation of proposals passed by the Conference. He urged a concerted and dedicated followup effort on the Conference to make the recommendations of the World Plan of Action and resolutions a reality. The World Plan of Action and the resolutions called for increased participation of women in international affairs. Senator Percy suggested that the role of women in foreign policy ought to be reviewed by appropriate congressional committees.

Congress enacted H.R. 9924 (Public Law 94–167) calling for a National Women's Conference to insure that the discussions and work begun at Mexico City will be continued on the national level. A sense of Congress resolution with respect to International Women's Year, House Concurrent Resolution 309, expressing full support for the goals of International Women's Year was passed by the House on October 6, but was not acted on by the Senate.

Women's rights were also the subject of two treaties considered by the Senate Foreign Relations Committee during 1975. Both treaties waited a long time for consideration—the Inter-American Convention on Granting Political Rights to Women (Ex. D, 81–1) was transmitted to the Senate by President Truman on January 13, 1949, and the U.N. Convention on the Political Rights of Women (Ex. J, 88–1) was transmitted by President Kennedy on July 22, 1963. Both treaties grant women basic political rights—franchise and the right to hold national office—which have long been possessed by women in the United States. The committee held a brief hearing on the treaties on December 12, 1975, and favorably reported the treaties to the Senate (Executive Report 94-20) on December 18, 1975. The Senate unanimously agreed to resolutions of ratification of both treaties on January 22, 1976.

Status of MIA's*

At the outset of the 94th Congress approximately 2,500 Americans remained unaccounted for in Southeast Asia.[8] According to the Vietnam agreement of January 27, 1973, a four-party joint military team—FPJMT—had been established for the sole purpose of carrying out the provisions of article 8(b), which contained requirements on accounting for the missing and for the return of the remains of the dead.[9] Since mid-1974, however, only delegates from the United States and South Vietnam had been attending the FPJMT sessions.[10] A spe-

---

*Prepared by Marjorie Niehaus, analyst in international relations.

[7] U.S. Congress, Senate Committee on Government Operations. World Conference of the International Women's Year, 94th Cong., 1st sess. Committee print. Washington, U.S. Government Printing Office, 1975.

[8] According to an interview on Jan. 8, 1975, with Dr. Henry Kenny, Professional Staff Assistant of the Select Committee on Missing Persons in Southeast Asia, missing Americans were listed in the following categories as of Dec. 31, 1975: Military Personnel—804 MIAs (missing in action), 36 POWs (prisoners of war), 148 PFOD (Presumptive Findings of Death), 1,230 DBNR (known to have died but bodies not recovered), and Civilians—43 MIAs.

[9] Article 8(b) of the Agreement on Ending the War and Restoring Peace to Vietnam states: "The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing-in-action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such measures as may be required to get information about those still considered missing in action."

[10] Washington Star, Jan. 29, 1975.

cial military unit, the Joint Casualty Resolution Center—JCRC—was set up at the time of the ceasefire to search for American MIA's in Indochina, but it had been able to locate the remains of only 8 Americans and helped to resolve an additional 124 cases in South Vietnam.[11] After the fall of the Government of South Vietnam to Communist forces on April 30, 1975, the American FPJMT delegation and the JCRC were among the Americans evacuated by the U.S. military. No search operations of any consequences had been conducted in Cambodia or Laos, and the North Vietnamese had not permitted search operations in North Vietnam.

On numerous occasions during 1975, North Vietnam linked what it considered American obligations under the Vietnam agreement of 1973 with the Vietnamese obligation to provide information on missing Americans.[12] In the second half of 1975, progress was made toward resolving the issue of missing Americans in Southeast Asia. On September 11, 1975, creation of a House Select Committee on Missing Persons in Southeast Asia was approved by a vote of 394 to 3 (H. Res. 335). Representative G. V. Montgomery was appointed chairman of the 10-member committee. A twofold responsibility was given the committee: (1) To obtain information on persons missing in Southeast Asia as a result of the Vietnam conflict, and (2) to investigate the need for international inspection teams to determine whether there are servicemen still held as prisoners of war or civilians unwillingly detained in Indochina.[13] In September, October, and November the committee held hearings and received testimony from U.S. Government officials, representatives from private groups, and individuals concerned with the issue of missing Americans, and former POW's themselves.

During the fall of 1975, the committee officials set up a meeting with Vietnamese officials: 12 Members of Congress, including 8 of the 10

---

[11] Select Committee on Missing Persons in Southeast Asia. News Release (second in a series). November-December 1975.

[12] When a congressional factfinding mission met with North Vietnamese representatives in Saigon at the end of February 1975, North Vietnam stated publicly that an accounting of missing Americans would have to wait until the 1973 agreement had been fully carried out. (New York Times, Mar. 14, 1975.) A similar Vietnamese message was made known, when on Mar. 13, 1975, Senator Kennedy published a letter he had received from North Vietnamese Foreign Minister Nguyen Duy Trinh in response to his Dec. 18, 1974, letter which had requested information about the missing Americans. The Trinh letter stated that no information would be made available so long as the United States continued policies which North Vietnam considered to be violations of the Vietnam agreement. The letter indicated, however, that Hanoi did possess information about American MIA's.

On April 22, 1975, for the first time since early 1973, North Vietnam released information on the status of missing U.S. servicemen. The names released were those of three American pilots whom North Vietnam said had been killed when their planes were shot down over North Vietnam between 1965 and 1972. Two of the men were already listed on U.S. records as killed in action. Information about the three pilots had been sent by the Vietnamese to Senator Kennedy's office.

After the fall of Saigon in April 1975, North Vietnam's position toward the missing Americans narrowed to an association of article 21 (postwar reconstruction) and article 8(b) (information on the missing) of the 1973 agreement. On June 11, 1975, North Vietnam for the first time publicly linked together the topics of U.S. postwar aid to Vietnam and the search for missing Americans. The New York Times published on June 12, 1975, an excerpt from the Vietnamese newspaper Nhan Dhan which stated: "* * * the war has completely ended and real peace has been reached throughout Vietnam. This situation has created conditions for resolving problems of the consequences of war between Vietnam and the United States, such as the U.S. contribution to healing the wounds of war in both parts of Vietnam, the search for U.S. MIA's, and the exhumation and repatriation of the remains of Americans who died in Vietnam." North Vietnam reiterated this position, which was made public on July 8, 1975, in a reply to a letter of May 27 from 27 Members of the House of Representatives who had sought an accounting of the American MIA's. (New York Times, July 9, 1975.)

[13] U.S. Congress. House. Select Committee on Missing Persons in Southeast Asia. Americans Missing in Southeast Asia. Hearings, 94th Cong., 1st sess. Part 1. Washington, U.S. Government Printing Office, 1975: (II).

committee members, participated in a 4-day mission to Paris and Geneva from December 4 to 8, 1975. In Paris on December 6, the congressional delegation met with North Vietnamese Ambassador to France, Vo Van Sung, PRG Chargé d'Affairs Huynh Thanh, and several other Vietnamese officials. The Vietnamese stated their desire to establish normal and friendly relations with the United States and emphasized the importance of positive American actions such as lifting the present trade embargo and helping to "heal the wounds of war." The committee stressed America's interest in continuing the resolution of the MIA issue and its concern about the return of the bodies of the two marines killed in Saigon on April 30, 1975, the repatriation of such remains as can be identified, and the question of the emigration from Vietnam of Vietnamese wives and children of American personnel.[14]

During the discussions, the Vietnamese made three commitments: (1) They promised to release the remains of three American pilots; (2) they agreed to continue to search for American MIA's in Vietnam and to report to their governments the committee's request that the Vietnamese assist in obtaining information about MIA's from the Lao and Cambodian Governments; and (3) the Vietnamese also agreed to take all steps necessary to permit American civilians remaining in South Vietnam the opportunity to voluntarily leave the country.

On Sunday, December 7, the committee traveled to Geneva to meet with the International Red Cross Committee Director Jean Pierre Hocke and Delegate General Melchior Barsinger. The officials confirmed that they were assisting in determining the needs for humanitarian assistance to all parts of Vietnam. They further indicated that they were prepared to assist in the identification and repatriation of MIA's if permitted to do so by the Vietnamese.[15]

As an outcome of the December 6 meeting in Paris and with the help of the United Nations High Commissioner for Refugees, four members of the committee[17] flew to Hanoi, where on December 9, 1975, in a ceremony at Gin Lam Airport, they received the remains of three American pilots. The committee members stayed in Hanoi for 2 days of meetings with Vietnamese officials. In response to inquiries from the committee, the Vietnamese stated that all surviving Americans were returned in 1973 but that efforts to search for missing Americans would continue. It was agreed that "acts of reciprocity" should be part of improving relations between the United States and Vietnam.[18] Immediately before this congressional trip, Chairman Montgomery had received a message from President Ford which expressed support for the committee's work and which contained the section, "* * * we are prepared to reciprocate gestures of goodwill."[19]

On leaving Hanoi, the Congressmen flew to Vientiane, Laos, where they turned over files on missing Americans to Lao officials. The Lao Chief of Cabinet stated that all live Americans were returned in 1973 but that "as we continue to look for our own war dead, we are

---

[14] Select Committee on Missing Persons in Southeast Asia, News Release (second in a series), 1975.

[15] Ibid.

[16] Select Committee on Missing Persons in Southeast Asia, News Release (second in a series), November-December 1975.

[17] Congressmen Montgomery, McCloskey, Ottinger, and Gilman.

[18] New York Times, Dec. 24, 1975.

[19] Select Committee on Missing Persons in Southeast Asia, News release (second in a series), 1975.

looking for your missing * * * and as we gather information we will provide you with that information." The delegation appealed to both the Vietnamese and Lao to help arrange a meeting with the Cambodian representatives to discuss the search for missing journalists and servicemen in Cambodia.[20]

The Senate adopted Senate Resolution 251 on November 19, 1975, which stated the sense of the Senate that the President, during his 1975 trip to the People's Republic of China, should request that appropriate Chinese officials use their offices to obtain a full and complete accounting of members of the U.S. Armed Forces and civilians missing in action or held as prisoners of war in Southeast Asia.[21] On December 4, 1975, Secretary Kissinger announced in Peking that officials of the PRC had given the President detailed information on several deceased U.S. personnel missing in Asia.

The office of Senator Kennedy made public on December 30, 1975, a letter of December 19, 1975, from Vietnamese Foreign Minister Nguyen Duy Trinh, which stated that North Vietnam was prepared to return the remains of two U.S. Marines who were the last American servicemen killed in Vietnam. The marines' remains were released in Saigon to aides of Senator Kennedy on February 22, 1976, and flown to the United States.

During the Paris meeting between committee officials and Vietnamese officials in early December 1975, there were indications that the Vietnamese may be willing to cooperate more closely on American MIA's if there were simultaneous American movements toward economic relations between the two countries. Some Members of Congress had expressed concern over the trade embargo with Vietnam which was imposed by the executive branch shortly after the fall of Saigon in April 1975, under general authority granted by Congress, but which was imposed with no prior consultation with Congress.[22] Legislation (H.R. 9503) to partially lift the trade embargo of Vietnam was introduced by Representative Jonathan Bingham and other members, and three hearings[23] were held pursuant to the legislation by the House International Relations Subcommittee on International Trade and Commerce. During the hearings, Chairman Bingham and other members expressed their hope that the end of U.S. military involvement in Indochina would have made a gradual normalization of relations with the governments of Indochina, rather than the imposition of a U.S. trade embargo, even before the policies of the new Indochina governments had been tested. The administration policy toward Vietnam seemed to be based more on past realities rather than present possibilities, according to some members.

---

[20] Ibid.

[21] U.S. Congress, Senate, Committee on Foreign Relations, Resolutions relating to the President's trip to China and American MIA's and POW's, Senate Report 94-457, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, Nov. 18, 1975.

[22] The Treasury Department blocked all financial and commercial transactions with Cambodia on Apr. 18, and with South Vietnam on Apr. 30, 1975. A Commerce Department ban on any U.S. exports to these countries was issued on May 16, 1975. The legal basis for the export controls was the Export Administration Act of 1969, as amended, which allows the use of export controls to "further significantly the foreign policy of the United States" and authorizes the President to impose such controls for national security reasons.

[23] U.S. Congress:

House: Committee on International Relations, Subcommittee on International Trade and Commerce, Export Licensing of Private Humanitarian Assistance to Vietnam, Hearings, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, Sept. 9, 1975.

House: U.S. Embargo of Trade with South Vietnam and Cambodia, Hearings, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, Sept. 9, 1975.

House: U.S. Trade Embargo of Vietnam: Church Views, Hearings, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, Nov. 17, 1975.

State Department officials testified that because new regimes in South Vietnam and in Cambodia come to power through force of arms against the governments that the United States was supporting, and in light of the fact that the total trade embargo had been in effect for more than 10 years with respect to North Vietnam, the State Department had recommended that the export controls be imposed "so that we could monitor the situation as it evolved with the takeover of these new regimes."

Testimony was also received from numerous leaders of churches and charitable groups in favor of lifting the embargo, which, they said, curtailed the free flow of assistance to the people of Indochina. These groups emphasized the need for reconciliation, and they perceived the embargo as an unnecessary restriction which fostered a spirit of suspicion and mistrust on the part of the Vietnamese.

On the basis of the hearings and the assessment of the impact of the embargo on efforts to obtain a full accounting of American MIA's, the subcommittee on December 10, 1975, reported H.R. 9503 favorably to the full International Relations Committee. This bill provided for the amending of section 5(b) of the Trading With the Enemy Act, as amended, to repeal the U.S. embargo on trade with North and South Vietnam except with respect to war and materials defined by the Mutual Defense Assistance Control Act of 1951, as amended.

An amended version of H.R. 9503 was incorporated into the International Security Assistance Act of 1976 (H.R. 11963, sec. 415),[24] which was passed by the House on March 3, 1976, and submitted to the conference committee. Section 415 prohibits export controls on nonstrategic trade with Vietnam for purely "foreign policy" purposes, but continues to allow controls for national security and domestic supply considerations (Bingham amendment). Continuation of the limits on the embargo beyond 180 days after enactment of this section is contingent upon substantial accounting for missing Americans by the Vietnamese within that period (Gilman amendment). The measure also retains the freeze on approximately $70 million in Vietnamese assets now under U.S. control. Section 415 makes possible limited private trade[25] in nonmilitary goods and technology, it encourages accounting for Americans missing in Southeast Asia, it makes possible direct discussions concerning American investments and property left behind in Vietnam, and it facilitates provision by private humanitarian groups in the United States of assistance to the Vietnamese people.

The administration is opposed to the establishment of a direct link between trade and the MIA problem, and opposes the lifting of the embargo with Vietnam in order to retain, according to administration spokesmen, full diplomatic flexibility in talking with the Vietnamese.

Although progress was made in 1975 toward resolving the question of the missing Americans in Southeast Asia, difficult issues remain unresolved. A careful delineation of American priorities and skillful negotiations will be needed to insure a reasonable resolution of these issues in 1976.

---

[24] U.S. Congress, House, Committee on International Relations, International Security Assistance Act of 1976, H. Rept. 94-848, 94th Cong., 2d sess. Washington, U.S. Government Printing Office, Feb. 24, 1976.

[25] Resumption of oil drilling by American companies on terms they might agree upon directly with officials of the Government of Vietnam is the major trade development likely to result from this modification in the U.S. economic policy toward Vietnam, according to the committee report (H. Rept. 94-848).

Specific Regional Issues

INTRODUCTION

U.S. bilateral and regional relationships remain important, in spite of increased emphasis on multilateral diplomacy. U.S.-U.S.S.R. and U.S.-China relations, of course, are of particular importance.

This section of "Congress and Foreign Policy 1975" does not attempt to review all U.S. bilateral relationships. Rather, it focuses on those issues for which U.S. foreign policy has been particularly influenced by congressional actions.

74-032—76——12

DÉTENTE POLICIES

Relations With the U.S.S.R.*

Global rivalries

Congress, in 1975, was faced with the need to respond to events in different parts of the world which reflected the continuing rivalry of the two superpowers. The congressional response to regional tensions was shaped to a large degree by the perceived lessons of Vietnam, with a majority appearing determined to insure that local conflicts would not lead to escalating American involvement. Sentiment seemed to run against matching Soviet involvement in areas that were outside of traditional American interest spheres, including Angola and the Indian Ocean. Even in Portugal, a NATO ally, a congressional majority seemed opposed to any direct American involvement. These developments, however, appeared to have a cumulative impact on congressional attitudes toward détente with the Soviet Union.

Many Senators and Representatives expressed the view that Soviet meddling in countries such as Portugal and Angola violated the rules of détente, or called into question Soviet motives for seeking détente with the United States. In the case of the apparent Soviet financial backing of the Portuguese Communist Party, many Members alleged a direct violation of the noninterference provisions of the Final Act of the Conference on Security and Cooperation in Europe.

Arms control and the Soviet arms buildup

The inability of the United States and the Soviet Union to come to terms in 1975 on a new strategic arms limitation agreement was widely seen as the greatest disappointment in Soviet-American relations. Concern over the lack of agreement on SALT II was compounded by the perceived Soviet buildup in strategic, naval, and other military capabilities.[1] Despite administration denials, the fear was voiced in Congress that the Soviet Union was not entirely living up to the agreements reached in SALT I.

The Senate Armed Services Committee's Subcommittee on Arms Control and the House International Relations Committee's Subcommittee on International Security and Scientific Affairs held hearings on the problems surrounding the negotiation of a new arms limitation agreement, the United States-Soviet strategic balance, and the question of Soviet compliance with the SALT I agreement.[2]

---

* Prepared by Francis T. Miko, analyst in international relations.

[1] For a detailed discussion of arms control issues, see ch. III.

[2] U.S. Congress:

Senate: Committee on Armed Services. Subcommittee on Arms Control. Soviet compliance with certain provisions of the 1972 SALT I agreements. Hearings. 94th Cong., 1st sess., Mar. 6, 1975. Washington, U.S. Government Printing Office, 1975. 22 pp.; and

House: Committee on International Relations. Subcommittee on International Security and Scientific Affairs. The Vladivostok Accord: Implications to U.S. security, arms control, and world peace. Hearings. 94th Cong., 1st sess., June 24, 25, and July 8, 1975. Washington, U.S. Government Printing Office, 1975. 198 pp.

Summit postponement

A seeming indication that Soviet-American détente was not progressing entirely smoothly was the repeated postponement of a Ford-Brezhnev summit meeting originally scheduled for the summer of 1975. The meeting was eventually delayed until at least 1976. President Ford and Soviet leader Leonid Brezhnev met briefly in Helsinki on the occasion of the signing of the Final Act of the Conference on Security and Cooperation in Europe in August 1975.

Trade

The Soviet decision against implementing the 1972 trade agreement with the United States, allegedly in response to the Jackson-Vanik amendment to the Trade Act of 1974 (linking most-favored-nation treatment and credits to Soviet emigration policies) had perhaps the greatest impact on Soviet-American trade relations.[3] The impasse over the trade agreement did not result in a downturn in trade volume in 1975 but in the view of many analysts presented a barrier to significant growth.

The House Committee on International Relations sent a special study mission to the Soviet Union, Poland, Czechoslovakia, Romania, and Hungary to assess reactions to the Trade Act of 1974 and future trade prospects.[4] The group concluded in its report that there was no urgent need for the United States to make the first move to resolve the trade impasse.

The Soviet-American Tax Convention (Ex. T. 93–1) signed on June 20, 1973, was ratified by the Senate on December 15, 1975. The convention aimed at the facilitation of trade and investment between the United States and Soviet Union.

The Soviet grain harvest of 1975 fell significantly short of target. Although Western estimates of the magnitude of the Soviet agricultural setback varied, it became evident that the Soviet Union would need to make major grain purchases in the West to offset crop failures. Congress demonstrated concern that unregulated Soviet grain purchases from the United States could cause domestic market disruptions similar to those associated with the large Soviet purchases of 1972. The Senate Committee on Government Operations, the Senate Committee on Agriculture and Forestry, the House Committee on Agriculture, and the House Committee on International Relations each held hearings for the purpose of establishing ways to avoid problems connected with previous grain sales to the Soviet Union.[5] In late 1975, the United States signed a 5-year agreement with the Soviet Union to end the sharp fluctuation in the volume of Soviet purchases.

---

[3] See section on the Jackson-Vanik amendment pp. 60–63.

[4] U.S. Congress. House. Committee on International Relations. Soviet Bloc trade hopes: Reactions to the Trade Act of 1974. Report of a study mission to the Soviet Union and four Eastern European nations, Mar. 27 to Apr. 8, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. 35 pp.

[5] U.S. Congress:

Senate: Committee on Government Operations. Permanent Subcommittee on Investigations. Grains sales to the Soviet Union. Hearings, 94 Cong., 1st sess., July 31, and Aug. 1, 1975. Washington. U.S. Government Printing Office. 1975. 149 pp.

Senate: Committee on Agriculture and Forestry. Russian grain sales. Hearings, 94th Cong., 1st sess., Sept. 4, 1975. Washington, U.S. Government Printing Office, 1975, 87 pp.

House: Committee on International Relations. U.S. grain and oil agreements with the Soviet Union. Hearings, 94th Cong., 1st sess., Oct. 28, 1975. Washington, U.S. Government Printing Office. 1975. 71 pp.

House: Committee on Agriculture. Grain sales to Russia. Hearings, 94th Cong., 1st sess., Dec. 3, 1975. Washington, U.S. Government Printing Office, 1976. 48 pp.

Human rights

Violations of human rights in the Soviet Union remained a major area of congressional concern. The Jackson-Vanik amendment to the 1974 Trade Act was not followed by any increase in emigration from the Soviet Union.[6] In light of the agreements entered into at the Conference on Security and Cooperation in Europe, many Members expressed growing impatience at the apparent Soviet refusal to relax restrictions on emigration of Jews and other minorities and at continued Soviet Government reprisals against dissidents. Exiled Soviet author Alexander Solzhenitsyn was invited to address a congressional reception, in part as a symbolic demonstration of this concern. Reluctance of the President to invite the Nobel prize-winning author to the White House prompted considerable criticism from some Members.

During trips to the Soviet Union, several Senators and Representatives contacted Soviet dissidents and Jews who had been denied exit visas. They also made direct appeals to Soviet leaders to reverse their position on minority emigration. These efforts apparently met with no success.

Conference on Security and Cooperation in Europe

The summit conclusion of the 35-nation Conference on Security and Cooperation in Europe at Helsinki in August was widely seen as the foremost achievement of détente in 1975. Within Congress, the Final Act signed by President Ford and 34 other leaders was the subject of sharp controversy, as it was throughout the Western world. Of particular congressional concern were the sections that appeared to ratify the postwar status quo in Europe and thus the annexations of the Baltic republics of Estonia, Latvia, and Lithuania, and other regions.

The sections of the document dealing with the freer movement of people, information, and ideas, included on Western insistence, were criticized as being too vague. On May 6, 1975, the House International Relations Committee's International Political and Military Affairs Subcommittee held hearings on the conference.[7] Assistant Secretary of State Arthur A. Hartman assured the subcommittee that the Helsinki declaration would not change the American position of nonrecognition of the Soviet annexation of the Baltic States. Furthermore, he defended the freer movement and human rights provisions of the declaration and said that the Soviet Union would be expected to make meaningful concessions in these areas. At the year's end, however, the general feeling appeared to be that the Soviet Union had not moved beyond a few token gestures.

House Resolution 864 and numerous concurrent resolutions were introduced during the year expressing the sense of Congress that the signing of the Helsinki Final Act did not change the American policy of not recognizing the Soviet annexation of the Baltic States. Some Representatives, reflecting congressional concern that the Soviet Union live up to the humanitarian provisions of the agreement, introduced resolutions to establish a Commission on Security and Cooperation in Europe to oversee implementation of the provisions. The bills had not moved out of committee by year's end.

---

[6] See discussion of Jackson-Vanik amendment pp.60-63.

[7] U.S. Congress. House. Committee on International Relations. Subcommittee on International Political and Military Affairs. Conference on Security and Cooperation in Europe. Hearings. 94th Cong., 1st sess. May 6, 1975. Washington, U.S. Government Printing Office, 1975. 52 pp.

Soviet-American cooperation in space

After several years of preparation, the joint Apollo-Soyuz space flight was launched in July, providing the most visible example of successful Soviet-American cooperation.

Congress generally hailed the successful mission, although some individual opinion reflected concern that the Soviet Union was gaining more than the United States in terms of space technology transfer. The skeptics claimed that the American components of the project were more advanced than their Soviet counterparts and that the United States was granting the Soviets far greater access to its space achievements than it was receiving in return.

Congressional trips to the Soviet Union

Two delegations from the House and Senate visited the Soviet Union to reciprocate an earlier visit to the United States by a Supreme Soviet delegation. The first group of 14 Senators were in Moscow and Leningrad from June 29 to July 5, 1975, for discussions with Supreme Soviet deputies.[8] The House delegation led by Speaker Carl Albert visited the Soviet Union, Romania, and Yugoslavia in August. Both groups held discussions with Soviet leaders in the course of which they raised the subjects of strategic arms limitation, emigration, human rights and trade. Soviet Communist Party leader Brezhnev told the House group at a meeting in Yalta that the human rights provisions of the final act of the Conference on Security and Cooperation could only be implemented on the basis of further bilateral negotiations.

Relations With China*

There was no major legislation passed by Congress in 1975 which directly concerned U.S. relations with the People's Republic of China. However, the Trade Act of 1974 (Public Law 93-618) became law in January 1975, and contained provisions which applied to China regarding trade agreements, Most Favored Nation (MFN) tariff treatment, and emigration. A congressional role in the shaping of U.S. policy toward China was reflected in 1975 by other means—through congressional hearings, through trips to China by members of both Houses, through discussions by Members of Congress with a high level People's Republic of China (PRC) trade delegation that visited the United States in September, through committee prints of the Joint Economic Committee on China's economy and by hearings by the JEC on the allocation of resources in China. Considerable support remains in the Congress for maintenance of close relations with the Republic of China and a number of resolutions were introduced to this effect.

The Trade Act of 1974 contained tougher provisions regarding granting of MFN status—including a requirement that any agreements negotiated by the United States would have to be approved by Congress. PRC leaders have complained to congressional and other visitors about the MFN issue, indicating that MFN status was neces-

---

*Prepared by M. T. Haggard, specialist in Asian affairs.

[8] U.S. Congress. Senate. Committee on Foreign Relations. Congress and United States-Soviet relations: Report of a conference between members of the U.S. Senate and delegates to the Supreme Soviet of the Soviet Union. 49th Cong., 1st sess. Washington, U.S. Government Printing Office. 1975. 43 pp. No report on the House delegation visit had been published as of this writing.

sary to the attainment of a commitment made by the United States in the Shanghai communique to conduct trade on the basis of "equality and mutual benefit." A high ranking Chinese trade delegation apparently raised the question of an exception from the emigration provision at a meeting with congressional leaders on September 8, 1975, in Washington. The emigration provision of the Trade Act was aimed primarily at the Soviet Union, but applies equally to the PRC. The President must receive assurance from the nonmarket country concerned and report to Congress that the emigration practices of the country concerned would "substantially lead to the achievement of" free emigration.[9]

The most visible evidence of a congressional role in the improved relations with China since 1972 has been the visits by members of Congress to China: 10 separate delegations have made the journey, four of them in 1975.[10] These visits in a sense reflect the bipartisan approach which has characterized the improved relationship with the PRC. The trips have been valuable in giving Members of the legislative branch an opportunity to get a better understanding of China's political system, of the system's achievements and failures, of attitudes of China's leaders toward the United States and the American people, of the chances of improving political, cultural and economic relations, of China's attitudes toward a continuing U.S. role in Asia, and of the obstacles to better bilateral relations.[11]

Reports have been issued in committee print form by seven of the delegations—with three of these reports printed in 1975 [12] (including the report by Senator Mansfield on his December 1971 trip to China). All delegations have discussed with Chinese leaders the various issues affecting bilateral relations, including U.S. ties with Taiwan as they relate to normalization of U.S.-PRC relations, and the status of bilateral trade and exchanges. In their reports some delegations have summarized the present state of relations as seen by both sides. Individual members have pressed for initiatives by the United States to speed normalization of relations, while others stressed the need for caution

---

[9] Secretary of State Kissinger acknowledged that the emigration provision applied to the PRC in testimony before the Senate Finance Committee. Kissinger added that it would present "massive difficulties" if an effort was made to apply the emigration provision to China.

U.S. Congress. Senate. Committee on Finance. Emigration Amendment to the Trade Reform Act of 1974. Hearing, Dec. 3, 1974. 93d Con., 2d Sess. Washington, U.S. Government Printing Office, 1974. p. 66.

[10] Congressional delegations visiting China in 1975 included:

March 29–April 7—Speaker Carl Albert, House minority leader John Rhodes.

August 3–16—Senators Charles Percy, Jacob Javits, Claiborne Pell, Adlai Stevenson, Representatives Paul Findley, Margaret Heckler, Paul McCloskey.

August 20–29—Senators Robert Byrd, James Pearson, Sam Nunn, Representatives John Anderson, Edward Derwinski, John Slack.

December 30–January 9, 1976—Representatives Margaret Heckler, Patsy Mink, Bella Abzug, Lindy Boggs, Yvonne Burke, Cardiss Collins, Elizabeth Holtzman, Patricia Schroeder, Millicent Fenwick, Helen Meyner, Gladys Spellman.

[11] In the first year after the initial Presidential visit to China, Peking was very careful in dealing with Congress, with congressional trips arranged through the State Department and the White House. Since mid-1974, however, of the seven congressional delegations that have visited China, four have resulted from direct communication between the PRC and the individuals or groups concerned.

[12] U.S. Congress:

Senate: Committee on Foreign Relations. China: A Quarter Century After The Founding of the People's Republic. A Report by Sen. Mike Mansfield. January 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

House: China: One Step Further Toward Normalization. Report by Speaker Carl Albert and Minority Leader John Rhodes. July 1975. 94th Cong., 1st sess. Doc. No. 94–255. Washington, U.S. Government Printing Office, 1975. 10 pp.

Senate: Committee on Foreign Relations, House, Committee on International Relations. The United States and China. October 28, 1975. 94th Cong., 1st sess. Washington, U.S Government Printing Office, 1975. 68 pp. (Report of congressional delegation whose chairman was Senator Charles Percy.)

in regard to matters affecting Taiwan. Senator Mansfield after his second trip (December 1974) said that the Taiwan issue would have to be met if normalization of relations were to be achieved. He described the defense treaty with Taiwan as "a relic of the past" and said that the United States must match its commitments to its contemporary interests. He said Chinese leaders emphasized that the surest way to normalize relations was via "the Japanese formula," by which Japanese trade relations were maintained with Taiwan. Speaker Carl Albert noted in a report in July 1975, that normalization of relations would not be completed until an acceptable way was found to deal with the Taiwan question and that he and House Minority Leader Rhodes had made it clear that longtime U.S. ties with Taiwan necessitated caution and gradualism. Minority Leader Rhodes noted that the Chinese placed no pressure on them for an immediate solution and that they were "patient." Senator Robert Byrd called for a gradual movement toward normalizing relations, but noted that the Taiwan question would have to be resolved first. The group headed by Senator Percy noted in its report that there was no pressure from the Chinese on the Taiwan issue. Representative John Anderson recommended a continuation of the policy to gradually improve relations with mainland China, while "living up to" treaty commitments to other Asian powers. Representative Derwinski said he saw no reason for the United States to grant formal diplomatic recognition to the PRC.

Congressional trips reports in 1975 noted China's concern about the Soviet Union but most did not indicate any special stress by Chinese leaders on the dangers of United States-Soviet détente. Senator Mansfield referred to concern by Chinese leaders about Soviet military power in Asia. Speaker Albert noted the PRC's pragmatic approach to U.S. military involvement in NATO and Europe, with China's leaders recognizing that a U.S. military withdrawal could increase Soviet pressure in Asia. The report of Senator Percy's delegation said that the PRC took a "realistic approach" to the question of U.S. military bases in Europe and parts of Asia. Senator Robert Byrd stated that the PRC viewed the Soviet Union with increasing concern and Chinese leaders were critical of what they considered inadequate U.S. efforts to keep peace with the Russians. Congressman John Anderson, on the other hand, in a report to President Ford noted the almost pathological paranoia regarding the Soviet Union. Representative Anderson, leader of the delegation which visited China August 20–29, 1975, said the Chinese told the delegation that the U.S.S.R. was filling every crevice of power the United States was vacating in Asia, and indicated alarm at what they viewed as U.S. naivete in dealing with the Soviet Union. Representative Derwinski, a member of the Anderson delegation, in a speech on September 23, 1975, noted the preoccupation of Chinese leaders with the Soviet Union—stating that they frequently referred to the concentration of Russian troops along the Chinese and Mongolian borders. He said that the PRC was pleased to have U.S. forces in the Pacific area as a possible counterweight to the Soviet Union.[13]

All the delegation reports issued as committee prints in 1975 discussed the status of bilateral trade, the prospects for the expansion of trade and the obstacles to such expansion. Senator Mansfield noted that the present trade imbalance did not provide a sound basis for

[13] Congressional Record, Sept 4, 1975, S15359–S15365. Congressional Record, Sept. 23, 1975, H. 9023 Press Release, Congressman John B. Anderson, Sept. 10, 1975.

mutually beneficial trade. Unless new trade arrangements were made, he added, which might include provision of U.S. technological equipment for Chinese petroleum exploration and production, there might be a major reduction in U.S.-PRC trade after 1975.[14] He said the amendment relating to freedom of emigration "would appear to have little relevance" to U.S.-PRC rapprochement. He said the Chinese were not pressing for a quick solution to the issues of frozen assets and blocked claims. Speaker Albert stated that despite a drop in trade in 1975, bilateral trade would continue to grow, with industrial products a larger proportion of U.S. exports. The Percy report noted that as a minimum, the United States should maintain even-handed import and export policies toward China and the Soviet Union and should agree to technical cooperation where possible. The Chinese, the report noted, emphasize that trade must be mutually beneficial to be of lasting value. The Chinese indicated they would not ask for loans and would accept only "genuine export credits," meaning medium-term deferred payments.

The congressional visitors have indicated to Chinese officials the importance of exchanges and contacts between the two peoples. Senator Mansfield in his January 1975 report noted that the exchange had made a significant contribution to better understanding between the two countries. China, he said, appeared satisfied with the level and scope of the exchange at the present time but had not ruled out an expansion. Minority Leader Rhodes noted that he and Speaker Albert urged the Chinese Government to make it easier for U.S. citizens to visit China. The Percy delegation also urged the PRC to agree to a step-up in the exchange program, to include an expansion of travel from China to the United States. The section of the delegation's report dealing with exchange focused on scientific and cultural exchanges, on exchange of students, research scholars, and journalists for extended periods, on exchanges in the medical and health fields, on cooperation and exchanges between the Smithsonian Institution and the PRC.

A series of hearings were held in 1975 by two subcommittees (Future Foreign Policy Research and Development, and Investigations) of the House Committee on International Relations dealing with U.S. relations with China.[15] The hearings by the Future Foreign Policy Research and Development Subcommittee focused on the triangular relationship between the United States, China, and the Soviet Union. The hearings of the Subcommittee on Investigations, continuing into 1976, concentrated on several aspects of U.S. relations with China—political, economic, and cultural. One hearing dealt with the status of the exchange program, as seen by the National Committee on United States-China Relations, the Committee on Scholarly Communication with the People's Republic of China (CSCPRC), and the National

---

[14] Senator Mansfield during August visited East Asia, stopping in Hong Kong and several countries in Southeast Asia. In Hong Kong he obtained an up-date on developments in China. The report of his trip contained a section dealing with China's petroleum potential and a map showing the continental shelf area and petroleum concessional areas in the Yellow Sea, the East China Sea, and the Formosa Strait.

U.S. Congress, Senate: Committee on Foreign Relations. Winds of Change. A Report by Sen. Mike Mansfield, October 1975. 94th Cong. 1st session. Washington, U.S Government Printing Office, 1975. pp. 18-21.

[15] U.S. Congress, House, Committee on International Relations, Subcommittee on Future Foreign Policy Research and Development. United States—Soviet Union—China: The Great Power Triangle. Hearings, Oct. 21; Nov. 5, 19; Dec. 15, 1975; and Mar. 10, 1976. 94th Cong. Washington, U.S. Government Printing Office, 1976. 149 pp.

Council on United States-China Trade. Officials of these groups raised questions at the hearings about whether there was mutual benefit to both parties and whether Peking was concerned largely with cultural diplomacy and its image rather than with substance. Peking has had considerable control over the operation of the program, selecting individuals and groups which visit the United States and for the most part determining the groups and individuals allowed to visit China.

A third subcommittee of the House Committee on International Relations—on International Security and Scientific Affairs—published a committee print on December 1, 1975, which dealt with the authority to order the use of nuclear weapons in the Governments of the United States, China, the Soviet Union, the United Kingdom, and France.[16] The subcommittee plans to hold hearings on this subject in 1976.

The Joint Economic Committee published two prints dealing with China's economy,[17] both of which included analysis of China's strategic planning. The first (China: A Reassessment of the Economy) also had major sections on economic planning and performance, on urban and industrial development, rural and agricultural development, and on commercial relations. According to the report, the fourth five year plan (1971–1975) appeared to be reasonably successful in meeting targets and providing for priority needs. The print on China's economy is to be followed in the spring of 1976 with hearings on China's economy which will place stress on United States-China economic relations and their effect on overall bilateral political relations. The second report (Allocation of Resources in the Soviet Union and China—1975) contained hearing testimony by William Colby and other CIA officials and Lt. Gen. Daniel Graham and other officials of the Defense Intelligence Agency (in June and July 1975).

Action initiated in the Senate by Senator Humphrey resulted in the inclusion of funds (in the appropriations bill for the Department of Agriculture) for an agricultural attaché in the PRC. The report of the Senate Appropriations Committee (S. Rept. 94-293) called the provision of such a matter of utmost importance and priority.[18]

---

[16] U.S. Congress. House: Committee on International Relations. Subcommittee on International Security and Scientific Affairs. Authority to Order the Use of Nuclear Weapons (United States, United Kingdom, France, Soviet Union, People's Republic of China). Prepared by Congressional Research Service, Library of Congress. Dec. 1, 1975. 94th Cong. 1st sess., Washington: U.S. Government Printing Office, 1975. 29 pp.

[17] U.S. Congress: Joint Economic Committee. China: A Reassessment of the Economy. A Compendium of papers submitted to the Joint Economic Committee July 10, 1975. 94th Cong., 1st sess., Washington: U.S. Government Printing Office 1975. 737 pp. Subcommittee on Priorities and Economy in Government. Allocation of Resources in the Soviet Union and China—1975. Hearings. Pt. 1. June 18 and July 21, 1975. 94th Cong., 1st sess., Washington, U.S. Government Printing Office 1975. 177 pp.

[18] Resolutions introduced in both Houses called for the establishment of a Soybean Research Institute, jointly supported by the United States and China, to improve agricultural yields in the production of soybeans.

MIDDLE EAST AFFAIRS*

Congressional interest in Middle Eastern and North African affairs may be divided into two subject areas: Israel and other. A majority of those Members of Congress, both House and Senate, who involve themselves in Middle Eastern affairs devote their efforts to reinforcing U.S. support for the State of Israel. All other Middle Eastern affairs are of secondary importance.

Congressional support for Israel is often reflected in legislation authorizing and appropriating foreign assistance. For fiscal year 1974, the Congress authorized and appropriated $2.550 billion, an increase of $25 million over the executive branch request of $2.525 billion for Israel. For fiscal year 1975, Congress authorized (Public Law 93-559, December 30, 1974) and appropriated (Public Law 94-11, March 26, 1975) $644.5 million for Israel, an increase of $294.5 million above the executive branch request of $350 million. Legislative action on the executive branch request for $2.240 billion for Israel for fiscal year 1976 is not yet complete. The Senate bill, S. 2662, reported on January 30, 1976, would provide $2.225 billion for Israel, a reduction of $15 million below the executive branch request of $2.240 billion. The House bill, H.R. 11963, introduced on February 18, 1976, would provide $2.225 billion for Israel, an increase of $15 million over the executive branch request. In addition, both the House and the Senate bills would provide about $550 million for Israel for the transition quarter from July 1, 1976 to September 30, 1976. A line item in the fiscal year 1977 budget called for $1 billion in military credits for Israel. Several Members of Congress reacted to the reduced level of aid for Israel by stating that they would raise the fiscal year 1977 figure up to the fiscal year 1976 level of about $2 billion.

Other legislation passed or considered by the Congress includes direct and indirect support for Israel. Congress initiated the program to fund the resettlement of Soviet Jews in Israel—$50 million in fiscal year 1973, $36.5 million in fiscal year 1974, $40 million in fiscal year 1975, and $20 million in fiscal year 1976, all provided through the State Department authorization. The Trade Act of 1974 (Public Law 93-618, January 3, 1975) included a prohibition against extending credits to nations which restricted emigration. The measure was aimed at the Soviet Union's reluctance to grant exit visas to Jews. Several bills introduced during 1975 (Senate 953, House Resolution 5246, House Resolution 5913, and House Resolution 4967 are examples) prohibit U.S. Government or American business firms from engaging in discriminatory practices or complying with foreign economic boycotts. The target is the Arab League boycott of Israel. The military procurement bill (Public Law 94-106, October 6, 1975) extended until December 31, 1977 the effective date of the open ended authorization to provide Israel with arms. On August 1, 1975, 245 House Members

*Prepared by Clyde R. Marks, analyst in Middle East and North African Affairs. (Additional information on the Sinai accords is found on pp. 50-53.)

sponsored a bill which threatened U.S. withdrawal from the United Nations if a reported attempt to expel Israel from the world body were successful. During October and November 1975, when the United Nations was considering a resolution which equated Zionism with racism, several bills were introduced which called for either the U.S. withdrawal from the United Nations or a reconsideration of U.S. participation in U.N. organizations. On November 11, 1975, the House passed House Resolution 855 and the Senate passed Senate Concurrent Resolution 73 which condemned the U.N. resolution passed the day before.

Members of Congress also use nonlegislative means to support Israel, such as giving speeches, circulating petitions, signing letters, sending newsletters, participating in symposia, or attending meetings which focus on Israel or Israeli causes. Secretary of State Kissinger's unsuccessful diplomatic mission in late March 1975, provided one such issue. The press reported that both the President and the Secretary had stated privately that Israel was to "blame" for the failure. The President also announced that U.S. policy toward the Middle East would be "reassessed." Several Members of Congress apparently interpreted the "blaming" of Israel and the "reassessment" of the U.S. policy as signs that the United States would abandon Israel and become pro-Arab. Some expressed fears that the "reassessment" would delay aid to Israel, thus leaving a weakened Israel vulnerable to Arab attack. There were also charges that the executive branch had been "blackmailed" by the "Arab oil lobby." A letter, signed by 76 Senators, was sent to the President in mid-May, 1975, asking for a "reiteration of our Nation's long-standing commitment to Israel's security." A similar letter, signed by 71 Senators, had been sent to the President in December 1974.

Not all Members of Congress espouse unequivocal support for Israel. A small but growing number advocate policies which would balance United States friendship and support for Israel with an equal expression of friendship and support for Arab nations, and a few Members of Congress openly support Arab positions.

It is the policy of the United States to support Israel—on this the executive branch and Congress agree. They disagree at times over the intensity and expression of that support, and over the extension of similar support for Arabs. It is also the policy of the United States to pursue a diplomatically derived resolution of the Arab-Israeli dispute. Such a diplomatic effort requires contacts and at least tolerable relations with all parties to the conflict. Under these diplomatic conditions, open discussions can lead to the compromises necessary to secure the just and lasting peace all want and need. But a free diplomatic exchange may not be possible if the Arabs believe that the United States will support only a solution which is dictated by Israel rather than one negotiated by all. If a majority of the Members of Congress, through an unquestioned advocacy of Israeli positions, foster the impression that the United States supports Israel and only Israel, then the Congress may hinder the diplomatic efforts which could lead to peace. Ironically, the nation which may suffer most in the long term from an absence of peace is Israel, the nation the Congress seeks to protect.

CONGRESS AND LATIN AMERICA

Congressional interest in Latin America in 1975 focused on matters of trade, human rights in Chile in relation to U.S. economic and military assistance, the revision of treaty arrangements concerning the Panama Canal, and the issue of normalization of relations with Cuba. Congressional activities on the latter two issues are discussed below.

Panama Canal Treaty Negotiations*

During 1975 congressional opposition to the Ford administration's continuing efforts to formulate a new treaty with Panama governing the Panama Canal seriously complicated the delicate negotiations while posing a major legislative challenge to Presidential conduct of foreign policy, this time with conservative and moderate Congressmen claiming "executive arrogance." In many ways it appeared that this issue had become for conservatives what Vietnam policy had previously symbolized for liberals.

The negotiations for a new treaty have continued intermittently under three Presidents for more than a decade. After the "flag riots" and the deaths of 20 Panamanians and 4 Americans in 1964, President Johnson, after consulting with Presidents Truman and Eisenhower, pledged to develop a modernized relationship with Panama by updating the 1903 treaty which grants the United States full authority in the Canal Zone in perpetuity, the cause of Panamanian irritation. New draft treaties were agreed upon in 1967 but the texts were not submitted for ratification due to opposition in both countries. Negotiations were resumed in 1971, under President Nixon, but progress was limited. In 1973, in the context of Secretary Kissinger's call for a "new dialog" with Latin America based on reciprocity and mutual respect, Ambassador Ellsworth Bunker was designated as chief negotiator, giving impetus to the talks and preparing the way for Secretary Kissinger's visit to Panama in February 1974 to sign a statement of agreed principles with Panamanian Foreign Minister Juan Antonio Tack. The principles provide for the abrogation of the 1903 treaty and the negotiation in its place of a new treaty for a reasonably protracted period but with a fixed termination date, with provision for growing participation by Panama in the operation, economic benefits, and defense of the canal for the life of the treaty, after which Panama would assume sole control. Since the agreement, regular negotiations have continued under President Ford, with negotiators seeking to hammer out the specific details of a treaty once expected to be completed in 1975.

The three Presidents, State Department spokesmen, and other proponents of a new treaty argue that accommodating Panamanian grievances is essential for friendly relations with Panama and the

*Prepared by K. Larry Storrs, analyst in Latin American affairs.

hemisphere, prerequisites for the continued safe, efficient, and neutral operation of the canal.

Given the lack of a definite treaty and the absence of State Department lobbying and a mobilizable clientele on the issue, the proponents of a new treaty have remained rather quiescent and ill organized until recently. Shortly after the February 1974 agreement Senator McGee, chairman of the Senate Foreign Relations Committee's Western Hemisphere Affairs Subcommittee, introduced a resolution (S. Con. Res. 78), cosponsored by Senators Scott, Humphrey, and Javits, endorsing the agreed principles. The resolution failed to pick up additional cosponsors, however, and it was not introduced in the 94th Congress, thereby leaving the field almost entirely to opponents.

Over the years the so-called Panama Canal lobby has opposed the relinquishment of any U.S. rights in the Canal Zone on grounds that undiluted U.S. control is required, rather than transfer to unstable and ill-prepared Panama, in order to safeguard important commercial and strategic assets created by American expenditures and ingenuity. In the Senate, southern conservatives like Senators Strom Thurmond (R-S.C.), Jesse Helms (R-N.C.), and John L. McClellan (D-Ark.), have spearheaded the coalition. In the House the group has coalesced around the Panama Canal Subcommittee of the Merchant Marine and Fisheries Committee, with principal spokesmen being Daniel J. Flood (D-Pa.), Leonor K. Sullivan (D-Mo.), and more recently Gene Snyder (R-Ky.).

This coalition has drawn support from the 40,000 American "Zonians" living in the Canal Zone, particularly the AFL-CIO unions and the Pilot's Association which fear the loss of various privileges, from shipping interests and corporate investors in the area, from the Pentagon which cherishes the military perquisites and bases, from an ideologically conservative constituency—the American Legion, the Daughters of the American Revolution, and the Veterans of Foreign Wars being most organized—which views surrender of the Canal Zone as a retrenchment of American power, opening the region to Cuban or Soviet control, and from numerous citizens who feel an attachment to the Panama Canal as the American "moonwalk of the 1910's."

Once the prospect for a treaty seemed imminent, the antitreaty forces redoubled their efforts. Resolutions were introduced in both Houses during the 93d Congress opposing the surrender of any U.S. rights. Senator Thurmond's resolution to that effect (S. Res. 301) acquired 34 cosponsors, more than a third of the Senate. Numerous resolutions were submitted in the House, nearly all of them claiming a role for the House under article IV, section 3, clause 2 of the Constitution which provides for action by both Houses of Congress to dispose of U.S. property or territory. While the State Department had resisted this claim in the past, it appeared to yield at this time, acknowledging in the news release on the Kissinger-Tack agreement that "some implementing legislation by Congress as a whole would be required."

Despite the opposition, the secret negotiations continued, mostly on Contadora Island, despite the turmoil of Watergate, impeachment proceedings, and the inauguration of a new President. By March 1, 1975, in a major policy speech on United States-Latin American relations, Secretary Kissinger affirmed that the talks had "moved forward

rapidly" in the last 1½ years, and expressed his belief that "an agreement on terms fair to all is possible," sentiments reiterated in May at the Fifth General Assembly of the OAS.

As the parties came closer to determining the details of the treaty, however, administrative infighting set in. Pentagon spokesmen began complaining that State was willing to settle for a 25-year treaty with a considerable reduction of the defense area, while the Army wished to retain most of the present area for a term of at least 50 years with an option for renewal. Without administrative consensus, the talks temporarily stalled and opposition in Congress mounted.

When the 94th Congress convened in January 1975, Representative Flood introduced House Resolution 23, modeled on prior resolutions, opposing the surrender of any U.S. rights in the Canal Zone, and a stream of Congressmen followed suit. By the end of the year, 39 similar resolutions had been submitted, with a total of 161 signatories. In the Senate, Senator Thurmond circulated a "Dear Colleague" letter in February, seeking cosponsors for a new antitreaty resolution, similar to one that had garnered 34 cosponsors in the previous Congress. Some advocates of the treaty felt that a concerted effort by State to win support might hold down the number of cosponsors, particularly in a new, more liberal Senate. State eschewed lobbying, however, and the Thurmond resolution (S. Res. 97) was introduced on March 4, 1975, eventually acquiring 37 cosponsors, an increase over the previous year and more than enough to block ratification.

Fueled by rumors in the Canal Zone, congressional distrust of the executive reached new highs in April and May as concern was expressed that the Ford administration might cede control of the zone to Panama by Executive order, thereby circumventing Congress. In closed hearings before the Panama Canal Subcommittee and in a letter to the Governor of the Canal Zone, Ambassador Bunker sought to calm such fears, promising that "any proposed change in basic United States relations with Panama, and especially any jurisdictional change, would be submitted to the Congress for approval."

Opposition peaked, on June 26, 1975, when Representative Snyder suddenly offered an amendment to the State Department appropriations bill forbidding the use of funds to negotiate "the surrender or relinquishment of any U.S. rights in the Panama Canal Zone," a measure meant to end the talks characterized as "a clear waste of the taxpayer's money." Despite pleadings that the amendment was an inappropriate restriction of the President's constitutional duty to conduct foreign relations, it passed 246 to 164. Shortly afterward Senator Byrd (Independent-Va.) proposed a similar measure in the Senate.

Given the extent of the opposition, much of it from the President's party, the political implications for the 1976 election could not be ignored. That same day, Howard Calloway, retiring as Secretary of the Army to become President Ford's campaign manager, observed that support for an American-owned Canal was widespread and politically potent. He also disclosed publicly that State and Defense differed on acceptable terms for a treaty, the Pentagon viewing the Canal as strategically vital. Ambassador Bunker's expected return to Panama in July was postponed.

The Snyder amendment vote spurred State to action. Secretary Kissinger wrote to General Torrijos, explaining that the talks would

continue, and to six key Senators, urging them not to interfere with the negotiations and promising full congressional scrutiny at the appropriate moment. Senate advocates of a new treaty mounted a campaign against the Byrd amendment, defeating it in the Appropriations Committee. With support dwindling, State Department officials claiming that 59 of the 93 Senators present had been lined up to table the measure, Senator Byrd withdrew his amendment from floor consideration on August 1.

Meanwhile, in a series of National Security Council meetings in July and August, administrative disunity was overcome, apparently by a compromise that would turn over the canal to Panama by the year 2000 but seek defense rights for a longer period. Symbolizing the new unity, Deputy Secretary of Defense Walter Clements, Chairman of the Joint Chiefs of Staff General Brown, and Assistant Secretary of State for Inter-American Affairs William D. Rogers made a 1-day trip to Panama on September 2, where General Brown assured the Panamanians that Defense fully supported Bunker's efforts.

The compromise proposals proved to be less than satisfactory to Panama's negotiators, however. Breaking negotiation secrecy, they alleged that the United States wished to defend the canal for a period tantamount to perpetuity. These charges led to attacks by about 800 Panamanian students against the U.S. Embassy on September 23, in the most serious incidents since the flag riots of 1964.

Returning from summer recess, the House-Senate conference, in lieu of the Snyder amendment, reported a compromise, on September 18, 1975, affirming the sense of Congress that any new agreement "must protect the vital interests of the United States in the operation, maintenance, property, and defense of the Panama Canal." However, the House voted 203 to 197 on September 24 to reject the compromise and to insist again on the Snyder amendment. Antitreaty spokesmen were particularly disturbed by the vagueness of the compromise language and the absence of any reference to the contiguous Canal Zone. Two days later the Senate by voice vote rejected the Snyder amendment provision of the House bill. After a second conference, the conferees added a reference to protection of vital interests in the Canal Zone to the previous compromise. Backing off from earlier stances, the House, on October 7, 1975, approved (212–201) the second conference compromise. The Senate accepted the compromise the following day, thereby ending the legislative attempt to terminate the negotiations.

Ambassador Bunker returned to Panama in November, buoyed by the resolution of the legislative impasse and by new support from the Business and Professional Committee for a New Panama Canal Treaty as well as the U.S. Chamber of Commerce, both representing major U.S. corporations in Latin America. Nevertheless, progress was limited, according to Panamanian officials. In a speech in Los Angeles, on December 2, 1975, Ambassador Bunker disclosed that issues yet to be resolved include the duration of the new treaty, the amount of economic benefits for Panama, and the territory to be made available to the United States for defense of the canal.

By the end of the year, the talks had become an issue in the 1976 Presidential campaign. On December 13, at the Southern Republican Conference in Houston, Republican Presidential candidate Ronald

Reagan, reflecting conservative sentiments, attacked President Ford's position, characterizing it as a "giveaway" of "our" canal. Among the Democratic contenders, Governor Wallace took a similar stance. Under the circumstances, it appeared unlikely that any treaty would be submitted to Congress until after the election.

REFERENCES

Franck, Thomas M. and Edward Weisband. Panama Paralysis. Foreign Policy, No. 21, Winter 1975–76: 168–187.

Griffith, William E. Congress is Wrecking Our Foreign Policy. Reader's Digest, v. 108, February 1976: 71–76.

Leeds, Roger S. The Panama Canal Treaty: Past and Present United States Interests. Foreign Service Journal, v. 53, March 1976: 6–11, 27.

Lucier, James P. Another Vietnam? National Review, v. 27, Sept. 12, 1975: 989–990.

Pastor, Robert A. Coping With Congress Foreign Policy. Foreign Service Journal, v. 52, December 1975: 15–18, 23.

Rosenfeld, Stephen S. The Panama Negotiations—A Close-Run Thing. Foreign Affairs, v. 54, October 1975: 1–13.

Schroeder, Richard C. Panama and Latin Policy. Editorial Research Reports, v. II, October 24, 1975: 767–784.

CUBA*

Interest in the issue of normalization of relations with Cuba intensified in Congress in 1975 as the membership reacted to movement by both the United States and Cuba toward conciliation of differences, and later in the year, to contrary events. A number of resolutions were introduced on both sides of the issue, hearings specifically directed toward the normalization question were held for the first time since 1973, and several Members of Congress made visits to Cuba.

Some resolutions advocated the repeal of legislation by which economic sanctions are still applied to that country. Arguments in support of these ranged from the belief that U.S. policy is inconsistent and anachronistic to the feeling that, because so many nations of the world have trade and diplomatic relations with Cuba, U.S. policy is isolating the United States.

Resolutions against normalization reflected some of the basic issues that have been considered obstacles to a rapprochement with Cuba. The Communist system of government, Soviet military and economic influence, compensation for expropriated U.S. property, aid to subversive movements, U.S. rights to the Guantanamo Naval Base, and political prisoners were among the themes expressed.

The Subcommittee on International Trade and Commerce and the Subcommittee on International Organizations of the House International Relations Committee held a series of hearings on H.R. 6382 proposed by Representative Jonathan Bingham to repeal the trade embargo on Cuba.[1] Assistant Secretary of State for Inter-American Affairs William Rogers and other witnesses, representing the full range of opinion on the normalization of relations issue, testified in the 9 days of hearings spread out over May, June, July, and September.

---

*Prepared by Barry Sklar, specialist in Latin American affairs.

[1] U.S. Congress. House. Committee on International Relations. Subcommittee on International Trade and Commerce and Subcommittee on International Organizations. U.S. Trade Embargo of Cuba. Hearings. 94th Cong., 1st sess., May 8, 13, 15, 20, 22, June 11, 26, July 9, Sept. 23, 1975 (unpublished).

During the year, visits to Cuba were made by Senators McGovern, Abourezk, Representatives Whalen, Solarz, Breaux, and some congressional aides. Communications from Senator Sparkman, chairman of the Senate Committee on Foreign Relations, to Premier Castro were instrumental in securing the Cuban return in August of $2 million in ransom money taken from hijackers of a Southern Airways plane in 1972.

In the latter part of the year, Cuban involvement in activities in support of Puerto Rican independence, in the civil war in Angola, the passage of anti-Zionist resolutions in the United Nations, and revelations regarding U.S. attempts to assassinate Premier Fidel Castro became new factors in the discussion of normalization of relations. In July, witnesses in a hearing before the Senate Internal Security Subcommittee testified that Cuba was playing a role in terrorist and other activity in support of the independence of Puerto Rico.[2]

A serious blow was dealt the movement in Congress to reestablish relations with Cuba when Representatives Fraser and Whalen, until then principal proponents of change in U.S. policy, announced, on separate occasions, that the changing situation had caused them to reevaluate the Cuba question. They were reacting to Cuba's policy on Puerto Rico, Cuba's active role in the passage of the U.N. resolution equating Zionism with racism, and the substantial support of the Soviet-backed Popular Movement for the Liberation of Angola by the Cuban military. On November 22, Representative Bingham announced he had dropped "for the foreseeable future" efforts to lift the U.S. embargo against Cuba. Whalen, in early January 1976, indicated that he felt Fidel Castro had changed course.

The situation in the latter part of the year was further exacerbated when President Ford and Secretary Kissinger exchanged sharply critical remarks with Premier Castro through press conferences and speeches. Castro, in part, was reacting to revelations published—November 20—by the Senate Select Committee on Intelligence, which detailed 8 separate assassination attempts against the Cuban leader conceived by the CIA, some with the cooperation of U.S. underworld figures, during the Eisenhower, Kennedy, and Johnson administrations.[3]

---

[2] U.S. Congress. Senate. Committee on the Judiciary Subcommittee on Internal Security. Terrorist Activity: The Cuban Connection in Puerto Rico; Castro's Hand in Puerto Rican and U.S. Terrorism. Hearings, 94th Cong., 1st sess., pt. 6, July 30, 1975. Washington, U.S. Government Printing Office, 1975.

[3] U.S. Congress. Senate. Select Committee to Study Governmental Operations With Respect to Intelligence Activities. Alleged Assassination Plots Involving Foreign Leaders. An interim report, 94th Cong., 1st sess. Washington, U.S. Government Printing Office, Nov. 20, 1975.

CONGRESS AND AFRICA*

The record of the 94th Congress with respect to Africa reflects the simple truth that there is no consensus within the United States as to what direction U.S. policy should take. While 1975 saw the Congress dealing with a greater variety of African issues than has been the norm in recent years, the results of the activity were at times contradictory, incomplete, or determined by factors having little to do with Africa policy. It is difficult to find much in the way of overall congressional guidelines in activities which included:

An overwhelming congressional vote to bar covert U.S. action in Angola;

House defeat of legislation aimed at repealing the Byrd amendment; [1]

Visits to Somalia by members of two congressional committees to investigate Soviet military installations;

Continued controversy over the expansion of military facilities in Diego Garcia;

Congressional resistance to a major escalation of U.S. economic and military aid to Zaire;

Revision of foreign aid legislation to orient aid toward the most severely distressed nations, which, in principle, ought to increase Africa's share of U.S. aid; and

Legislative restrictions on aid to nations consistently violating human rights, and congressional demands for aid cuts to nations who do not support the United States in international forums, which could also apply to some African nations.

In addition, during 1975 the Senate Foreign Relations Subcommittee on Africa increased its visibility with a series of hearings on U.S. policy toward southern Africa. subcommittees of the House Committee on International Relations held hearings on the question of arms sales to Ethiopia and U.S. policy toward Namibia, the Senate Intelligence Committee issued its report revealing CIA plans to kill Congolese leader Patrice Lumumba, and Secretary of State Kissinger agreed to "clarify" U.S. policy toward Africa following a meeting with the congressional Black Caucus.

Southern Africa: Unresolved Issues

The two major legislative votes with respect to Africa policy illustrate the difficulties in assessing the congressional role—the defeat of legislation which would have repealed the Byrd amendment, and the

*Prepared by Susan M. Mowle, analyst in international relations.

[1] The Byrd amendment, passed in 1971, is an amendment to the Strategic and Critical Materials Stock Piling Act which prohibits the President from barring the importation of strategic materials from any nation unless the ban also applies to imports from Communist nations. It has the effect of exempting chrome, ferrochrome, and other strategic materials from the general trade embargo against Rhodesia which was imposed in conformity with U.N. Security Council Resolutions.

congressional ban on covert involvement in Angola. In one sense, both of these votes were decisive in maintaining or restricting specific aspects of U.S. southern Africa policy and in both cases appear to represent the imposition of congressional policy over administration objections. Yet, in both actions, issues other than questions of Africa policy appear to have been significant in determining congressional votes; and on the Byrd amendment vote, the extent of congressional/executive split is perhaps more apparent than real. Taken together the two votes give a rather unclear idea of congressional intent with respect to the range of policy questions facing the United States in southern Africa.

The Byrd amendment

On September 25, 1975, the House voted 209–187 against H.R. 1287 which would have repealed the Byrd amendment and restored the United States to full compliance with the U.N. sanctions program, which was designed to force the Rhodesian Government to make political concessions to the 95-percent black population. Debate on the Byrd amendment covered many issues—its effect on U.S. security interests, on U.S. relations with African nations and the United Nations, and its effect on the U.S. economy and employment.[2]

Supporters of the Byrd amendment contended that access to Rhodesian chrome is vital to American security to prevent dependence on imports from the Soviet Union for a material essential for national defense, that the embargo had driven up the price of chromium to American buyers, that its repeal could produce unemployment in American specialty steel industries, and that it is hypocritical to embargo trade with Rhodesia for undemocratic practices while continuing to trade with other undemocratic states such as the Soviet Union, China, or Uganda.

Those favoring repeal argued that the Byrd amendment has not, in fact, reduced U.S. dependence on Soviet chrome imports, that the United States has sufficient stockpile reserves or alternative sources of chrome to make Rhodesian chrome unnecessary, that contravention of the U.N. sanctions program hurts U.S. relations with African nations whose raw materials are more important than Rhodesian chrome, and that Rhodesian imports threaten American jobs.

The administration position on the Byrd amendment is rather murky. On one hand, State Department officials urged repeal; and just 2 days before the House vote, Secretary of State Kissinger expressed his desire for a vote to repeal. However, supporters of repeal have charged that a vigorous White House campaign, which they contend could have switched the few votes needed to pass the bill, never materialized. According to this thesis, Kissinger, as part of his longstanding policy with regard to southern Africa, did not really want the Byrd amendment repealed. By coming out for repeal, but not lobbying sufficiently to obtain it, the administration has maintained the policy it wants while allowing the Congress to take the blame for the negative aspects of this policy. Thus, it is difficult to determine

---

[2] H.R. 1287 was considered by two House Committees during the 94th Cong. The International Relations Subcommittee on International Organizations held a series of hearings, and the bill was then approved by the full committee. Subsequently the House Armed Services Subcommittee on Seapower and Strategic Materials held hearings, and that full Committee ordered the bill adversely reported. The Rules Committee finally resolved the two conflicting reports and approved it for floor action. See committee hearings and reports at the end of this section.

whether or not the Congress missed or ignored a cue that Kissinger was trying to indicate a change in his southern Africa policy, perhaps as a result of the changes in Angola, or whether the administration, if not the State Department, was basically satisfied with the outcome.

With respect to its effect on Africa policy, failure to repeal the Byrd amendment continues to be a source of friction in relations with African nations. According to African perceptions, this legislation puts the United States in the position of providing economic and diplomatic support to the white government in Rhodesia and, by implication, is read as an indication of the U.S. position on the broader racial questions of southern Africa. Coming as it did just as South Africa was exerting considerable pressure on the Smith regime to engage in negotiations with black nationalists concerning the political future of Rhodesia, it has been argued that congressional repeal might have aided the South African diplomatic effort and that failure to repeal encouraged Rhodesian intransigence. Such an interpretation raises additional questions concerning the administration position.

Angola

The 54–22 Senate vote on December 19, 1975, to amend the defense appropriations bill to bar covert activities in Angola would appear to delineate a clear U.S. policy with respect to U.S. involvement in African civil wars or liberation movements.[3] However, the congressional vote was probably as much if not more a referendum on congressional attitudes toward covert activities, détente, and Vietnam-style interventions as a policy statement that revealed much with respect to complex questions involved in the Angola situation and its implications on southern Africa as a whole.

Apparently six congressional committees[4] were kept informed of U.S. covert actions in support of UNITA and FNLA,[5] who were fighting the Soviet supplied MPLA, and the Senate Subcommittee on Africa held a series of public hearings on U.S. Angola policy during July 1975. Nevertheless, the Senate floor action in December was triggered by press reports that the CIA was funneling funds through Zaire to the two Angolan factions.[6] When publicly forced to defend its actions in Angola, the administration put the entire Angola debate in the context of U.S. global interests and a test of the U.S. will to resist Soviet military intervention in an area outside its traditional sphere of interest, and not in the context of United States-Africa policy or on the ramifications of U.S. policy on relations with African nations. By its vote, the Congress expressed disapproval of the manner in which U.S. policy was being carried out and offered a different evaluation of Soviet intentions and capabilities. While in congres-

---

[3] On Jan. 27, 1976, the House approved the same amendment by a vote of 323-99.

[4] The administration contends that it acted in full compliance with the provisions of the Hughes-Ryan amendment which requires that no covert operations be carried out unless the President deems them important to the national security and that they be reported "in a timely fashion" to the appropriate congressional committees including the Senate Foreign Relations and House International Relations Committees. Three committees in each Chamber together with the two Select Committees on Intelligence were informed of the Angola involvement, although at different times and according to different procedures. The other committees briefed were the Senate Appropriations Subcommittee on Defense, Senate Armed Services Committee, House Armed Services Subcommittee on Intelligence, and House Appropriations Subcommittee on Defense. See pp. 15–16 on U.S. Intelligence Activities.

[5] The three contenders in Angola were the National Union for the Total Independence of Angola (UNITA), the Front for the National Liberation of Angola (FNLA), and the Popular Movement for the Liberation of Angola (MPLA).

[6] The size of the U.S. covert operation in Angola has been variously reported as low as $28 million to as high as $100 million.

sional debates, opponents to the continued funding of covert activities argued that the United States had no overriding economic or strategic interests in Angola, and stressed the danger to U.S. interests in black Africa if the United States was identified with South Africa, it appears that other, non-African issues dominated the decisionmaking of both Congress and the administration.

Actually, the Angola vote determined only the issue of covert U.S. involvement in that country. It left unresolved any policy decisions concerning future U.S. relations with the new Angolan Government and future U.S. policy toward remaining independence groups in southern Africa such as Rhodesia, Namibia (South West Africa), and South Africa. Congress has not focused on what policies, if any, might need revision as a result of an MPLA victory in Angola and the manner in which it was achieved or to what extent the United States should use any diplomatic, economic, or military leverage to influence change in Rhodesia and South Africa.

Zaire

A congressional/executive split centering on U.S. relations with Zaire emerged as a result of the administration request in October 1975 for quick congressional approval for a $60 million economic aid package and $19 million military assistance program. At that time, the administration unsuccessfully sought to persuade key committee chairmen to approve the granting of emergency aid without formal congressional approval.

The justification for the huge increase in U.S. aid put forth by the administration was that the emergency assistance was necessary as a result of the severe financial crisis caused by the drop in international copper prices and that $750 million in American investments in Zaire would be jeopardized if that country defaulted on its debts. Unstated was the apparent administration concern for the consequences of any political instability in Zaire on the situation in Angola, as it was later revealed that Zaire was a major conduit for U.S. covert aid to the FNLA and UNITA. Congressional objections to the aid request focused on concern over Zaire's involvement in Angola and its role as a channel for U.S. covert activities, irregular Zaire financial practices, and the propriety of aiding Zaire while New York was threatened with bankruptcy.

The U.S. commitment to Zaire and the government of General Mobutu has always been controversial, and it would seem that continued congressional scrutiny concerning the nature and extent of our relations with Zaire is merited given the altered political situation which has developed since the independence of Angola. A principle of United States-Africa policy going back to the early 1960's has been that a unified, pro-Western Zaire was essential to African stability and U.S. interests. In the wake of the MPLA victory in Angola the current administration is likely to put increased importance on maintaining good relations with Zaire as a counter to what it perceives as growing Soviet influence in southern Africa. Yet, Zaire under General Mobutu is generally regarded as one of Africa's most corrupt governments, and Mobutu has yet to apologize for having falsely accused the United States in June 1975 of attempting to overthrow

him. There is currently substantial although disorganized anti-Mobutu sentiment in Zaire, but at the same time many observers believe that Zaire without Mobutu would mean a return to the political vacuum and chaos of 1960. This creates a serious policy dilemma and the administration appears to have opted for continued aid to Mobutu to prevent a collapse in Zaire. Whether it is in U.S. interests to continue such a policy, and what alternatives exist should be subjected to close congressional examination during the next session when the administration again presses its case for economic and military aid to Zaire.

East Africa: The Horn

Congress focused intermittently on U.S. policy toward the potentially unstable Horn of East Africa, an area which includes Ethiopia, Somalia, Kenya, and the French Territory of Affars and Issas.

On March 5, 1975, the International Relations Subcommittee on International Political and Military Affairs held a hearing on the Ethiopian request to purchase arms from the United States to combat a secessionist rebellion in the Red Sea province of Eritrea. While the hearing raised important questions concerning the advisability of a continuing American involvement in Ethiopia, and under what conditions the relationship should be maintained, it did not develop any enforceable policy recommendations. Subsequently the administration approved a $7 million arms sale. Yet the continuing policy implications of U.S. relations with Ethiopia deserve further congressional attention.

The United States has been the principal source of economic and military aid to Ethiopia since World War II, and the United States maintains the Kagnew communications facility in the secessionist Eritrean province, although the size of the facility had been reduced in recent years. The new radical military regime which overthrew the late Emperor Haile Selassie has shown itself to be repressive and identification of the United States and U.S. military equipment, which is used against the Eritreans, with the central government has involved the United States at least indirectly in the civil war, and has brought guerrilla retaliations against Americans at the Kagnew installation.

In addition, increased hostility between Ethiopia and Somalia concerning Somalia claims to Ethiopian territory, and over the future of the French Territory of Affars and Issas which both nations claim, raises the possibility of another African war in which the United States and the Soviet Union are the major arms suppliers of the two protagonists.

With respect to Somalia, members of both the House and Senate Armed Services Committees made separate visits to that nation at the invitation of the Somalia Government and filed reports asserting the existence of Soviet military installations. However, their reports also speculated on the reasons for the invitations and suggested that perhaps the Somalia Government was seeking to improve relations with the United States and reduce her dependence on the Soviet Union. They suggested that certain changes in U.S. policy toward Somalia might be explored. Thus far, however, there has been no public administration response to this suggestion.

With regard to Kenya, a little noticed Executive communication to Congress contained a Presidential finding that it is in U.S. interests

to waive the congressional ceiling on arms sales to that nation, raising the possibility of the United States replacing Great Britain as Kenya's arms supplier. As Kenya is also a target of Somalia territorial claims, and given the possible future instability of that nation after Kenyatta, the long-term implications of U.S. involvement deserve congressional scrutiny.

Finally U.S. interests in the Horn are also raised in connection with the controversy concerning the development of U.S. military installations on Diego Garcia in the Indian Ocean (see pp. 11–14).

Administration policy toward the Horn appears to be committed to continuing military aid to Ethiopia, maintaining the Kagnew communcations facility despite its vulnerability, expanding facilities in Diego Garcia, and possibly developing a role as arms supplier to Kenya. Policy decisions on all these questions are interrelated and could have implications on the Middle East, U.S. security interests in the Persian Gulf, and American relations with key African nations. As yet there has been no coordinated congressional examination of the overall implications of current U.S. policy toward this region, and as a result, many administration policy decisions have gone substantially unchallenged.

Aid and Development

While the congressional role in the development of U.S. aid policy is covered earlier in this study (see pp. 84–89), a few legislative actions applied specifically to Africa.

The House approved a $25 million U.S. contribution to the African Development Fund, an affiliate of the African Development Bank, which makes small, concessionary loans. As the Senate had earlier approved legislation providing for U.S. participation in the fund, final passage appears likely in 1976.

The Foreign Assistance Act included a provision for $25 million in aid to Portugal and her former colonies in Africa. The bill earmarks $5 million for Angola, Mozambique, and Guinea-Bissau, and $5 million in aid for the drought stricken Cape Verde Islands.

The International Development and Food Assistance Act of 1975 contains two sections with implications for Africa. Section III provides that most food aid should be supplied to the most severely affected nations—a congressional attempt to depoliticize aid and focus on humanitarian goals. In principle this ought to increase Africa's share of American food aid, as many of the poorest nations are in Africa. Yet two other congressional actions offer somewhat contradictory guidelines. Section 116 of the same act outlines the congressional intent that no aid should be granted to any country which engages in consistent vilolations of human rights. While no nations are singled out by name in this legislation, floor speeches indicated that several African nations might be included. In addition, congressional reaction to the U.N. General Assembly vote equating Zionism with racism was often expressed in speeches calling for aid cuts to Third World nations who did not support American positions in the United Nations and other international forums. Applying these three divergent expressions of congressional intent on the question of aid to specific African nations provides a mixed set of criteria which allows the administration to apply whichever one suits its policy.

Finally the overall questions concerning the U.S. position on the "new economic order," commodity agreements, cartels of raw material producers (see pp. 92–99) are of major importance to United States-African relations and any congressional actions in these areas would have important implications for United States-Africa policy.

Conclusion

As a result of the significant changes which occurred in Africa during 1975, aspects of United States-Africa policy are likely to come under closer high level administration review than has been the case in recent years. The lack of interest and consensus in the United States over African policy has permitted administration decisions to escape the kind of congressional scrutiny to which other aspects of U.S. foreign policy have been subjected. Consistent congressional oversight during 1976 could aid the development of a national consensus by broadening the debate within the Congress and the public at large. The United States position on Angola derived at least in part from a series of assumptions concerning Africa and United States interests on that continent which have been shown to be questionable. It would appear to be time to end the rather empty debate between the administration and the relatively small constituency within the Congress which follows Africa over whether or not the United States has an Africa policy. The administration record over the past year provides sufficient evidence that it does. More fruitful debate might center on the assumptions and implications surrounding that policy and whether U.S. interests are being well served. Congressional attention seems vital if such a debate is to occur.

References

Hearings:

U.S. Congress. House. Committee on Appropriations. Subcommittee on Foreign Operations and Related Agencies. Foreign Assistance and Related Agencies Appropriations for 1976. Hearings, 94th Cong., 1st sess. Part 2, Economic Assistance: Administrator, Agency for International Development, Africa Region, East Asia Region, Near East and South Asia Region. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on Armed Services. Subcommittee on Seapower and Strategic and Critical Materials. Hearings on H.R. 1287 To Amend the United Nations Participation Act of 1945 to Halt the Importation of Rhodesian Chrome. Hearings, 94th Cong., 1st sess. July 21 and 22, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on Banking, Currency and Housing. Subcommittee on International Development Institutions and Finance. The African Development Fund. Hearing, 94th Cong., 1st sess. on H.R. 4264, H.R. 6937, H.R. 6241, H.R. 8033, and H.R. 8197. July 15, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on Foreign Affairs, Subcommittee on International Organizations. The Rhodesian Sanctions Bill, Part I. Hearings, 94th Cong., 1st session, February 26, March 11, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Subcommittee on International Political and Military Affairs. U.S. Policy and Request for Sale of Arms to Ethiopia. Hearing, 94th Cong., 1st sess. March 5, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on International Relations. Subcommittee on International Organizations. The Rhodesian Sanctions Bill, Part II. Hearings, 94th Cong., 1st sess. June 19, 1975. Washington, U.S. Govt. Print. Off., 1975.

U.S. Congress. Senate. Committee on the Judiciary, Subcommittee to Investigate Problems Connected with Refugees and Escapees and Committee on Labor and Public Welfare. Subcommittee on Health. World Hunger, Health, and Refugee Problems, Part VI: Special Study Mission to Africa, Asia and Middle East.

Hearings, 94th Cong., 1st sess. June 10 and 11, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on Foreign Relations. Nomination of Nathaniel Davis to be Assistant Secretary of State for African Affairs. Hearing, 94th Cong., 1st sess. February 19, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Subcommittee on African Affairs and Subcommittee on Foreign Assistance. Security Supporting Assistance for Zaire. Hearing, 94th Cong., 1st sess. October 24, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Subcommittee on African Affairs. U.S. Policy Toward Southern Africa. Hearing, 94th Cong., 1st sess. June 11, 13, 16; July 9, 10, 14, 23, 24, 28, and 29, 1975. Washington, U.S. Govt. Print. Off., 1976.

———. Subcommittee on Foreign Assistance. Foreign Assistance Authorization: Examination of U.S. Foreign Aid Programs and Policies. Hearings, 94th Cong., 1st sess. June 3 and 13, July 17, 21, 23, and 29, and September 17 and 23, 1975. Washington, U.S. Govt. Print. Off., 1975.

———. Foreign Assistance Authorization: Arms Sales Issues. Hearings, 94th Cong., 1st sess. June 17 and 18, November 19 and 21, and December 4 and 5, 1975. Washington, U.S. Govt. Print. Off., 1976.

Reports

U.S. Congress. House. Committee on Armed Services. Amending the United Nations Participation Act of 1945. Adverse Report to Accompany H.R. 1287. July 26, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

———. Special Subcommittee to Inspect Facilities at Berbera, Somalia. Report, July 15, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on International Relations. Amending the United Nations Participation Act of 1945. Report to Accompany H.R. 1287. July 15, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

U.S. Congress. Senate. Committee on Armed Services. Activities Related to Resettlement of Refugees in Somalia. Report of Senator Dewey F. Bartlett. September 2, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

———. Disapproving Construction Projects on the Island of Diego Garcia. Report to Accompany S. Res. 160. June 18, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

———. Soviet Military Capability in Berbera, Somalia. Report of Senator Bartlett. July, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

———. Committee on Foreign Relations. Restrictions on Assistance to Angola. Report to Accompany S.J Res. 156. December 18, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

———. Select Committee To Study Governmental Operations With Respect to Intelligence Activities. Alleged Assassination Plots Involving Foreign Leaders. An Interim Report. November 20, 1975. 94th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1975.

CONGRESS AND ASIA: SELECTED ISSUES

UNITED STATES-KOREAN RELATIONS*

In 1975, the Congress dealt with the problem of continuing military and economic assistance to the Republic of Korea (ROK) in light of U.S. commitments to and interests in South Korea, as well as the authoritarian actions of the South Korean Government.

Section 26 of the Foreign Assistance Act of 1974 (Public Law 93-559), in reference to South Korea, had limited military assistance, excess defense articles, and military sales credits and guarantees to $145 million in fiscal year 1975, unless the President reported to Congress that the Government of South Korea had made "substantial progress in the observance of internationally recognized standards of human rights," in which case military assistance would have been increased to $165 million. The President made no such determination and the $145 million limit was not increased. This provision did not appear to encourage less repression by the Park regime. In fact, new restrictions on human rights in South Korea were imposed during 1975.[1]

President Park apparently was motivated, however, to placate his U.S. critics. On February 15, 1975, he released 148 of those arrested in 1974 for opposing the Government.[2]

The U.S. Treaty with South Korea provides that in the event of an armed attack in the Pacific area upon either of the parties the other would act to meet the common danger in accordance with its constitutional processes. Approximately 42,000 U.S. troops are stationed in South Korea, and several hundred nuclear weapons are maintained there. During 1975, the Congress continued its efforts to determine whether the U.S. special relationship with South Korea was contributing to ends consistent with American democratic traditions or was, instead, contributing to oppression within South Korea.

---

*Prepared by Marjorie Niehaus, analyst in international relations.

[1] On Mar. 19, 1975, the National Assembly adopted a law forbidding any South Korean citizen from criticizing the Government in conversation with foreigners, especially the foreign press. Demonstrations erupted in April at several universities, and President Park issued on April 8, a new decree prohibiting any campus demonstrations against the Government with penalties of up to 10 years' imprisonment. The following day, the Government executed eight of the dissidents sentenced in 1974. On May 13, 1975, the Government issued emergency measure No. 9, which makes it a crime, punishable by prison terms of 1 to 15 years to: advocate repeal of the constitution, broadcast or publish any news report of opposition to the constitution, stage any student demonstration or assembly for political purposes, oppose or report opposition to the new decree, or move any Korean-owned property out of the country. The measure also gave the Government authority to close down universities and broadcasting stations, and it permitted arrest, detention, search and seizure without warrant. The New York Times reported on Dec. 31, 1975, that the Government had arrested and imprisoned 88 people for violation of the decree. A Harris poll of July 31, 1975, reported that 42 percent of Americans agreed with the statement "South Korea is a dictatorship and takes away the rights of its political opposition, and it is wrong for us to support such a government." (32 percent disagreed and 26 percent were "not sure.")

[2] In an interview published in the New York Times on Aug. 21, 1975, President Park said that if the North Koreans gave up their objective "of unifying the whole of Korea by means of force and violence, and if they accepted peaceful coexistence with us, then I would immediately repeal the emergency measures I have taken and I would take much more liberalized policies." In the same interview, President Park predicted that by 1980 his nation would no longer need American ground, air or naval forces or even logistic support to help defend itself if North Korea attacked without Chinese or Soviet aid.

Congressional hearings [3] provided a public forum for the examination of U.S. foreign assistance and contributed greatly, along with congressional study missions,[4] to the debate over U.S. commitments to the ROK in the light of political restrictions within South Korea.[5]

Charges of corruption within the South Korean Government were disclosed when the Senate Foreign Relations Subcommittee on Multinational Corporations received testimony in May 1975, from the chairman of the Gulf Oil Co., who said that the party of President Park Chung Hee had demanded donations from Gulf in 1966 and in 1970 in return for the right to continue business in South Korea.[6]

The administration proposal for economic assistance to South Korea for fiscal year 1976 included $5 million for a loan project, and $592,000 for three continuing grant projects. According to administration plans, fiscal year 1976 will be the final year of bilateral concessional funding of AID loans and grants to South Korea. The Congress on December 9, 1975, completed action on a 2-year $3.1 billion foreign economic aid bill (Public Law 94–161). Section 116 of the law prohibits economic aid to any country engaging in a consistent pattern of "gross violations of internationally recognized human rights" unless Congress determines that the aid benefits needy people. In making that decision, either the Senate Foreign Relations Committee or the House International Relations Committee can require a report from the Agency for International Development on the benefits of such assistance to poor people. Congress is also to give consideration to the country's cooperation with human rights investigations by international agencies in making its determinations. The President is to report annually to the Congress on implementation of section 116.

The administration proposal for military assistance to South Korea for fiscal year 1976 contains: $74 million in grant military assistance; $126 million in military sales credits; and $2 million for training funds. Neither the Senate nor the House completed work during 1975 on bills authorizing fiscal year 1976 funding for foreign military and security supporting assistance.

In December 1975, South Korea requested the United States to provide $1.5 billion in government-backed credit over the next 5 years for

---

[3] U.S. Congress. House: Committee on International Relations. Human Rights in South Korea and the Philippines: Implications for U.S. Policy. Hearings, May and June 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[4] January 4–8, 1975, headed by Representative Leo Ryan; (U.S. Congress House: Committee on Foreign Affairs. Vietnam and Korea: Human Rights and U.S. Assistance. A Study Mission Report of the Full Committee. Committee Print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, Feb. 9, 1975.) Mar. 30–Apr. 2, 1975, headed by Representative Donald Fraser; Aug. 1–13, 1975, headed by Representative Lester Wolff. (U.S. Congress House: Committee on International Relations. Asia in a New Era: Implications for Future U.S. Policy. Report of a Study Mission to Asia Aug. 1–13, 1975. Committee Print. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975, 75 p.

[5] Stability and prevention of war are the publicly stated goals of U.S. policy in Korea and are given priority over the internal political situation in South Korea. President Ford and Prime Minister Miki of Japan issued a joint announcement in August 1975 which said that "the security of the Republic of Korea is essential to the maintenance of peace on the Korean peninsula, which in turn is necessary for peace and security in East Asia, including Japan." Administration officials and others who favor U.S. assistance to South Korea do not approve of the ROK policies on human rights; but they believe that, for security reasons, the United States should continue its support of stability in Northeast Asia, where the interests of major powers converge. Current U.S. policy is to provide clear evidence that the United States is not withdrawing from Asia.

[6] U.S. Congress. Senate: Committee on Foreign Relations Multinational Corporations and U.S. Foreign Policy. Pt. 12. Political Contributions to Foreign Governments. Hearings, May, June, July and September 1975. 94th Cong., 1st sess. Washington, U S. Government Printing Office, 1975.

a new military hardware program. The new aid plan asked only for U.S. Government-backed loans and no grant assistance.

Congressional Approval of Commonwealth Status for the Northern Mariana Islands*

The reduction of U.S. military force levels, the loss of bases in Asia, and the possibility that forward base areas in the island countries off the mainland—Japan and Okinawa, the Philippines—may at some point be denied the United States for political reasons has resulted in a search for alternative or standby bases from which U.S. military power can be projected into the western Pacific. Defense planners have focused on possible base areas in the Trust Territory of the Pacific, particularly in the northern Marianas. The willingness of the United States to promote admission of northern Marianas as a separate Commonwealth has been based largely on these strategic considerations. The rationale for such a course includes not only the possible future development of base areas, but also the need to deny use of this large area to others.[7]

Plans in the early 1970's that called for beginning of base construction on Tinian Island, one of the northern Marianas, have been postponed. Critics in Congress and elsewhere of the proposed base complex have argued that even if the bases may be needed at some time the requirement is not urgent, and that therefore large sums of money should not be spent until the long-range picture is clearer. The House Appropriations Committee in August 1974 said that it doubted that construction could be justified so long as the United States retained access to Japanese and Korean bases.[8] Secretary of Defense Schlesinger in testimony before the Subcommittee on the Department of Defense of the House Appropriations Committee on the Department of Defense fiscal year 1976 appropriations said that the phased base development concept for Tinian had been replaced by "extremely modest plans" to upgrade some basic facilities and that plans for use of Tinian were being redrafted. Schlesinger said that Congress would be briefed when specific uses in the base area were clarified and that authorization would be requested when it became necessary to begin any base construction.

The present phase of the United States-Micronesia relationship began in 1964 with the creation of the Congress of Micronesia. The Congress of Micronesia requested status negotiations and several proposals were considered by the Interior Committees of the U.S. Congress in the 1965–69 period. The House took the approach that the preferable course of action would be for the executive branch to negotiate a status which could then be considered by the Congress. Early negotiations for a single status for a unified territory were un-

---

*Prepared by M. T. Haggard, specialist in Asian affairs.

[7] U.S. Congress:
House: Committee on Appropriations. Subcommittee on the Department of Defense. Department of Defense Appropriations for 1976. Hearings. Pt. I. 94th Cong., 1st sess. Washington. U.S. Government Printing Office. 1975. p. 405.
Senate: Committee on Foreign Relations. Committee on Armed Services. Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. Report to accompany H.J. Res. 549. Rep. No. 94-596. 94th Cong., 2d sess. Washington. U.S. Government Printing Office. 1976. p. 8.

[8] U.S. Congress. House: Committee on Appropriations. Department of Defense Appropriation bill. 1975. Rept. No. 93-1255, Aug. 1, 1974. 93d Cong., 2d sess. Washington. U.S. Government Printing Office, 1974. p. 33.

successful, and in 1972 separate status negotiations began with the Mariana Islands. These negotiations were concluded in 1975 and ratified by the islanders in a United Nations observed plebiscite in June 1975. Congressional involvement to this point had included briefings of the Interior Committees on progress in negotiations.[9] The Covenant to Establish a Commonwealth of the Northern Marianas Islands in Political Union with the United States of America was transmitted to the Congress for approval by the President on July 8, 1975, after the results of the plebiscite in the northern Marianas had been certified.[10]

The covenant provides that the northern Marianas be a self-governing commonwealth under the sovereignty of the United States, which will have complete authority over foreign affairs and defense matters. It provides for a $14 million annual U.S. payment for 7 years and a one-time payment of $19 million for a land lease payment. The United States is given the right to lease up to 18,000 acres for military purposes.[11] The administrative separation of the northern Marianas from the rest of the Trust Territory is to be initiated soon after the approval of the covenant by the U.S. Congress. A constitution is to be drafted at a constitutional convention, submitted to a referendum and then will be subject to approval by the U.S. Government. Approval will be followed by elections and the financial provisions of article VI of the covenant will become effective. When the U.N. Trusteeship Agreement is terminated, the President will issue a proclamation establishing the Commonwealth of the northern Mariana Islands.[12]

Congressional action on the covenant was completed in less than 8 months, and involved the House Interior Committee and three Senate committees, Interior, Armed Services, and Foreign Relations. Following hearings, the House Interior Committee favorably reported House Joint Resolution 549 on July 16, 1975, and the measure passed the House under suspension of the rules on July 21, 1975. The Senate Interior Committee conducted a hearing on a similar resolution, Senate Joint Resolution 107, and on October 3, 1975, ordered House Joint Resolution 549, as amended, reported without dissent.[13]

In hearings held by the Senate Foreign Relations Committee, administration spokesmen emphasized that approval of the covenant would fulfill an international obligation under the U.N. Trusteeship Agreement and would strengthen the national security of the United States in the western Pacific.[14] Amendments submitted which focused on the need for agreements to resolve the political status of all the Trust Territory rather than only a part of it were rejected,[15] and an

---

[9] U.S. Congress. House: Committee on Interior and Insular Affairs. Subcommittee on Territorial and Insular Affairs. Marianas Political Status. Hearing. Apr. 14, 1975. (Serial No. 94-13.) 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[10] U.S. Congress. Senate: Committee on Interior and Insular Affairs. The Covenant To Establish a Commonwealth of the Northern Mariana Islands. Report to Accompany H.J. Res. 549. S. Rept. 94-433. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975. pp. 95-96.

[11] U.S. Congress. Senate: Committee on Interior and Insular Affairs. Providing Authorization for the Civil Government for the Trust Territory of the Pacific Islands. Hearing on H.R. 7688. July 23, 1975. 94th Cong., 1st sess. Washington, U.S. Government Printing Office, 1975.

[12] S. Rept. 94-596. p. 5-6. Congressional Quarterly Weekly Report, Vol. XXXIV, No. 9. Feb. 28, 1976. p. 473.

[13] S. Rept. 94-433. pp. 95-96.

[14] U.S. Congress. Senate. Committee on Foreign Relations. Commonwealth of the Northern Mariana Islands. Hearing on H.J. Res. 549. Nov. 5, 1975. 94th Cong., 1st sess. Washington. U.S. Government Printing Office, 1976.

[15] S. Rept. 94-596. pp. 11-14.

amendment was adopted which provided that at least every 10 years special representatives of the President and of the Governor of the northern Marianas would consider issues affecting the relationship and make a report and recommendations. This amendment was added to neutralize the argument that the action was a step toward American colonization.[16] The Foreign Relations Committee on January 20, 1976, recommended that the Senate adopt House Joint Resolution 549 as amended.[17]

The Senate Armed Services Committee also rejected an amendment which stated the U.S. obligation to promote the development of the entire Trust Territory could be best accomplished by consideration of an agreement resolving the political status of the entire Trust Territory,[18] and the two Senate committees filed a joint report (S. Rept. 94–596) on the resolution. The Senate passed the resolution 66–23 on February 24, 1976. The House concurred in the Senate amendments on March 11, 1976, and the bill became Public Law 94–241 (Mar. 24, 1976).[19]

---

[16] The Senate on Dec. 16, 1975, adopted S. Res. 331, providing for a special delegation of Members of the Senate to vist the Trust Territory and other countries in the Southwest Pacific to conduct a study of U.S. security and foreign policy interests in that area. The delegation left Washington on Jan. 2, 1976 and returned on Jan. 17. U.S. Congress. Senate Committee on Foreign Relations. The Southwest Pacific 1976. Report of a Special Delegation. February 1976. 94th Cong., 2d sess. Washington, U.S. Government Printing Office, 1976. pp. 1, 3–4.

[17] S. Rept. 94–596, pp. 7, 14.

[18] S. Rept. 94–596, p. 15.

[19] Congressional Research Service. Legislative Status Checklist of the 94th Cong. Mar. 29, 1976. p. 33. Congressional Quarterly Weekly Report. Feb. 28, 1976. pp. 472–473.

O