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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

July 6, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *for*FROM: KEITH HAHN *for*

SUBJECT: Defense Proposed Report RE: HR 13, Sense of the House of Representatives Regarding RADM Kimmel

At Tab II Defense is responding to a House bill that would posthumously advance RADM Husband E. Kimmel to the grade of Admiral on the retired list. RADM Kimmel, along with General Short, were the senior military officers held accountable for the failure of U.S. defenses in the Japanese attack on Pearl Harbor on December 7, 1941. Defense believes that the principle of command accountability dictates that RADM Kimmel not be reinstated to his previous rank of full Admiral.

We believe that the President should support the Department of Defense on this issue. At Tab III, Sandy Berger has indicated that he agrees with our recommendation that the President not reinstate RADM Kimmel. However, Tony Lake is aware that ADM Crowe has recommended to the President that he restore RADM Kimmel's rank, and we do not know whether Tony agrees with our recommendation.

Concurrence by: *in draft*
Jeremy RosnerRECOMMENDATION

That you clear this concurrence with Tony Lake before signing the memorandum at Tab I.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence
Tab III Log #4574 -- Restoration of Rank to Admiral Kimmel

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report RE: HR 13, Sense of the
House of Representatives Regarding RADM Kimmel

The National Security Council staff concurs in the proposed
Defense report.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

SPECIAL

June 24, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-724

TO: Legislative Liaison Officer -

JUSTICE - Faith Burton - (202)514-2141 - 217

NSC - William H. Itoh - (202)395-3723 - 249

FROM: RONALD K. PETERSON (for) 
Assistant Director for Legislative ReferenceOMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194SUBJECT: Defense Proposed Report RE: HRES 13, Sense of
the House of Representatives regarding RADM
Kimmel

DEADLINE: MONDAY, July 19, 1993

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
T. Stanners

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this
response sheet

**DRAFT
FOR
OMB A-19
REVIEW**

The Honorable Ronald V. Dellums
Chairman, Committee on Armed Forces
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request of March 4, 1993, for the views of the Department of Defense, on H. Res. 13, "Expressing the sense of the House of Representatives that the President, with the advice and consent of the Senate, should posthumously advance Rear Admiral Husband E. Kimmel to the grade of Admiral on the retired list."

The Department of the Navy does not concur with the proposed resolution. The Naval tradition is that the Commanding Officer takes full personal responsibility for his command. On December 7, 1941, the Japanese attack on Pearl Harbor resulted in the death or wounding of 2,178 Navy personnel while Admiral Kimmel was Commander-in-Chief of the U.S. Pacific Fleet. In addition, eight battleships, three light cruisers, three destroyers, four auxiliary craft and 86 naval aircraft were either destroyed or heavily damaged.

Regardless of any action Congress takes in regard to RADM Kimmel, controversy will always surround his role at Pearl Harbor. There is no question that RADM Kimmel was an outstanding Naval officer. In fact, many historians have treated his involvement with the attack sympathetically. However, RADM Kimmel has already had his "day in court" and no action was subsequently taken to promote him on the retired list. Between December 1941 and January 1946 there were no less than eight different investigations into the facts surrounding the attack on Pearl Harbor. At both a Naval Court of Inquiry and before a Joint Congressional Committee, RADM Kimmel was allowed to tell his side of the story. Results of these proceedings are part of the public and now, historical, record. There is no basis for disturbing these results.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

Copy to:
The Honorable Floyd D. Spence
Ranking Minority Member

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9304574
RECEIVED: 22 JUN 93 10

TO: LAKE

FROM: HOOKER

DOC DATE: 22 JUN 93
SOURCE REF:

KEYWORDS: DEFENSE POLICY
JAPAN

NAVY

PERSONS: KIMMEL, H

SUBJECT: PEARL HARBOR COMMANDERS

ACTION: NOTED BY LAKE

DUE DATE: 25 JUN 93 STATUS: C

STAFF OFFICER: HOOKER

LOGREF:

FILES: WH

NSCP:

CODES:

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FOR ACTION

FOR CONCURRENCE

FOR INFO

~~FOR INFO~~
HOOKER
NSC CHRON

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CLOSED BY: NSJDA

DOC 1 OF 1

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ACTION DATA SUMMARY REPORT

RECORD ID: 9304574

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

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Z 93062811 FOR INFORMATION
X 93063012 NOTED BY LAKE

UNCLASSIFIED

National Security Council
The White House

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5:20 PM
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6/28

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ExecSec	_____	_____	_____
Staff Director	_____	_____	_____
D/APNSA	<u>2</u>	<u>NM</u>	_____
APNSA	<u>3</u>	<u>HAS SEEN JWR</u>	_____
Situation Room	_____	_____	_____
West Wing Desk	<u>4</u>	<u>JB 6/30</u>	<u>N</u>
NSC Secretariat	<u>5</u>	_____	<u>N</u>
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A = Action I = Information D = Dispatch R = Retain N = No Action

cc: VP McLarty

COMMENTS:

DISPATCH INSTRUCTIONS:

Shor

I agree. Little
pol. advantage
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enb.

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28 JUN 93 10:21

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

Natl Sec Advisor
has seen

June 25, 1993

INFORMATION

MEMORANDUM FOR ANTHONY LAKE

THROUGH:

ROBERT G. BELL *RGB*

FROM:

RICHARD HOOKER *RDA*

SUBJECT:

Restoration of Rank to Admiral Kimmel

We have reviewed the issues surrounding Admiral Husband Kimmel's relief and retirement following the attack on Pearl Harbor. We see no compelling reason for the President's acting to reverse President Roosevelt's decision.

For several decades, Admiral Kimmel's family has been lobbying successive administrations to restore Kimmel to the temporary four star rank he held at the time of the attack on Pearl Harbor. They have renewed their efforts with this Administration. As you know, Admiral Crowe has taken a personal interest in their case. ?

The facts relevant to the case are not in dispute (Tab I). Admiral Kimmel received an official "war warning" message from the Navy Department on November 27, 1941 informing him that hostilities with Japan were imminent and directing him to put Pearl Harbor in a state of defense. None of the naval or air deployments called for in the applicable war plans were implemented to defend the islands by Kimmel or his Army counterpart, LTG Walter Short.

At President Roosevelt's direction, Kimmel and Short were relieved of their commands and retired in their permanent two star ranks after a series of lengthy and exhaustive service and congressional investigations. It should be noted that they were not courtmartialed or even demoted. They were simply not granted the courtesy of retiring in their highest temporary rank.

While some intelligence available in Washington was not forwarded to Kimmel, there is no evidence that Washington had any specific intelligence confirming an imminent attack on Pearl Harbor. The "missing" intelligence merely amplified what Kimmel and Short had already been told, that war seemed imminent. Toward the end of these investigations, Admiral Kimmel increasingly adopted the "FDR conspiracy" defense and openly aligned himself with congressional Republicans hoping to use the Pearl Harbor disaster as a campaign issue in 1944.

According to the Navy, every Administration since FDR has reviewed the case and confirmed the findings of the original investigations. The current CNO, Admiral Kelso, takes the

position that Kimmel should not be rehabilitated, arguing a) that the principles of command accountability and responsibility fully justify the findings and actions taken at the time, and b) that no new information has surfaced which might challenge the original findings. We have found nothing to suggest that earlier investigations of the matter are in error.

I agree
-Juk

In the absence of new findings we believe that the evidence supports respecting the Navy's position and letting the matter stand.

It should also be noted that restoring Kimmel to his past rank would logically raise questions as to why the President had or had not exonerated General Short. However, the historical record suggests that Short was even more culpable than Kimmel.

Attachment

Tab I Harvard Case Study

PEARL HARBOR

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(TITLE 17, U. S. CODE)

At 7:55 on the morning of December 7, 1941, a Japanese attack force of 353 planes swept down on the United States Pacific Fleet stationed at Pearl Harbor, delivering the first and most devastating blow of a coordinated Japanese offensive throughout the Pacific. Launched from six carriers waiting two hundred miles off the northern shore of Oahu, Japanese aircraft reached Pearl Harbor virtually undetected. Within two hours they sank or seriously damaged eighteen American ships, disabling all but one of the American battleships assigned to the Pacific. Only the U.S. carriers and their aircraft were spared, by chance being at sea on weekend maneuvers. Almost 350 of the 394 American planes on the island were destroyed on the ground. 2,403 Americans were dead. Japanese losses totaled fifty five men and twenty nine aircraft. By sundown, Pearl Harbor was among a group of successful raids carried out simultaneously on Guam, Wake, and the Philippine Islands, on Hong Kong and Malaya.

Washington responded immediately to the blow. On December 8, President Roosevelt went before Congress to secure a declaration of war against Japan, characterizing the enemy action as "a surprise offensive, dastardly and unprovoked". The following day he told the American people that his administration had consistently pursued a peaceful solution to troubles in the Far East, negotiating in good faith with Japanese Ambassador Nomura until the moment of attack. With a sudden, unexpected, and deceptive strike, Roosevelt said, "the Japanese have treacherously violated the long-standing peace between us."

In private, however, Roosevelt and his advisers were at a greater loss to explain the disaster at Pearl Harbor. Top American officials in Washington and Hawaii were prepared for Japanese military action in the Pacific or Far East on the weekend of December 7. Detailed intelligence information indicated that a large offensive was imminent. Theater commanders in the Pacific had been alerted to the dangerous rift in relations with Japan. Warnings of war had been issued to military representatives in Hawaii, and precautions against hostile action had been taken. Still, a direct attack on the United States, especially one on Pearl Harbor, came as a complete surprise. Expecting conflict in the Pacific into which the United States might be drawn, and confident of their knowledge of Japanese capacity and intentions, high ranking members of the Roosevelt administration and their military counterparts concentrated on preventing World War II from entering through the back door. Japan blew up the front of the house.

Pearl Harbor and the Coming of War

The chief military officials at Pearl Harbor at the time of the attack were General Walter Short, Commander of the Army's Hawaiian Department, and Admiral Husband E. Kimmel, Commander-in-Chief of the Pacific Fleet. Each had a small intelligence staff operating under his command, responsible for collecting and reporting local information and receiving periodic dispatches from military sources in Washington. Generally, the duties assigned Hawaiian intelligence were limited and technical. Although the two Naval units, Combat Intelligence and Fleet Intelligence, were comprised of experienced and well-trained officers, they were restricted to the inexact science of monitoring Japanese ship movements and transmitting to Washington coded Japanese naval messages intercepted by radio receivers. Army Intelligence (or G-2) was staffed by less experienced men whose primary function was to guard the island against espionage. Neither Army nor Navy intelligence officers were expected, or given the opportunity, to prepare independent estimates of enemy action or intentions based on the information that passed through their hands.² For that, Short and Kimmel were dependent on their superiors in Washington, General George C. Marshall, Army Chief of Staff and Admiral Harold ("Betty") Stark, Chief of Naval Operations.

During the critical weeks prior to the raid on Pearl Harbor, the commanders in Hawaii were provided information by their sources in Washington and by their own intelligence officers that led them to expect Japanese military action in the near future. Reports ranged from fragments of "raw", or entirely factual, material concerning Japanese troop movements to explicit predictions and directives from Stark and Marshall. Throughout the month of November, Naval Intelligence in Hawaii was informed by contacts in the Far East of sightings of Japanese naval convoys heading toward Southeast Asia, observations that were consistent with claims of troop build-ups in Indochina since the summer. On November 1, the Chief of Combat Intelligence at Pearl reported a change in the call signals of Japanese ships, not an unusual occurrence by itself, but one that was a customary prelude to military action. When the call signals were altered again on December 1, an unprecedented event in such a short space of time, it suggested to naval intelligence in Hawaii that the Japanese were in the final stages of preparation for battle. The change in call signals was also disconcerting because it made the identification of Japanese vessels nearly impossible. In mid-November, Combat Intelligence lost track of a fleet of enemy carriers. Naval intelligence assumed that it was in home waters, a conclusion based on previous experience.³ The carriers were not located until December 7.

Reports of the southern movement of Japanese ships and the concurrent estimation of an imminent Japanese attack somewhere in

the vicinity of Southeast Asia were confirmed by dispatches sent from Washington in late November to both the Army and the Navy. On November 24, Naval Intelligence at Pearl received the following message from the Chief of Naval Operations:

Chances of favorable outcome of negotiations with Japan very doubtful. This situation coupled with statements of Japanese Government and movements their naval and military movement in any direction including attack on Philippines or Guam is a possibility. Chief of Staff has seen this dispatch concurs and requests action adeg (addressees) to inform senior Army officers their areas. Utmost secrecy necessary in order not to complicate an already tense situation or precipitate Japanese action. Guam will be informed separately.

Three days later, on November 27, Admiral Stark sent a stronger statement to the Pacific Fleet, designed to bring Kimmel up to date on the perspective in Washington. It was a short, clear summary of the Navy's expectations:

This dispatch is to be considered a war warning. Negotiations with Japan looking toward stabilization of conditions in the Pacific have ceased and an aggressive move by Japan is expected within the next few days. The number and equipment of Japanese troops and the organization of naval task forces indicates an amphibious expedition against either the Philippines, Thai or Kra Peninsula or possibly Borneo. Execute an appropriate defensive deployment preparatory to carrying out the tasks assigned in WPL 46. Inform district and Army authorities. A similar warning is being sent by War Department.

The concurrent message sent to General Short was relayed to Kimmel by the Chief of Naval Operations on the following day. It was a more ambiguous warning than the Navy dispatch, less certain of the state of negotiations between Secretary of State Hull and Ambassador Nomura, and without an estimation of the probable target of Japanese hostilities. It read:

Negotiations with Japan appear to be terminated to all practical purposes with only the barest possibilities that the Japanese Government might come back and offer to continue. Japanese future action unpredictable but hostile action possible at any moment. If hostilities cannot repeat not be avoided the United States desires that Japan commit the first overt act. This policy should not repeat not be construed as restricting you to a course of action that might jeopardize your defense. Prior to hostile Japanese action you are directed to undertake such reconnaissance and other measures as you deem necessary but these measures should be carried out so as not repeat not to alarm civil

population or disclose intent. Report measures taken. A separate message is being sent to G-2, Ninth Corps Area re subversive activities in the United States. Should hostilities occur you will carry out the tasks assigned in Rainbow five so far as they pertain to Japan. Limit dissemination of this highly secret information to minimum essential officers. Unquote...Undertake no offensive action until Japan has committed an overt act. Be prepared to carry out tasks assigned in WPL 46, so far as they apply to Japan in case hostilities occur.

On November 28, General Short also received a message via the local G-2 unit sent by General Sherman Miles, Chief of G-2 in Washington, warning of possible sabotage in the event of war:

Japanese negotiations have come to practical stalemate stop hostilities may ensue stop subversive activities may be expected stop inform commanding general and chief of staff only.⁷

Neither Kimmel nor Short regarded these messages with great concern. To Kimmel and his Fleet Intelligence officer, Commander Edwin Layton, the information from Stark and Marshall merely reinforced their own estimation that the Japanese were on the verge of launching an attack somewhere in Southeast Asia. Layton had also considered the possibility that Japan might move on the Philippines or Guam, as a precautionary measure to protect their flank. WPL 46, mentioned in both the Army and Navy warning, was a plan to deploy part of the Pacific Fleet to the Marshall Islands in the event of a Japanese offensive in the Far East. The term "a surprise aggressive move in any direction" was interpreted to apply only to the southern Pacific, perhaps including American forces in the Philippines, but certainly not Pearl Harbor. Kimmel did not increase the alert status of the Fleet as a result of the warning. General Short considered the message from the War Department as a warning against sabotage on the Islands, and heeding the caution "not to alarm civil population", he placed the troops under his command on the lowest alert possible. He replied to the War Department, General Marshall, and the directors of the Army and Navy War Plans: "Report department alerted to prevent sabotage period".⁸

Subsequent information from Washington did little to alter these expectations. On December 3 and 4, Kimmel received the message that Japanese consular and diplomatic posts at Hong Kong, Singapore, Batavia, Manila, Washington and London had been urgently instructed to destroy their codes and ciphers. This news was based on top secret MAGIC information available only in Washington.⁹ On December 6, Kimmel had been told by local G-2 that the Japanese consulate had been burning papers for the preceding two days. Following the attack, the reports of code destruction were considered by those in Washington as clear

indications to the theater commanders that they should have initiated a full alert.¹⁰ Kimmel, however, did not regard the information as a spectacular tip-off. He observed that the Japanese consulate in Honolulu had been seen burning papers four or five times earlier that year. He had also received a message from Naval Operations ordering him, on December 6, to instruct American posts in the outlying Pacific areas to destroy their own secret papers and documents in light of the tense international situation.¹¹

The danger signals of November were seen by the Hawaiian commanders in the context of an entire year of building tension between Japan and the United States. On three previous occasions during 1940 and 1941, war warnings were sent from Washington to the Pacific Theater: with the fall of France in May 1940, with the Roosevelt administration decision to impose an embargo on oil exports to Japan in July 1941, and with the collapse of the moderate Konoye cabinet in Tokyo just a month before, in mid-October 1941. These alerts, combined with numerous reports of sabotage threats or alleged Japanese plans to attack the Soviet Union, its long-time enemy, created a background of "noise" which could obscure or alter the perception of accurate and important intelligence information. The Hawaiian commanders were also mindful of fulfilling one of their primary missions in the Pacific, the training of American pilots and crews for duty in the Philippines. Time spent on reconnaissance and defense of Oahu was time wasted in the preparation of trained squadrons for the American base in the Far East, which was believed to be considerably more vulnerable to enemy attack than Pearl Harbor.¹²

Compounding the problem of sorting out significant signals from "noise", Kimmel and Short were kept in the dark concerning important international developments and current American foreign policy. Washington did not have a regular procedure for keeping the theaters abreast of decisions in the White House, details on the progress of negotiations between Secretary of State Cordell Hull and Japanese Ambassador Nomura, planned American reaction to possible moves by the Axis powers, or reports of developments in Japan. This type of information was considered either irrelevant, since Hawaii was not expected to make its own predictions of enemy behavior, or too highly classified to risk having the Japanese intercept it. This was the case with Washington's most closely guarded, and most valuable, secret, the decoded and translated Japanese diplomatic messages, collectively known as "MAGIC". After July 1941, Pearl Harbor stopped receiving regular messages based on MAGIC. During November, only three dispatches, the information of Japanese code destruction among them, were derived from that source. Kimmel and Layton both repeated requests for more complete information. But for the most part, they and Short were given meager servings from their superiors, and what "raw" information they had was made difficult to interpret outside the context of events seen in

Washington or Tokyo. Except for information and opinions contained in personal letters to Admiral Kimmel from Admiral Stark (infrequently relayed to General Short), the Hawaiian commanders were often only as well informed on policy matters as reading local newspapers would permit.¹³

Kimmel, Layton, and Short naturally filled these gaps with assumptions about the nature of the enemy and their own position in Hawaii. The Fleet at Pearl Harbor was stationed there primarily as a deterrent to Japanese aggression, as a prominent sign of American Naval power in the Pacific, thousands of miles from Japan. If swung into action, it could destroy a Japanese task force so far from home in a few minutes. Besides, as General Marshall explained to President Roosevelt in May of 1941, "The Island of Oahu, due to its fortifications, its garrison and its physical characteristics, is believed to be the strongest fortress in the world."¹⁴ Admiral Kimmel concluded that the Japanese would be inviting "national suicide" by attacking it.¹⁵ Looking out his living room window on the morning of December 7, Kimmel could not identify the planes flying dangerously close to the ground until the bombs began to explode.

Washington Intelligence and Magic

In 1941, decision makers in Washington had access to a variety of intelligence sources dealing with the Japanese. Among them were the Tokyo Embassy and its contacts in the Far East, American reporters stationed abroad, and decoded intercepts of official Japanese correspondence. The last was by far the most spectacular. Although Army and Navy specialists had little luck reading Japanese military codes, they had broken a majority of the codes protecting diplomatic traffic. In August 1940, after almost two years of work, Colonel William F. Friedman succeeded in finding the key to the top secret PURPLE code, used by the Japanese in transmitting highest priority diplomatic messages. Intercepted, decoded, and translated PURPLE messages became known as MAGIC. Throughout the period surrounding the attack on Pearl Harbor, top American officials were reading confidential diplomatic communications not only between Tokyo and the Washington Embassy, but between Japanese leaders and their chief representatives in London, Berlin, and Southeast Asia. On many of the days that Secretary of State Hull met with Ambassador Nomura in their crucial negotiations, he knew beforehand what the Japanese Ambassador was going to say and why. The apparent completeness and same-day receipt of MAGIC information gave many officials a sense of secure knowledge of Japanese intentions.

With 4000 MAGIC messages arriving daily, decoding was a 24-hour job shared by Army and Navy intelligence.

Distribution of information derived from MAGIC was subject

to extremely strict security in Washington. If the Japanese were to discover, or even suspect, that their codes had been broken, the United States would be deprived of one of its most valuable assets. The standard procedure for dissemination of MAGIC began in the Far Eastern sections of G-2 and ONI, where Colonel Rufus Bratton and Commander A.H. McCollum, with the help of his assistant, A.D. Kramer, selected the material to be passed on to the American high command. All three were highly trained and experienced intelligence officers. Their choices were confirmed by their superiors, Brig. General Sherman Miles, Director of MID, and Captain T.S. Wilkinson, head of ONI. Besides Miles and Wilkinson, only seven other officials in Washington received MAGIC intercepts: Secretary of War Henry Stimson; Chief of Staff Marshall; Secretary of the Navy Frank Knox; Chief of Naval Operations Stark; the Navy's Chief of War Plans, Admiral Richmond Kelly Turner; Secretary of State Hull; and President Roosevelt by way of his military aide. Daily deliveries of MAGIC intercepts were made each day by a courier carrying copies in a locked pouch. While the messenger stood by, the copies were read once and then returned to ONI or MID, where they were destroyed.¹⁶

During November 1941, accumulating MAGIC intercepts told a dramatic, if sometimes cryptic, story of Japan's final maneuvers prior to war. Dispatches from Tokyo to the Washington Embassy came at a furious pace. They focused on the vital importance of Nomura's mission, pressing the Ambassador to obtain Hull's acceptance of a Japanese compromise deal before a late November "deadline". On November 5, Tokyo wired Washington: "Because of various circumstances, it is absolutely necessary that all arrangements for the signing of this agreement be completed by the 25th of this month."¹⁷ When Nomura pleaded for more time, Tokyo responded that the date was immovable, explaining, "the fate of our Empire hangs by a slender thread of a few days."¹⁸ On November 22, Tokyo relented and moved the deadline to November 29, but added, "this time we mean it, that the deadline absolutely cannot be changed. After that things are automatically going to happen."¹⁹ There were eight "deadline" messages in all in November, an unprecedented series. In no previous messages, even in times of severe tension with the United States, had Tokyo specified a single date, after which things were "automatically going to happen."²⁰ In addition to these transmissions, Roberta Wohlstetter has uncovered at least nineteen others sent from Tokyo to Washington in November which stress that "a crisis is fast approaching" and that Japan was tendering its "final proposal", "our last effort". On November 14, Nomura was informed that "Both in name and in spirit this offer of ours is the last indeed...we gambled the fate of our land on this throw of the die."²¹

MAGIC also included instructions sent from Tokyo to the Japanese Ambassador in Berlin. Among these were the orders, on November 30, to pass the following information to Hitler and

Foreign Minister Ribbentrop:

Say very secretly to them that there is extreme danger that war may suddenly break out between the Anglo-Saxon nations and Japan through some clash of arms and add that the time of the breaking out of this war may come quicker than anyone dreams.²²

On the same day Tokyo ordered its embassies and consulates around the world (excepting Rome and Berlin) to destroy their codes and secret documents.

Intelligence and the Decision Makers: Perspectives on Intelligence

With the exception of Colonel Bratton and Commander McCollum and his assistant Lieutenant Commander Kramer at the Far Eastern desks of G-2 and ONI, no official in Washington had an opportunity to study the MAGIC intercepts as a body. Those on the MAGIC distribution list saw only brief glimpses of the daily tally sheet. Faced with pressing problems around the world, they had neither the time nor the background to search for trends or develop alternative evaluations of Japanese moves based on MAGIC. Given the volume of intelligence material available, it would have been difficult for them to form reliable hypotheses about Japanese plans.

Although the official duties of ONI and MID included evaluation (as well as collection and distribution) of intercepted materials, this was in fact not the case. In practice, prediction of enemy intentions or evaluation of intelligence information was strictly off limits for ONI and MID officers. Neither Bratton nor McCollum, Miles nor Wilkinson, were consulted by the chief policy makers concerning the import of specific Japanese messages. Miles and Wilkinson were so excluded from the foreign policy structure that they resorted to reading intercepts of MAGIC information traveling from Washington to Tokyo in order to keep up to date on progress in the Hull-Nomura negotiations.²³ Wilkinson confessed after the attack, "...prior to getting into the war we did not know the U.S. side of the argument that was going on."²⁴ His boss, Admiral Turner of War Plans, was covetous of his own evaluations and information and kept ONI (which he considered "solely a collection agency and a distribution agency") in the dark.²⁵ Wilkinson, for instance, learned of the late November warning messages sent to Pearl Harbor after the fact and through "informal channels".²⁶

The isolation of intelligence officers not only kept them from using their close contact with MAGIC to work up their own estimates. It also exacerbated the already poor communication between the services and between Washington and the theaters. The

tight security protecting MAGIC caused confusion over who exactly was seeing it, or information based on it. General Miles believed that the command at Pearl Harbor was reading MAGIC on a regular basis. He was not alone in this assumption. A high ranking Army intelligence officer testified after the attack that he was under the impression that a staff of 400 on Oahu was intercepting, decoding and evaluating MAGIC.²⁷ Miles, and apparently Marshall, also thought that Hawaiian G-2, and consequently General Short, received automatically copies of all information sent to Commander Layton and Admiral Kimmel. In fact, Kimmel only relayed messages when specifically instructed to do so. As a result, G-2 dispatches to Hawaii contained only instructions relevant to the prevention of sabotage, which Miles considered the primary G-2 function.²⁸

The separation between collection and evaluation of intelligence information resulted in dilution of the message it might have provided. Personal assumptions about the Japanese were regularly substituted for background knowledge of the domestic political scene in Tokyo. Some officials thought the Japanese "tricky". For example, David Kahn quotes Fletcher Pratt, a pre-war writer on naval subjects, on theoretical reasons that the Japanese would make poor aviators. These included racially inherent myopia and inner ear defects resulting in poor balance; a code of values which assessed individual life as worthless, leading pilots to give up when their airplanes got into trouble; poor Japanese performance in individual activities such as flying; and a culture and educational system with little emphasis on development of mechanical skills. Kahn also notes the pre-Pearl Harbor views of a former ONI director, Captain W.D. Puleston, as typical of the day: "Japan has been energetic in her efforts to create naval aviation, but she is usually a phase behind. She cannot match in numbers the planes carried on American carriers, . . . and her personnel cannot send planes aloft or take them aboard as rapidly as American personnel." Kahn concludes "racism and the presumption of rationality prevented current details from being assembled into a pattern that might indicate what was happening in Japan."²⁹ Both Pratt and Puleston expressed the conventional wisdom of the day, that Japan would not dare take on the naval and industrial might of the United States.

Others felt that the Japanese had natural proclivities for collecting reams of unnecessary detail. This explanation was popular when, beginning in early September, ONI and MID intercepted messages from Tokyo to Honolulu requesting complete diagrams of berthing locations of the Pacific Fleet and the schedule of ships arriving and departing from Pearl Harbor. Washington pointed out that similar information had been requested for almost every port from Manila to Panama.³⁰

The subordinate role of ONI and MID was conditioned by a general lack of respect within the armed services for intelligence personnel. In 1941, intelligence was a job without much prestige, reserved for officers considered unqualified for a command position.³¹ Army and Navy "generalists" were suspicious of "egg head" units which they believed were unqualified to perform the delicate task of evaluation.³² This was certainly the case with the relationship between Admiral Turner and ONI. Those in Far Eastern sections were considered too immersed in the "oriental point of view." This was true even in MID, where Miles frequently discounted Bratton's ominous reports of possible developments in the Far East by placing them in the larger context of the European war.³³

Intelligence and the Decision Makers: Undeclared War and the Atlantic Strategy

Compared with Nazi Germany, Japan seemed remote and manageable. Since the spring of 1940, Germany had conquered Denmark, Norway, the Netherlands, and Belgium. On June 21, after less than six weeks of resistance, France surrendered. Britain was beleaguered by German bombers. Shipping lanes in the Atlantic were menaced by German submarines. Some felt an invasion of Great Britain was imminent. Then, almost a year to the day after the fall of France, Hitler turned on his ally, the Soviet Union, and launched a surprise offensive in the east.

"If we lose in the Atlantic, we lose everywhere." Few in the military or in the Roosevelt Administration disagreed with this conclusion by General Marshall. Through 1941, the President and Congress began to take measures to aid Britain without falling into open war with Germany. With American vessels running supplies for the British, the United States was risking a clash with German submarines. In October, alleged attacks took place on two American Naval vessels, both of which turned on the submarines. Although the circumstances of the confrontations remained a mystery to most Americans, Roosevelt accused Germany of unprovoked attacks on United States ships. In late October and early November, Roosevelt moved to arm merchant ships through an amendment in the Neutrality Act. On November 17, the revised Act was approved.

With events in the Atlantic slipping toward war with Germany, American analysts clarified United States strategy in the event of a World War. The signing of the Tripartite Pact among Germany, Italy and Japan in September 1940, in which they pledged cooperation against common enemies, led planners to consider a war with Germany to mean war with Japan as well.³⁴ With this in mind, a Joint Board of military chiefs developed the first in a series of Rainbow Plans. The Joint Board dismissed the possibility of an all-out American effort in the Pacific

while Hitler continued to survive in Europe. Rainbow 5, the plan operational at the time of the attack on Pearl Harbor, was organized along the same theme. So was Admiral Stark's Plan D (or "Dog"), in which the Navy would hold the Japanese at bay while concentrating its fire power in the Atlantic and Mediterranean. Warned General Marshall in September 1940, "A serious commitment in the Pacific is just what Germany would like to see us undertake."³⁵ Steps taken by the military in 1940 and 1941 were consistent with this orientation. In April 1940, Roosevelt ordered the Pacific Fleet, normally anchored in San Diego, to remain at Pearl Harbor as a deterrent to the Japanese. In January 1941, the Army began a vigorous program reinforcing defenses in the Philippines for the same reason. That summer, the Islands received their most prominent reinforcement in the person of General Douglas MacArthur.

But there was a limit to the amount of preparatory action the Administration could authorize. Roosevelt and his advisers had to contend with an American public that was largely committed to avoiding war in both the Atlantic and Pacific. Roosevelt himself had made similar commitments while running for an unprecedented third term of office in 1940. "We will not participate in foreign wars...except in case of attack" was a central plank of the Democratic platform in 1940, and many hoped to hold Roosevelt to it. Although the Lend-Lease measure and the amendment of the Neutrality Act were billed by the Administration as acts of self-defense (the former was titled "An Act to Promote the Defense of the United States"), they encountered stiff opposition and heated debate in Congress.³⁶

Isolationist sentiment hampered military preparedness. All the armed service chiefs lamented the paucity of arms and men equipped to fight a two ocean war. During the 1930's heyday for isolationism and Pacifism, military appropriations were slashed by Congress. When Germany invaded Poland in September 1939, the total strength of the U.S. Army was just under 190,000 officers and enlisted men. In the fall of 1941, the Army General Staff estimated that a "Victory Program" against the Axis powers would require over 8,000,000 men. Existing forces were just over 1,600,000.³⁷ Naval strength was similarly deficient; although strenuous efforts were made to put the Navy on a war footing following the beginning of war between Japan and China in 1937, the money for expansion was difficult to obtain. In August 1941, Congress came within one vote of sending home all draftees.

The strength of isolationism also influenced decision-makers' perceptions of probable Japanese strategies for war. Members of the Administration feared that if Japan attacked Russia or Britain first, the United States would be placed in an awkward and potentially dangerous position. Roosevelt had been reminded by Prime Minister Churchill in August 1941 that Japan could inflict a decisive blow against British forces in the Far

East if the United States did not pledge its willingness to oppose them with force.³⁸ But it seemed doubtful that American public opinion would permit a declaration of war against Japan in retaliation for an attack on Borneo, Singapore, the Netherland East Indies, or the Kra Isthmus. This would be the logical move for the Japanese if they hoped to avoid immediate conflict with the United States. Fear that this would be Japan's strategy gripped American decision-makers during the fall of 1941.

Intelligence and the Decision-Makers: Perspectives on Japan

Roosevelt's absorption in the European war left American dealings with Japan almost entirely in the hands of the State Department and Secretary Hull. By November 1941, Hull was exhausted by months of fruitless negotiations with Ambassador Nomura. At the time, he remarked that he and Nomura were "going around and around in the same circle."³⁹ He hoped still to reach an agreement which might defer war in the Pacific. But the odds seemed against it. Hull had concluded by mid-August that a conflict was inevitable sooner or later, saying, "Nothing will stop them but force."⁴⁰ He continued working to ensure that it was later.

Hull was a principled man, and his approach to the Japanese was based on principle. In 1937, he had set down his own "principles of international morality," a doctrine condemning nations involved in wanton aggression; in August 1941, he was still convinced that they were applicable. In 1938, he had advocated a "moral embargo" of war materials to the Japanese; in 1941, he had helped engineer the mandatory embargo on scrap iron and oil sales to Japan. When Nomura arrived in Washington to commence talks with the American government in the spring of 1941, Hull handed him a list of principles which he felt was the basis for any discussion of American Far Eastern policy:

1. Respect for the territorial integrity and sovereignty of each and all nations.
2. Support of the principle of non-interference in the internal affairs of other countries.
3. Support of the principle of equality, including the equality of commercial opportunity.
4. Non-disturbance of the status quo in the Pacific except as the status quo may be altered by peaceful means.⁴¹

During his negotiations with Nomura, Hull had to contend with equally principled members of his own Department and of the Administration who considered his approach to the Japanese too

conciliatory. Although the State Department's Japan experts asked for understanding of the Japanese perspective, a more outspoken group advocated a hard line toward Tokyo. This faction was dominated by Stanley K. Hornbeck. The Department's chief Far Eastern expert between 1928 and 1941, Hornbeck saw China as the necessary center of American foreign policy in the Far East. His experience had taken him through the Manchurian Incident in 1931, when American failure to actively oppose Japan allowed them to annex that portion of northern China. After Japan launched a full-scale invasion of China in 1937, Hornbeck supported a "get tough" approach to aggression in the Far East.⁴² By 1941, he was hardly alone. This school drew support not only within State but also from Secretary of War Stimson, a former Governor General of the Philippines and the Secretary of State during the Manchurian Incident, and Secretary of the Interior Harold Ickes. Stimson, Ickes, and Secretary of the Treasury Henry Morgenthau had strenuously supported enforcing strict embargoes against Japan in the belief, expressed by Morgenthau, that it would bring Tokyo quickly to its knees. In the fall of 1941, Ickes felt that a war with Japan would be won swiftly, thereby allowing the United States to fight Hitler without distraction from the Pacific.⁴³ Hornbeck outdid even Ickes. He believed that Japan had neither the military capacity nor the political will to engage the United States in battle. In a memorable evaluation written on the 27th of November, 1941, Hornbeck, Hull's chief adviser on Far Eastern policy, asserted:

In the opinion of the undersigned, the Japanese Government does not desire or intend to have forthwith armed conflict with the United States. The Japanese government, while launching new offensive operations at some point or points in the Far East, will endeavor to avoid attacking or being attacked by the United States.... Were it a matter of placing bets, the undersigned would give odds of five to one that the United States and Japan will not be at "war" on or before December 15...would wager three to one that the United States and Japan will not be at "war" on or before the 15th of January (i.e., seven weeks from now); would wager even money that the United States and Japan will not be at "war" on or before March 1...⁴⁴

At the highest levels of the Army and Navy, this strain of optimism was tempered by concern over military unpreparedness. Throughout the late months of 1941, General Marshall and Admiral Stark petitioned President Roosevelt, and anyone else who would listen, not to provoke the Japanese into a war which the United States was not yet equipped to fight. As early as 1939 and 1940, Marshall advocated restraint in dealing with Japan because of the depleted condition of the U.S. Army.⁴⁵ In the summer of 1941, he and Stark argued against the imposition of embargoes for fear that the Japanese would retaliate.⁴⁶ During the fall, when Stark was convinced that the "shooting war" in the Atlantic made an

all-out war against Germany inevitable and imminent, he wrote Kimmel at Pearl Harbor, "The longer we can keep the situation in the Pacific in status quo, the better for all concerned..."⁴⁷ A two-ocean war at this juncture could be disastrous. On November 5, Marshall and Stark presented a joint memo to Roosevelt in which they declared, "War between the United States and Japan should be avoided while building up defensive forces in the Far East, until such time as Japan attacks or directly threatens territories whose security to the United States is of very great importance."⁴⁸ On November 27, they wrote the President again with respect to Japan, concluding, "The most essential thing now, from the United States' viewpoint, is to gain time." In order to do this, they argued against transmitting an ultimatum to Tokyo stating America's last conditions for peaceful negotiations.⁴⁹

Within the armed services as a whole, the caution of Marshall and Stark alternated with a more aggressive and fatalistic attitude. In the Navy, rapid turnover of commanding officers and exclusion from the policy structure made it difficult to develop an independent image of Japan's political and military perspective. So too did tradition. Since the turn of the century, justification of American naval strength was based in part on the assumption of vital American interests in the Far East. The Navy had a natural tendency to view Japan as a monolithic aggressive force, an inevitable opponent of American naval expansion in the Pacific. Throughout the 1930's, Japan (under the code name "Orange") was the perennial enemy in Naval war exercises run out of Pearl Harbor. Historian Waldo Heinrichs writes, "The Navy's image was of an enemy poor in resources, overpopulated, historically expansionist, imbued with a warrior tradition, and, in the 1930's, ruled by a fanatical military clique."⁵⁰

Although the Army was troubled by its lack of power in the Far East, a strong streak of optimism was evident in War Plans during the second half of 1941. MacArthur's appointment to the Philippines lifted hopes that adequate reinforcements would soon be in position to deter and, if necessary, oppose Japan's southward advance. After the German invasion of the Soviet Union in June 1941, some Army officers, including General Miles, believed (as did Admiral Stark) that the Japanese were more likely to launch a Siberia campaign than to risk war with the United States. Finally, although the military considered the Japanese a dangerous enemy after reports of brutal fighting against the Chinese, the Army "affected a condescension toward the Japanese as it did toward all Orientals"⁵¹ and continued to harbor its negative presumptions regarding Japanese military capabilities. This translated into the belief that, faced with the threat of American force, Japan would relent. In a G-2 recommendation in August 1941, Miles joined the "get tough" team. He argued that "power diplomacy" would not only keep Japan out of the fight and out of Southeast Asia; but it also had a

good chance of breaking up the Tripartite pact. In late November, he asserted: "Our influence in the Far Eastern Theater lies in the threat of our Naval Power and the effort of our economic blockade. Both are primary deterrents against Japanese all-out entry in the war as an Axis partner."⁵²

On December 5, MID reported: "Japanese government leaders are aware of the perils of further military adventures; they want to avoid a general war in the Pacific."⁵³ Ambassador Grew cabled Hull regarding reports of Japanese troop concentrations in Taiwan and Manchuria; Grew's ambiguous conclusion was that Japanese army operations were possible on short notice in Siberia, the southwest Pacific, or both.⁵⁴

Attempts at a Modus Vivendi

In November, the Japanese government made one last effort to avoid war through negotiation. On November 2, Prime Minister Tojo and his closest advisers agreed to defer the final decision for war until Washington responded to two proposals transmitted from Ambassador Nomura to Secretary Hull. Proposal A was a reiteration of the Japanese position on the major issues separating the United States and Japan: equality of economic opportunity throughout the world, Japan's right to maintain troops in China, Japan's right to protect its interests in China with troops in Indochina, and the viability of the Tripartite Pact.⁵⁵ Proposal B was to be offered only if Proposal A was rejected. It was a last ditch attempt to avoid war, a modus vivendi. Ambassador Nomura was instructed to obtain a reply to these two measures by the end of November. If the reaction from the American government was not favorable, Nomura was told, "things are automatically going to happen."

Proposal A had a short life. Nomura delivered it to Hull on the evening of November 7. The Secretary of State (who had already seen the document via MAGIC) was noncommittal, and agreed to Nomura's request to discuss the issues with Roosevelt. The Ambassador met with the President on November 10. He was told that Japan should remove its troops from Indochina immediately as a sign of good faith, a condition the Japanese were not disposed to meet.

Proposal B was presented to Hull on November 20. Again, the Secretary was apprised of its contents by virtue of MAGIC intercepts. He also knew of the preceding messages to Nomura indicating that it was the final Japanese offer. The proposal had five points. First, neither Japan nor the United States would engage in additional military expansion into Southeast Asia, save where Japanese troops were presently occupying Indochina. Second, Japan would withdraw its troops in Indochina when an "equitable peace" in China or the Pacific was restored.

Third, Japan and the United States would cooperate in the acquisition of needed raw materials from the Dutch East Indies. Fourth, Japan and the United States would restore commercial relations; the embargo on oil to Japan would be lifted. Finally, the United States would cease aid to China, or, "refrain from such measures and actions as will be prejudicial to the endeavors for the restoration of general peace between Japan and China."⁵⁶

To Hull, the proposal was "clearly unacceptable." He later wrote in his memoirs that "the commitments we should have to make were virtually a surrender." He objected especially to the provisions calling for the resumption of oil sales to Japan and the withdrawal of moral and material support to China. Hull insisted, "The President and I could only conclude that agreeing to these proposals would mean condonement by the United States of Japan's past aggressions, assent to future courses of conquest by Japan, abandonment of the most essential principles of our foreign policy, betrayal of China and Russia, and acceptance of the role of silent partner aiding and abetting Japan in her effort to create a Japanese hegemony over the western Pacific and eastern Asia."⁵⁷

Still, Hull worked to keep negotiations open and to comply with pleas from the Army and Navy to postpone war. In drafting a formal reply to Japan's Proposal B, he and Roosevelt designed a modus vivendi of their own. The United States would immediately ship some oil and rice to Japan. America would work to get Japan and China to the bargaining table. In return, Japan would suspend troop movements and promise not to respect the Tripartite Pact in the event of war between the United States and the Axis powers in Europe.⁵⁸ As a safety measure to guard against Japan misunderstanding the context of the modus vivendi, Hull compiled a statement of firm American principles, for a peaceful resolution in the Pacific, a ten-point note, to accompany the counterproposal. Drafts of both documents were completed on November 22.

On November 25, while the President's advisers waited for British and Chinese comments on the counterproposal Hull joined Roosevelt, Stimson, Knox, Marshall, and Stark at the White House to discuss the possibility of hostilities with Japan. If the American counterproposal failed to satisfy the Japanese leaders, the United States could be at war within the week. Roosevelt wanted to guarantee that, if war came, the roles of aggressor and victim were clearly delineated. Secretary Stimson noted in his diary that the President, "brought up the event that we were likely to be attacked (as soon as) next Monday [December 1] for the Japanese are notorious for making an attack without warning, and the question was what we should do. The question was how we should maneuver them into a position of firing the first shot without too much danger to ourselves."⁵⁹

That afternoon, the group that had met at the White House learned from MID that a convoy of up to fifty Japanese ships had been sighted heading south past Formosa. The news convinced Hull and Roosevelt that their modus vivendi would be obsolete. Hull was also disheartened by the tepid response of Great Britain to the counterproposal, as well as by strong criticism from China that it was too conciliatory. On the morning of the 26th, Hull decided to abandon the modus vivendi. In its place, he chose to send the ten-point statement of principle alone as America's answer to Japan's Proposal B. The ten-point memorandum, which Hull called his "comprehensive basic proposal" for continued negotiations, was the strongest statement to date of the American position in the Pacific. It required Japan to withdraw completely from its occupation of the Asian mainland, and to recognize the government of Chiang Kai-shek as the sole legitimate authority in China. Japan was also to renounce the Tripartite Pact and support the formation of a "multilateral non-aggression pact among the British Empire, China, Japan, the Netherlands, the Soviet Union, Thailand, and the United States."60

Hull did not expect Japan to consent to these conditions. The principles had been registered for the record. On November 27, the Secretary of State told Stimson, "I have washed my hands of it, and it [the situation] is now in the hands of you and Knox, the Army and Navy."61

The ten-point memorandum arrived in Tokyo on the same day. To the Japanese leaders, the document seemed an ultimatum, a flat challenge to the precepts guiding Japanese foreign policy since 1931. After the war, Foreign Minister Togo testified that "Japan was now asked not only to abandon all the gains of her years of sacrifice, but to surrender her international position as a power in the Far East. That surrender, as he saw it, would have amounted to national suicide. The only way to face this challenge and defend ourselves was war."62 The unfavorable American response to Proposal B activated a decision that had been made weeks earlier. On November 28, Nomura was informed (and with him, the recipients of MAGIC) that he would soon receive the official reply to the ten-point note. "With the report of the views of the Imperial Government that will be sent to you in two or three days, talks will be de facto ruptured. This is inevitable. However, I do not wish you to give the impression that the negotiations are broken off.... From now on do the best you can."63 On December 1, the Japanese Emperor's formal approval for war was sealed. Japanese embassies and consulates were ordered subsequently to destroy their codes and secret papers. And the Pearl Harbor task force, en route from Japan since November 7, was permitted to proceed with its mission.

"This means war"

On the 27th, reports of Japanese ship movements to the south prompted Stark and Marshall to issue their war warnings to the Pacific theater commanders. Neither was aware that Hull had confronted Japan with a "basic comprehensive proposal." In a joint memorandum presented to Roosevelt on the same day, they reiterated their concern that the military have more time and cautioned against provoking Japan with an ultimatum. They did predict, however, that "If the current negotiations end without agreement, Japan may attack: the Burma Road; Thailand; Malaya; the Netherlands East Indies; the Philippines; and the Russian Maritime Provinces." They qualified the estimate by pointing out that Japan was unlikely to risk a major assault on the Philippines.⁴

Between November 29 and December 6, the administration continued to examine the probable targets of Japanese aggression and courses of action available for the United States in the event of war. At the President's request, Knox, Stimson, and Hull worked on a warning message to the Japanese Emperor for delivery as a last resort. They also prepared a speech to inform Congress of the gravity of the situation in the Pacific. Retiring to his retreat at Warm Springs, Roosevelt was preoccupied with how to sell the administration's case to Congress and the American people should Japan attack Thailand, French Indochina, the Malay Straits or Russia. Great Britain would fight to defend some of these. Roosevelt and his top advisers agreed that if the British fought, so too should the United States. Harry Hopkins, Roosevelt's close personal adviser, remembered later the President's fear that Japan might follow the "one by one" strategy of Hitler's European campaign, gradually isolating the United States until an opportune time for an attack on American forces. Roosevelt concluded that he would have to wait for Japan to commit itself then rally Congress and the public to support the defense of Allied interests.⁵

The scene in the Far Eastern divisions of Army and Navy intelligence during early December was less complacent. In November, Miles in MID had projected that Thailand would be the next Japanese target.⁶ Colonel Bratton of G-2 and Commander McCollum of ONI interpreted recent signals as indications of more drastic Japanese plans in the Far East. Before war with Japan had become a real and immediate threat, an attack on Pearl Harbor had been considered a feasible and even likely alternative for Japanese planners. William Manchester writes:

Short and Kimmel later testified that neither had considered an attack on Pearl Harbor a possibility. Yet it is difficult to think of many moves in military history which had been predicted more often. Confronting one another across the Pacific, each nation had long pondered the

strategy of a surprise raid on the base. . . . [B]eginning in 1931, every member of each graduating class in Japan's naval academy had been required to answer one question: 'How would you execute a surprise assault on Pearl Harbor?' In January 1941 Ambassador Grew alerted Washington to the possibilities of a sneak raid on Pearl. [He referred in his diary to talk in Tokyo about such plans.] The Peruvian ambassador in Tokyo heard the same talk, and obligingly sent it to Washington via Grew. . . . In July 1941, Richmond Kelly Turner, then chief of the Navy War Plans Division, had named Hawaii as the 'probable' target of any Japanese offensive, and he also predicted that the attack would be made by aircraft. Navy Secretary Knox had written Stimson, 'Hostilities would be initiated by a surprise attack on Pearl Harbor.' . . . An intercepted Tokyo message on December 3 had inquired whether there were 'any observation balloons above Pearl Harbor.' Rear Admiral Kimmel himself--his memory to the contrary--had warned his staff that 'declaration of war might be preceded by a surprise attack on Pearl Harbor.' But by early December Pearl seemed a less obvious choice. . . . Roosevelt had thought that the first blow would fall on the Phillipines. No American officer, including General Marshall, had expected a carrier strike on Hawaii now, because Hirohito's crack divisions were in Indochina, ready to jump off for Malaya, Singapore, and the oil fields of the Netherlands East Indies. Pearl Harbor wasn't anywhere near this corridor of advance . . . [I]n the context of the December 1941 strategic picture it seemed almost irrelevant."⁶⁷

On December 1, McCollum drafted an independent warning to the Pacific theaters based on his conclusion that "everything pointed to an imminent outbreak of hostilities between the United States and Japan."⁶⁸ He approached Admiral Turner of War Plans with revised estimates of Japanese troop movements that showed them to be greater than previously thought. Japanese citizens were being evacuated from key British and American locations. Espionage activity against the United States was on the increase. Turner accepted the data but not the interpretation. When he edited McCollum's warning message so that all but "informational" aspects were omitted, McCollum protested. Turner refused to compromise and the dispatch was never sent. On December 5, Bratton and McCollum again tried to convey their urgent forecasts to Army and Navy War Plans. They never got through.⁶⁹

On Saturday, December 6, Japan's awaited reply to the ten-point memorandum began arriving at the Japanese Embassy in Washington. It was in the form of a long, verbose message of fourteen parts. The first thirteen parts were intercepted and decoded by the United States during the early afternoon. They were a review of Japan's consistent and painstaking efforts to secure peace in the Far East despite opposition from the United

States and Great Britain. The theme did not surprise American officials who had expected Japan to reject the terms of the Hull statement. When the first thirteen sections were distributed to MAGIC recipients on the evening of December 6, they did not provoke a notable response from anyone except Roosevelt. Reading the document in his White House study, the President turned to Harry Hopkins and said, in effect, "This means war."⁷⁰ Probably war between Britain and Japan, which would soon involve the United States. There was nothing in the message suggesting a direct move against American positions.

Two final MAGIC intercepts early in the morning of December 7 provided the last clues of Japan's plans to those in Washington. At 3:00 am, the remaining section of the fourteen part message was intercepted by the Navy. It contained the news for which the first thirteen parts had served as an introduction: "The Japanese Government regrets to have to notify hereby the American Government that in view of the attitude of the American Government it cannot but consider that it is impossible to reach an agreement through future negotiations."⁷¹ Almost an hour and a half later, the Army translated a second message to the Japanese Embassy, instructing Nomura to deliver the fourteen part statement in its entirety to Secretary Hull at 1:00 pm on December 7.⁷²

The completion of the fourteen part message caused little alarm at the intelligence desks of the Army and Navy. A rupture in negotiations had been expected since the MAGIC intercept of November 28. Never before had Nomura been given a precise time for the delivery of a message. When Colonel Bratton received this transmission near 9:00 am, he concluded immediately that the hour signified the time of an attack on American forces somewhere in the Pacific. His reaction was "frenzied."⁷³ He tried to reach General Marshall and the head of Army War Plans, General Gerow, the two men capable of authorizing warnings to the theaters. But Bratton and Miles were unable to locate Marshall, who was on a morning horseback ride in Virginia, until the General arrived at his office at 11:25. There they waited for Marshall to read the entire fourteen part message before coming to the one o'clock instructions. Immediately he drafted and sent an additional alert to the Pacific theaters. It arrived too late.⁷⁴

At 2:00 pm, an hour late, Ambassadors Nomura and Kurusu (sent to assist Nomura in mid-November) arrived at the State Department for their appointment with Hull. They offered the Secretary of State the document he had seen hours earlier. It said in part:

It is a fact of history that the countries of East Asia or the past hundred years or more have been compelled to observe the status quo under the Anglo-American policy of imperialist exploitation and to sacrifice themselves to the

prosperity of the two nations. The Japanese Government cannot tolerate the perpetuation of such a condition since it directly runs counter to Japan's fundamental policy to enable all nations to enjoy each its proper place in the world.⁷⁵

Hull glanced at the paper, pretending to read. Enraged, he replied:

In all my fifty years of public service I have never seen a document that was more crowded with infamous falsehoods and distortions--infamous falsehoods and distortions on a scale so huge that I never imagined until today that any government on this planet was capable of uttering them.⁷⁶

The time for negotiation and evasion had ended. In the Pacific, Japanese planes had been over Pearl Harbor for an hour.

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TO: PETERSON, R

FROM: ITOH

DOC DATE: 06 JUL 93
SOURCE REF:

KEYWORDS: DEFENSE POLICY

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: DOD PROPOSED RPT RE S-134 VETERAN TRAVEL PRIVILEGES AUTHORIZATION

ACTION: KENNEY SGD MEMO

DUE DATE: 02 JUL 93 STATUS: C

STAFF OFFICER: HAHN

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO

BELL
EXECSEC
HAHN

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSMEM

CLOSED BY: NSJDA

DOC 3 OF 3

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9304798

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001	HAHN	Z	93062908	PREPARE MEMO FOR ITOH
002	ITOH	Z	93070617	FOR SIGNATURE
003		X	93080510	KENNEY SGD MEMO

DISPATCH DATA SUMMARY REPORT

<u>DOC</u>	<u>DATE</u>	<u>DISPATCH FOR ACTION</u>	<u>DISPATCH FOR INFO</u>
003	930706	PETERSON, R	

UNCLASSIFIED

TO: ITOH

FROM: PETERSON, R

DOC DATE: 24 JUN 93
SOURCE REF:

KEYWORDS: DEFENSE POLICY

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: DOD PROPOSED RPT RE S-134 VETERAN TRAVEL PRIVILAGES AUTHORIZATION

ACTION: PREPARE MEMO FOR ITOH

DUE DATE: 02 JUL 93 STATUS: S

STAFF OFFICER: HAHN

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

HAHN

FOR CONCURRENCE

BELL

GOTTEMOELLER

ROSNER

FOR INFO

GROSS

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSMEM

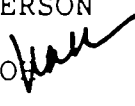
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DOC 1 OF 1

NATIONAL SECURITY COUNCIL
WASHINGTON, D C 20506

July 6, 1993

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITO 

SUBJECT: Defense Proposed Report RE: S.134, Veteran Travel
Privileges Authorization

The National Security Council staff has reviewed the Defense
proposed report and concurs.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 30, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT G. BELL *RGB*

FROM:

KEITH HAHN *KH*

SUBJECT:

Defense Proposed Report RE: S.134, Veteran Travel Privileges Authorization

Attached at Tab II is a draft Defense report *opposing* on S.134, a bill authorizing veterans who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel. We have reviewed the draft report and concur.

Concurrence by:

Jeremy Rosner *JR*

RECOMMENDATION

That you sign the memo to Ronald Peterson at Tab I.

Attachments

Tab I Memorandum to Ronald Peterson
Tab II Incoming Correspondence

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

SPECIAL

June 24, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-722

TO: Legislative Liaison Officer -

NSC - William H. Itoh - (202)395-3723 - 249
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
VA - Robert Coy - (202)535-8113 - 229

FROM: RONALD K. PETERSON (for) 
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: Defense Proposed Report RE: S 134, Veteran
Travel Privileges Authorization

DEADLINE: TUESDAY, July 20, 1993

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

W. Waites
B. Thierwechter
T. Grams

**DRAFT
FOR
OMB A-19
REVIEW**

The Honorable Sam Nunn
Chairman, Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is in response to your request of January 25, 1993, for the views of the Department of Defense on S. 134, 103rd Congress, a bill "to amend Title 10, United States Code, to authorize veterans who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft."

The Department must necessarily oppose the legislation. S. 134 would permit veterans rated by the Secretary of Veteran's Affairs as totally disabled due to a service-connected disability to fly on a space-available basis under the same conditions as retired military members now fly. While the Department of Defense (DoD) greatly values the contribution of every veteran, especially those who have sacrificed in the service of their country, there are a number of reasons why the Department cannot support granting the space-available privilege to totally disabled veterans.

Space-available travel is a highly-valued privilege which accrues to the active duty military member. Although travel is available to other categories of travelers at a lower priority, the principal objective of the space-available travel privilege is the morale and welfare of those currently serving on active duty. In addition, DoD aircraft are designed to move a fit fighting force, and are not equipped to accommodate handicapped personnel. Space-available transportation privileges are granted under the assumption that travelers fly in the plane as they find it, with no special modifications. Accessories and special services for handicapped travelers that are prevalent in commercial airlift are not practical for military aircraft that provide space-available travel.

Additionally, the entire space-available program is resource constrained. Any increase in the current demand for service would severely tax resources provided for mission support activities. To expand the privilege to other categories would consume added resources and diminish the value of the limited benefit currently

available to active duty personnel and their dependents. In light of these considerations, and in the current climate of budget reductions impacting a myriad of high-priority defense programs including military manpower, it is not practical to expand the space-available program.

The DoD receives numerous requests to extend space-available travel to additional categories of people, including service-connected disabled veterans, widows of military retirees, retired Federal Civil Service employees, and Public Health Service officers. In each case, our review of present and future air travel requirements has precluded the Department from expanding the privilege. As a matter of DoD policy, the space-available travel privilege has not been extended to persons or groups beyond those currently authorized. This policy is primarily based on mission requirements and resource constraints. We ask your support in ensuring the privilege is also not expanded by legislation.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

cc: Honorable Strom Thurmond
Ranking Republican

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

July 6, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RGB*FROM: KEITH HAHN *KH*SUBJECT: Defense Proposed Report RE: SCR 14, Resolution to
Welcome the Congress of the Interallied
Confederation of Reserve Officers

At Tab II Defense provides its views on a concurrent resolution to welcome the Congress of the Interallied Confederation of Reserve Officers (CIOR). The congressional resolution enjoins DoD and other government agencies to cooperate with and assist the CIOR in its efforts to work with NATO and other organizations to integrate command structures, training, procedures and other activities. Defense is supportive of this resolution.

Concurrence by: Jeremy Rosner *JR*RECOMMENDATION

That you sign the memorandum at Tab I concurring in the proposed Defense report.

Attachments

Tab I Memorandum for Signature

Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Report RE: SCR 14, Resolution to
Welcome the Congress of the Interallied
Confederation of Reserve Officers

The National Security Council staff concurs in the proposed
Defense report.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

488
SPECIAL

June 28, 1993

LEGISLATIVE REFERRAL MEMORANDUM

IRM #I-758

TO: Legislative Liaison Officer -

NSC - William H. Itoh - (202)395-3723 - 249
STATE - Julie C. Norton - (202)647-2137 - 225

FROM: RONALD K. PETERSON (for) *ASST. Dir.*
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: Defense Proposed Report RE: SCR 14,
Resolution to Welcome the Congress of the
Interallied Confederation of Reserve Officers

DEADLINE: FRIDAY, July 9, 1993

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
W. Waites

For 3 pg

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: MIKE GOAD
Office of Management and Budget
Fax Number: (202) 395-5691
Analyst/Attorney's Direct Number: (202) 395-7301
Branch-Wide Line (to reach secretary): (202) 395-6194

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

SUBJECT: Defense Proposed Report RE: SCR 14,
Resolution to Welcome the Congress of the
Interallied Confederation of Reserve Officers

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur
_____ No objection
_____ No comment
_____ See proposed edits on pages _____
_____ Other: _____
_____ FAX RETURN of _____ pages, attached to this
_____ response sheet



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA



The Honorable Sam Nunn
Chairman, Committee on Armed Services
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for my views on S. Con. Res. 14, 103d Congress, a concurrent resolution "Welcoming the XLVI Congress of the Interallied Confederation of Reserve Officers (CIOR), Commending the Department of Defense and the Reserve Officers Association of the United States for hosting the XLVI Congress of the CIOR, and urging other departments and agencies of the Federal Government to cooperate with and assist the XLVI Congress of the CIOR to carry out its activities and programs."

We look forward to the Congress of the CIOR this summer with its competitions; its international collaborations and discussions as to the influence the reserve forces of the North Atlantic Treaty Organization (NATO) nations; and its cross fertilization of ideas as to reserve activities, participation, and technology among the armed forces of NATO nations.

With the diminished THREATS FROM THE
With the diminished threats from the Eastern European general United Nations efforts with an integrated command structure, common training, shared procedures, and a vast infrastructure of ports, airfields, ground and satellite communications systems, thousands of miles of pipelines and an untold number of various facilities spread over sixteen nations and two continents. The CIOR activities and programs will serve as a forum for the continuation of the strengths of the NATO alliance through the reserve forces.

We are appreciative of the Congressional support for the Congress of the Interallied Confederation of Reserve Officers and we welcome your concurrent resolution.

Sincerely,

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NSC FAX

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ACTIVITY REPORT

TRANSMISSION OK

TN #	3435
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CONNECTION ID	DTSA/1
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PAGES	15

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

July 6, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RBB*

FROM: KEITH HAHN *KH*

SUBJECT: Committee Markup RE: HR 2547, National
Shipbuilding and Conversion Act

At Tab II is a draft of the House Merchant Marine and Fisheries Committee markup of the National Shipbuilding and Conversion Act. The goal of this Act is to assist the U.S. shipbuilding industry through a financial incentives program, a technology development program and Navy programs for affordability through commonality, manufacturing technology and technology base.

We should nonconcur in this Act on two counts. First, the proposals are unaffordable under current fiscal constraints. Second, and more importantly, an interagency working group is currently meeting twice a week in an effort to implement the Congressional mandate to formulate a plan for the revitalization of shipbuilding in the U.S. The mandate was inserted as a provision in the fiscal year 1993 National Defense Authorization Act (HR 5006).

This working group was formed "for the sole purpose of developing and implementing a comprehensive plan to enable and ensure that domestic shipyards can compete effectively in the international shipbuilding market." The working group is chaired by the NEC and we are required (and expect) to present a comprehensive plan to Congress by October 1. Unlike the attached legislation, this group is also trying to identify funds for each proposal. We should encourage Congress to await the results of the interagency effort.

Concurrence by: Jeremy Rosner *JR*

RECOMMENDATION

That you sign the memorandum at Tab I nonconcurring in the draft National Shipbuilding and Conversion Act.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: Committee Markup RE: HR 2547, National
Shipbuilding and Conversion Act

The National Security Council staff nonconcurs with the draft National Shipbuilding and Conversion Act. We recommend that Congress await the results of the Congressionally-mandated review of the shipbuilding industry currently being conducted before proceeding with legislation in this area.

30-PAGES
4939

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

July 1, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-777

TO: Legislative Liaison Officer -

DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
USTR - Fred Montgomery - (202)395-3475 - 223
NEC - Sonia Mathews - (202)456-6722 - 429
CEA - Francine Obermiller - (202)395-5036 - 242
NSC - William H. Itoh - (202)395-3723 - 249
JUSTICE - Faith Burton - (202)514-2141 - 217
COMMERCE - Michael A. Levitt - (202)482-3086 - 324

FROM:

JAMES J. JUKES (for) *Wimmer for Jim Jukes*
Assistant Director for Legislative Reference

OMB CONTACT: Jim BROWN (395-3473)

Secretary's line (for simple responses): 395-3454
Meg DiBARI (Wimmer) (395-3834)

SUBJECT:

Committee Markup RE: HR 2547, National
Shipbuilding and Conversion Act

DEADLINE: 5:00 P.M. FRIDAY July 9, 1993

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

John McClelland
Tom Stanners
Meg DiBari
Phoebe Vickers
Roger Adkins
Cookie Walden
Mike Schmidt
Chris Edley

Trish Walsh
Michael Deich
John Goodman
Cyndi Vallina
Bob Damus
Ed Clarke
Art Stigile
Ed Rea

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TC 9/395-3109

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103D CONGRESS
1ST SESSION**H. R. 2547****IN THE HOUSE OF REPRESENTATIVES**

Mr. Studds (for himself, Mr. Bellum, Mr. Lipinski, Mr. Taylor of Mississippi, Mr. Fields of Texas, Mr. Batcher, Mr. Hughes, Mr. Tauzin, Mr. Ortiz, Mr. Winton, Mr. Pickett, Mr. Hochbroecker, Mrs. Unsworth, Mr. Reed, Mr. Lancaster, Mr. Andrews of Maine, Mr. Furse, Mr. Schenk, Mr. Hastings, Ms. Zahoe, Mr. Harlow, Mr. Stupak, Mr. Thompson, Mr. Ackerman, Mr. Scott, Mr. Saxton, Mr. Cunningham, Mr. King, Mr. Diaz-Balart, and Mrs. Bentley).

*Mr. Hamburg***A BILL**

To improve the economy of the United States and promote the national security interests of the United States by establishing a National Shipbuilding Initiative to provide support for the United States shipbuilding industry in order to assist that industry in regaining a significant share of the world commercial shipbuilding market, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled.*

3 **SECTION 1. SHORT TITLE.**

- 4 This Act may be cited as the "National Shipbuilding
- 5 and Conversion Act of 1993".

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TO 9/395-3109

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TITLE I—NATIONAL SHIPBUILDING INITIATIVE

SEC. 101. NATIONAL SHIPBUILDING INITIATIVE.

(a) **ESTABLISHMENT OF PROGRAM.**—There shall be a National Shipbuilding Initiative program, to be carried out to support the industrial base for national security objectives by assisting in the reestablishment of the United States shipbuilding industry as a self-sufficient, internationally competitive industry.

(b) **ADMINISTERING DEPARTMENTS.**—The program shall be carried out—

(1) by the Secretary of Defense, with respect to programs under the jurisdiction of the Secretary of Defense; and

(2) by the Secretary of Transportation, with respect to programs under the jurisdiction of the Secretary of Transportation.

(c) **PROGRAM ELEMENTS.**—The National Shipbuilding Initiative shall consist of the following program elements:

(1) **FINANCIAL INCENTIVES PROGRAM.**—A financial incentives program to provide loan guarantees to initiate commercial ship construction for domestic and export sales, encourage shipyard modernization, and support increased productivity, as

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1 provided in title XI of the Merchant Marine Act.
2 1936 (as amended by title II of this Act).

3 (2) TECHNOLOGY DEVELOPMENT PROGRAM.—A
4 technology development program, to be carried out
5 within the Department of Defense by the Advanced
6 Research Projects Agency, to improve the technology
7 base for advanced shipbuilding technologies and re-
8 lated dual-use technologies through activities includ-
9 ing a development program for innovative commer-
10 cial ship design and production processes and tech-
11 nologies.

12 (3) NAVY'S AFFORDABILITY THROUGH COM-
13 MONALITY PROGRAM.—Enhanced support by the
14 Secretary of Defense for the shipbuilding program of
15 the Department of the Navy known as the Afford-
16 ability Through Commonality (ATC) program, to in-
17 clude enhanced support (A) for the development of
18 common modules for military and commercial ships,
19 and (B) to foster civil-military integration into the
20 next generation of Naval surface combatants.

21 (4) NAVY'S MANUFACTURING TECHNOLOGY
22 AND TECHNOLOGY BASE PROGRAMS.—Enhanced
23 support by the Secretary of Defense for, and
24 strengthened funding for, that portion of the Manu-
25 facturing Technology program of the Navy, and that

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TO 9/395-3109

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1 portion of the Technology Base program of the
2 Navy, that are in the areas of shipbuilding tech-
3 nologies and ship repair technologies.

4 SEC. 102. DEPARTMENT OF DEFENSE PROGRAM MANAGE-
5 MENT THROUGH ADVANCED RESEARCH
6 PROJECTS AGENCY.

7 The Secretary of Defense shall designate the Ad-
8 vanced Research Projects Agency of the Department of
9 Defense as the lead agency of the Department of Defense
10 for activities of the Department of Defense which are part
11 of the National Shipbuilding Initiative program. Those ac-
12 tivities shall be carried out as part of defense conversion
13 activities of the Department of Defense.

14 SEC. 102. ADVANCED RESEARCH PROJECTS AGENCY FUNC-
15 TIONS.

16 The Secretary of Defense, acting through the Direc-
17 tor of the Advanced Research Projects Agency, shall carry
18 out the following functions with respect to the National
19 Shipbuilding Initiative program:

- 20 (1) Consultation with the Maritime Administra-
21 tion, the Office of Economic Adjustment, the Na-
22 tional Economic Council, the National Shipbuilding
23 Research Project, the Coast Guard, appropriate
24 naval commands and activities, and other appro-
25 priate Federal agencies on—

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1 (A) development and transfer to the pri-
2 vate sector of dual-use shipbuilding tech-
3 nologies, ship repair technologies, and ship-
4 building management technologies;

5 (B) assessments of potential markets for
6 maritime product; and

7 (C) recommendation of industrial entities,
8 partnerships, joint ventures, or consortia for
9 short- and long-term manufacturing technology
10 investment strategies.

11 (2) Funding and program management activi-
12 ties to develop innovative design and production
13 processes and the technologies required to implement
14 those processes.

15 (3) Facilitation of industry and Government
16 technology development and technology transfer ac-
17 tivities (including education and training, market as-
18 sessments, simulations, hardware models and proto-
19 types, and national and regional industrial base
20 studies).

21 (4) Integration of promising technology ad-
22 vances made in the Technology Reinvestment Pro-
23 gram of the Advanced Research Projects Agency
24 into the National Shipbuilding Initiative to effect
25 full defense conversion potential.

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1 SEC. 104. ELIGIBLE SHIPYARDS.

2 To be eligible to receive any assistance or otherwise
3 to participate in any program carried out under the Na-
4 tional Shipbuilding Initiative, a shipyard must be a private
5 shipyard located in the United States.

6 **TITLE II—GUARANTEES OF OBLI-**
7 **GATIONS FOR VESSEL CON-**
8 **STRUCTION AND UNITED**
9 **STATES SHIPYARD MOD-**
10 **ERNIZATION**

11 SEC. 201. LOAN GUARANTEES FOR EXPORT VESSELS.

12 Title XI of the Merchant Marine Act, 1936 (46 App.
13 U.S.C. 1271 et seq.) is amended as follows:

14 (1) **ELIGIBLE EXPORT VESSEL DEFINED.**—Sec-
15 tion 1101 is amended by adding at the end the fol-
16 lowing new subsection:

17 “(c) The term ‘eligible export vessel’ means a vessel
18 constructed, reconstructed, or reconditioned in the United
19 States for use in world-wide trade which will, upon deliv-
20 ery or redelivery, be placed under or continued to be docu-
21 mented under the laws of a country other than the United
22 States.”.

23 (2) **LIMITATIONS ON GUARANTEE OBLIGA-**
24 **TIONS.**—Section 1103 is amended—

25 (A) by amending the first sentence of sub-
26 section (f) to read as follows: “The aggregate

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TO 9/395-3109

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1 unpaid principal amount of the obligations
2 guaranteed under this section and outstanding
3 at any one time shall not exceed
4 \$12,000,000,000, of which (1) \$850,000,000
5 shall be limited to obligations pertaining to
6 guarantees of obligations for fishing vessels and
7 fishery facilities made under this title, and (2)
8 \$3,000,000,000 shall be limited to obligations
9 pertaining to guarantees of obligations for eligi-
10 ble export vessels.”; and

11 (B) by adding at the end the following new
12 subsection:

13 “(g)(1) The Secretary may not issue a commitment
14 to guarantee obligations for an eligible export vessel un-
15 less, after considering—

16 “(A) the status of pending applications for com-
17 mitments to guarantee obligations for vessels docu-
18 mented under the laws of the United States and op-
19 erating or to be operated in the domestic or foreign
20 commerce of the United States,

21 “(B) the economic soundness of the applica-
22 tions referred to in subparagraph (A), and

23 “(C) the amount of guarantee authority avail-
24 able,

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1 the Secretary determines, in the sole discretion of the Sec-
2 retary, that the issuance of a commitment to guarantee
3 obligations for an eligible export vessel will not result in
4 the denial of an economically sound application to issue
5 a commitment to guarantee obligations for vessels docu-
6 mented under the laws of the United States operating in
7 the domestic or foreign commerce of the United States.

8 “(2) The Secretary may not issue commitments to
9 guarantee obligations for eligible export vessels under this
10 section after the later of—

11 “(A) the 5th anniversary of the date on which
12 the Secretary publishes final regulations setting
13 forth the application procedures for the issuance of
14 commitments to guarantee obligations for eligible ex-
15 port vessels,

16 “(B) the last day of any 5-year period in which
17 funding and guarantee authority for obligations for
18 eligible export vessels have been continuously avail-
19 able, or

20 “(C) the last date on which those commitments
21 may be issued under any treaty, convention, or other
22 international agreement entered into after the date
23 of the enactment of the Shipbuilding Conversion Act
24 of 1993 that prohibits guarantee of those obliga-
25 tions.”.

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1 (3) AUTHORITY TO GUARANTEE OBLIGATIONS
2 FOR ELIGIBLE EXPORT VESSELS.—Section 1104A is
3 amended—

4 (A) by amending so much of subsection
5 (a)(1) as precedes the proviso to read as fol-
6 lows:

7 "(1) financing, including reimbursement of an
8 obligor for expenditures previously made for, con-
9 struction, reconstruction, or reconditioning of a ves-
10 sel or vessels owned by citizens of the United States,
11 or in the case of an eligible export vessel, owned by
12 either non-United States or by a citizen of the Unit-
13 ed States, which are designed principally for re-
14 search, or for commercial use (A) in the coastwise
15 or intercoastal trade; (B) on the Great Lakes, or on
16 bays, sounds, rivers, harbors, or inland lakes of the
17 United States; (C) in foreign trade as defined in sec-
18 tion 905 of this Act for purposes of title V of this
19 Act; or (D) as an ocean thermal energy conversion
20 facility or plantship; (E) with respect to floating dry-
21 docks in the construction, reconstruction, recondi-
22 tioning, or repair of vessels; or (F) with respect to
23 an eligible export vessel, in world-wide trade;"

24 (B) by amending subsection (b)(2)—

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1 (i) by striking "subject to the provi-
2 sions of paragraph (1) of subsection (c) of
3 this section," and inserting "subject to the
4 provisions of subsection (c)(1) and sub-
5 section (i)," and

6 (ii) by adding at the end the following
7 additional proviso: "Provided, further That
8 in the case of an eligible export vessel,
9 such obligations may be in an aggregate
10 principal amount which does not exceed 87
11 1/2 of the actual cost or depreciated actual
12 cost of the eligible export vessel,";

13 (C) by amending subsection (b)(6) by in-
14 serting after "United States Coast Guard" the
15 following: "or, in the case of an eligible export
16 vessel, of the appropriate national flag authori-
17 ties under a treaty, convention, or other inter-
18 national agreement to which the United States
19 is a party";

20 (D) by striking out all after the paragraph
21 (2) in subsection (d) and inserting the following
22 new paragraph:

23 "(3) No commitment to guarantee, or guaran-
24 tee of an obligation may be made by the Secretary
25 under this title for the construction, reconstruction

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TO 9/95-3109

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1 or reconditioning of an eligible export vessel
2 unless—

3 “(A) the Secretary finds that the construc-
4 tion, reconstruction, or reconditioning of such
5 eligible export vessel will aid in the transition of
6 United States shipyards to commercial activities
7 or will preserve shipbuilding assets that would
8 be essential in time of war or national emer-
9 gency, and

10 “(B) the owner of the eligible export vessel
11 agrees with the Secretary that the vessel shall
12 not be transferred to any country designated by
13 the Secretary as a country whose interests are
14 hostile to the interests of the United States.”;
15 and

16 (E) by adding at the end the following new
17 subsection:

18 “(i) The Secretary may not, with respect to—

19 “(1) the general 75 percent or less limitation in
20 subsection (b)(2);

21 “(2) the 87½ percent or less limitation in the
22 1st, 2nd, 4th, or 5th proviso to subsection (b)(2) or
23 section 1111(b); or

24 “(3) the 80 percent or less limitation in the 3rd
25 proviso to such subsection;

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1 establish by rule, regulation, or procedure any percentage
2 within any such limitation that is, or is intended to be,
3 applied uniformly to all guarantees or commitments to
4 guarantee made under this section that are subject to the
5 limitation."

6 (4) LIMITATION ON AUTHORITY TO ESTABLISH
7 UNIFORM PERCENTAGE LIMITATION.—Section
8 1104B is amended by adding at the end of sub-
9 section (b) the following flush sentence:

10 "The Secretary may not by rule, regulation, or procedure
11 establish any percentage within the 87½ percent or less
12 limitation in paragraph (2) that is, or is intended to be,
13 applied uniformly to all guarantees or commitments to
14 guarantee made under this section."

15 (5) CONFORMING AMENDMENT.—Section
16 1103(a) is amended in the first sentence by striking
17 " , upon application by a citizen of the United
18 States".

19 SEC. 902. LOAN GUARANTEES FOR SHIPYARD MOD-
20 ERNIZATION AND IMPROVEMENT.

21 (a) IN GENERAL.—Title XI of the Merchant Marine
22 Act, 1936, is further amended by adding at the end the
23 following new section:

24 SEC. 1111. (a) The Secretary, under section
25 1103(a) and subject to the terms the Secretary shall pre-

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1 scribe, may guarantee or make a commitment to guaran-
2 tee the payment of the principal of, and the interest on,
3 an obligation for advanced shipbuilding technology and
4 modern shipbuilding technology of a general shipyard fa-
5 cility located in the United States.

6 “(b) Guarantees or commitments to guarantee under
7 this section are subject to the extent applicable to all the
8 laws requirements, regulations, and procedures that apply
9 to guarantees or commitments to guarantee made under
10 this title, except that guarantees or commitments to guar-
11 antee made under this section may be in the aggregate
12 principal amount that does not exceed 87½ percent of the
13 actual cost of the advanced shipbuilding technology or
14 modern shipbuilding technology.

15 “(c) The Secretary may accept the transfer of funds
16 from any other department, agency, or instrumentality of
17 the United States Government and may use those funds
18 to make guarantees or commitments to guarantee loans
19 entered into under this section.

20 “(d) For purposes of this section:

21 “(1) The term ‘advanced shipbuilding tech-
22 nology’ includes—

23 “(A) numerically controlled machine tools,
24 robots, automated process control equipment,
25 computerized flexible manufacturing systems,

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1 associated computer software, and other tech-
2 nology for improving shipbuilding and related
3 industrial production which advance the state-
4 of-the-art; and

5 "(B) novel techniques and processes de-
6 signed to improve shipbuilding quality, pro-
7 ductivity, and practice, and to promote sustain-
8 able development, including engineering design,
9 quality assurance, concurrent engineering, con-
10 tinuous process production technology, energy
11 efficiency, waste minimization, design for
12 recyclability or parts reuse, inventory manage-
13 ment, upgraded worker skills, and communica-
14 tions with customers and suppliers.

15 "(2) The term 'modern shipbuilding technology'
16 means the best available proven technology, tech-
17 niques, and processes appropriate to enhancing the
18 productivity of shipyards.

19 "(3) The term 'general shipyard facility'
20 means—

21 "(A) for operations on land—

22 "(i) any structure or appurtenance
23 thereto designed for the construction, re-
24 pair, rehabilitation, refurbishment or re-
25 building of any vessel (as defined in title 1,

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1 United States Code) and including graving
2 docks, building ways, ship lifts, wharves,
3 and pier cranes:

4 "(ii) the land necessary for any the
5 structure or appurtenance described in
6 clause (i); and

7 "(iii) equipment that is for the use in
8 connection with any the structure or ap-
9 purtenance and that is necessary for the
10 performance of any function referred to in
11 subparagraph (A);

12 "(B) for operations other than on land,
13 any vessel, floating drydock or barge built in
14 the United States and used for, equipped to be
15 used for, or of a type that is normally used for
16 activities referred to in subparagraph (A)(i) of
17 this paragraph."

18 (b) CONFORMING AMENDMENT.—Section 1101(n) of
19 that Act (46 App. U.S.C. 1271(n)) is amended by striking
20 "vessels." and inserting "vessels and general shipyard fa-
21 cilities (as defined in section 1111(d)(3)).".

22 SEC. 302. AUTHORIZATIONS OF APPROPRIATIONS.

23 (a) AUTHORIZATION OF APPROPRIATIONS TO DE-
24 PARTMENT OF DEFENSE.—There is authorized to be ap-
25 propriated to the Secretary of Defense for fiscal year 1994

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1 the sum of \$200,000,000, which shall be available only
2 for transfer to the Secretary of Transportation and of
3 which—

4 (1) \$175,000,000 shall be available only for
5 costs (as defined in section 502 of the Federal Cred-
6 it Reform Act of 1990 (2 U.S.C. 661a)) of new loan
7 guarantee commitments under section 1104A(a)(1)
8 of the Merchant Marine Act, 1936 (46 App. U.S.C.
9 1274(a)(1)), as amended by section 201, for—

10 (A) eligible export vessels; and

11 (B) vessels in any series of vessels for
12 which a series construction agreement is en-
13 tered into by the Secretary under section 305 of
14 this Act; and

15 (2) \$25,000,000 shall be available only for costs
16 (as defined in section 502 of the Federal Credit Re-
17 form Act of 1990) of new loan guarantee commit-
18 ments under section 1111 of the Merchant Marine
19 Act, 1936, as added by section 202.

20 (b) AUTHORIZATIONS FOR DEPARTMENT OF TRANS-
21 PORTATION.—There is authorized to be appropriated to
22 the Secretary of Transportation for fiscal year 1994 the
23 sum of \$10,000,000 to pay administrative costs related
24 to new loan guarantee commitments described in sub-
25 section (a), of which—

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1 (1) \$5,000,000 shall be for administrative costs
2 related to new loan guarantee commitments de-
3 scribed in paragraph (1) of that subsection; and

4 (2) \$2,000,000 shall be for administrative costs
5 related to new loan guarantee commitments de-
6 scribed in paragraph (2) of that subsection.

7 (c) AVAILABILITY OF AMOUNTS.—Amounts appro-
8 priated under the authority of this section shall remain
9 available until expended.

10 (d) TRANSFER TO SECRETARY OF TRANSPORT-
11 TION.—Subject to the provisions of appropriations Acts,
12 amounts appropriated under the authority of subsection
13 (a) shall be transferred to the Secretary of Transportation
14 for use as described in that subsection. Any such transfer
15 shall be made not later than 90 days after the date of
16 the enactment of an Act appropriating the funds to be
17 transferred.

18 TITLE III—SERIES

19 CONSTRUCTION ASSISTANCE

20 SEC. 301. PAYMENT OF ASSISTANCE AUTHORIZED.

21 (a) IN GENERAL.—The Secretary of Defense may,
22 subject to the availability of appropriations, pay assistance
23 in accordance with this title to the owner of a shipyard
24 that is located in the United States for the construction
25 (including outfitting and equipping) of any commercial

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1 vessel that is one of a series of vessels for which payment
2 of assistance under this section to the owner is approved
3 by the Secretary under section 302.

4 (b) AMOUNT OF ASSISTANCE.—The total amount of
5 assistance paid under this section with respect to a vessel
6 shall be equal to the series transition payment determined
7 for the vessel under section 303(a).

8 SEC. 302. APPROVAL OF ASSISTANCE FOR CONSTRUCTION
9 OF SERIES OF VESSELS.

10 (a) APPROVAL OF ASSISTANCE.—

11 (1) IN GENERAL.—The Secretary of Defense
12 may approve payment of assistance under section
13 301 for construction of a series of vessels in a ship-
14 yard if—

15 (A) the owner of the shipyard submits an
16 application for that assistance in accordance
17 with section 305;

18 (B) the Secretary of Transportation makes
19 the determinations described in subsection (b);
20 and

21 (C) the Secretary of Defense determines
22 that payment of the assistance will contribute
23 to maintaining national vessel construction ca-
24 pabilities that are essential in time of war or
25 national emergency.

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1 (2) LIMITATION.—The Secretary of Defense
2 may not approve assistance under this section for a
3 series of vessels if the series transition payment de-
4 termined under section 303(a) for any vessel in the
5 series is greater than 80 percent of the estimate of
6 the cost of constructing the vessel determined by the
7 Secretary of Defense under section 303(b)(2).

8 (b) DETERMINATIONS BY SECRETARY OF TRANSPORTATION.—The Secretary of Defense may not approve as-
9 sistance for construction of a series of vessels in a ship-
10 yard unless the Secretary of Transportation has deter-
11 mined the following:

13 (1) VESSEL REQUIREMENTS.—The vessels
14 are—

15 (A) commercial vessels of at least 10,000
16 gross tons; and

17 (B) commercially marketable on the inter-
18 national market.

19 (2) SHIPYARD REQUIREMENTS.—The shipyard
20 in which the vessels will be constructed—

21 (A) is located in the United States; and

22 (B) upon completion of construction of the
23 vessels, will be capable of constructing addi-
24 tional vessels of the same type as those in the

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1 series for a price that is competitive in the
2 international market.

3 (3) APPLICANT REQUIREMENTS.—The appli-
4 cant for the assistance—

5 (A) has the ability, financial resources, and
6 other qualifications necessary for construction
7 of the vessels;

8 (B) has entered into a contract for the
9 construction of each of the first 2 vessels to be
10 constructed in the series, which may include a
11 contract for a vessel that will be constructed
12 without assistance under this title; and

13 (C) is the owner of the shipyard in which
14 the vessels will be constructed.

15 (4) CONTRACT REQUIREMENTS.—Each of the
16 contracts required under paragraph (3)(B) are bind-
17 ing obligations on the applicant and all other parties
18 to the contracts, except that such a contract may be
19 contingent on—

20 (A) the approval of assistance under this
21 title for construction of a vessel under the con-
22 tract; and

23 (B) the making of a guarantee or commit-
24 ment to guarantee obligations under title XI of
25 the Merchant Marine Act, 1936 (46 App.

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1 U.S.C. 1273), as amended by this Act, for con-
2 struction under the contract.

3 (5) PURCHASER REQUIREMENTS.—Each person
4 that is a purchaser of a vessel under a contract re-
5 quired under paragraph (B)(B)—

6 (A) has the ability, financial resources, and
7 other qualifications necessary to own and oper-
8 ate the vessel in commercial service; and

9 (B) is a party to the contract.

10 (6) SERIES TRANSITION PAYMENT.—The series
11 transition payment under section 803 for each vessel
12 in the series.

13 (c) PRIORITY FOR CERTAIN SERIES OF VESSELS.—
14 In approving assistance under this title, the Secretary of
15 Defense may give priority to a series of vessels—

16 (1) if a smaller number of vessel in the series
17 are required to be constructed with assistance before
18 construction of that type of vessel becomes cost ef-
19 fective;

20 (2) for which the total of the series transition
21 payments determined under section 803 for all ves-
22 sels in the series is less than that total for other se-
23 ries of vessels for which applications are submitted
24 for assistance under this title;

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1 (3) that will be constructed in a shipyard with
2 respect to which assistance under this title has not
3 been provided; or

4 (4) that would contribute to the preservation of
5 a shipyard that would be essential in a time of war
6 or national emergency.

7 SEC. 302. DETERMINATION OF SERIES TRANSITION PAY.

8 MENTS.

9 (a) IN GENERAL.—The Secretary of Transportation
10 shall determine the series transition payment for each ves-
11 sel in a series of vessels for which an application for assist-
12 ance under this title is received by the Secretary of De-
13 fence.

14 (b) AMOUNT OF SERIES TRANSITION PAYMENT.—

15 The series transition payment for a vessel under sub-
16 section (a) is equal to the difference of—

17 (1) the estimated cost of completing construc-
18 tion of the vessel, as included in the application for
19 assistance submitted under section 305; minus

20 (2) a reasonable estimate of the cost of con-
21 structing the vessel under similar plans and speci-
22 fications in a foreign shipyard that is considered by
23 the Secretary of Transportation to be a fair and rep-
24 resentative example for purposes of determining the
25 payment.

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1 SEC. 304. SERIES CONSTRUCTION AGREEMENT.

2 (a) IN GENERAL.—

3 (1) IN GENERAL.—The Secretary of Defense
4 shall, for each series of vessels for which assistance
5 is approved under section 302, enter into a series
6 construction agreement with the owner of the ship-
7 yard in which the series of vessels will be con-
8 structed, under which the Secretary is required to
9 pay the owner assistance in accordance with a sched-
10 ule established under paragraph (2).

11 (2) SCHEDULE FOR PAYMENTS.—An agreement
12 under this subsection shall establish a schedule for
13 the payment of assistance under the agreement, that
14 is based on the construction schedule for vessels for
15 which the assistance is paid.

16 (3) TERMINATION OF AGREEMENT.—An agree-
17 ment under this subsection shall authorize the Sec-
18 retary of Defense to terminate the agreement if—

19 (A) a contract required under section
20 302(b)(3)(B) is terminated by the purchaser of
21 the vessel under the contract, and the owner of
22 the shipyard does not enter into a new contract
23 for construction of the vessel within a period
24 which shall be specified in the agreement; or

25 (B) the owner of the shipyard fails to enter
26 into contracts for construction of all vessels in

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1 the series of vessels to which the agreement ap-
2 plies, within a period which shall be specified in
3 the agreement.

4 (4) CONTINUING EFFECT OF AGREEMENT WITH
5 RESPECT TO VESSELS COVERED BY CONTRACTS.—

6 The termination of a series construction agreement
7 under paragraph (3) shall not affect the effective-
8 ness of the agreement with respect to vessels for
9 which a construction contract is in effect on the date
10 of termination.

11 (b) BINDING OBLIGATION OF THE UNITED
12 STATES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), a requirement that the Secretary of De-
15 fense make payments under a series construction
16 agreement under subsection (a) shall constitute a
17 binding obligation of the United States.

18 (2) TERMINATION OF OBLIGATION.—If the Sec-
19 retary of Defense terminates a series construction
20 agreement pursuant to subsection (a)(3), the obliga-
21 tion of the United States under paragraph (1) to
22 make payments under the agreement shall terminate
23 with respect to vessels for which no construction
24 contract is in effect on the date of termination of the
25 agreement.

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1 (3) CONTINUING AVAILABILITY OF AMOUNTS.—

2 Amounts to be used to liquidate an obligation under
3 paragraph (1) that terminates under paragraph (2)
4 shall remain available to the Secretary of Defense
5 for the payment of assistance under this title.

6 SEC. 305. APPLICATIONS FOR ASSISTANCE.

7 (a) SUBMITTAL.—A person desiring assistance under
8 this title shall, in accordance with this section, submit an
9 application to the Secretary of Defense.

10 (b) CONTENTS OF APPLICATION.—An application for
11 assistance under this title with respect to a series of ves-
12 sels shall include the following:

13 (1) A detailed description of the type of vessels
14 included in the series, including plans and specifica-
15 tions for the vessels.

16 (2) Detailed estimates of the cost of completing
17 construction of each of the vessels in the series, in-
18 cluding such estimates from subcontractors for the
19 construction as may be required by the Secretary of
20 Defense.

21 (3) Copies of the contracts required under sec-
22 tion 302(b)(3)(B).

23 (4) Other information required by the Secretary
24 to fulfill the requirements of this title.

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1 (c) TRANSMITTAL TO SECRETARY OF TRANSPOR-
2 TATION.—The Secretary of Defense shall transmit a copy
3 of each application submitted under this section to the
4 Secretary of Transportation.

5 (d) REGULATIONS.—The Secretary of Defense shall
6 issue regulations setting forth the procedures for submit-
7 ting an application for assistance under this title.

8 **SEC. 303. RESTRICTION ON VESSEL OPERATIONS.**

9 A vessel for which assistance is paid under this title—

10 (1) may be operated only in foreign trade or do-
11 mestic trade authorized under a registry endorse-
12 ment for the vessel issued under section 12105 of
13 title 46, United States Code; and

14 (2) may not be operated in the coastwise trade
15 of the United States (including mixed coastwise and
16 foreign trade), except coastwise trade authorized
17 under a registry endorsement for the vessel issued
18 under section 12105 of title 46, United States Code.

19 **SEC. 307. TERMINATION OF AUTHORITY TO PROVIDE NEW**
20 **ASSISTANCE.**

21 The Secretary of Defense may not under section 302
22 approve the payment of assistance under section 301, and
23 may not enter into any series construction agreement
24 under section 305, after—

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1 (1) the 5th anniversary of the date on which
2 the Secretary publishes final regulations setting
3 forth the procedures for submitting an application
4 for that assistance,

5 (2) the last day of any 5-year period in which
6 amounts have been continuously available for paying
7 that assistance, or

8 (3) the last date on which that assistance may
9 be paid under any treaty, convention, or other inter-
10 national agreement entered into after the date of the
11 enactment of this Act that prohibits that payment.

12 **TITLE IV--DOUBLE HULL RE-**
13 **QUIREMENT FOR TANKERS**
14 **CHARTERED BY DEPART-**
15 **MENT OF DEFENSE**

16 **SEC. 401. DOUBLE-HULL TANKER CHARTERS.**

17 Section 2401 of title 10, United States Code, is
18 amended by adding at the end the following new sub-
19 section:

20 "(g) After December 31, 1994, the Secretary of De-
21 fense may not enter into, renew, or extend a contract for
22 the charter of a tanker unless the tanker—

23 "(1) is built in a shipyard located in the United
24 States under a contract entered into after October
25 1, 1993;

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1 “(2) is equipped with a double hull that satis-
2 fies the requirements applicable under section 3703a
3 of title 46 without regard to subsection (c) of that
4 section; and

5 “(3) is chartered under the contract for a pe-
6 riod of at least 10 years.”.

7 **SEC. 402. PROHIBITION ON ENTERING INTO, RENEWING, OR**
8 **EXTENDING CERTAIN CHARTERS FOR TANK-**
9 **ERS.**

10 Notwithstanding any other law, between the date of
11 the enactment of this Act, and January 1, 1995, the Sec-
12 retary of Defense may not enter into, renew, or extend
13 a contract for a charter of a tanker that expires after De-
14 cember 31, 1994. The Secretary shall cancel any contract
15 or contract provision that was entered into, renewed, or
16 extended during the period beginning on June 30, 1993,
17 and ending on the date of the enactment of this Act for
18 a charter of a tanker that expires after December 31.
19 1994.

20 **SEC. 403. TANKER DEFINED.**

21 In this title, the term “tanker” has the meaning given
22 that term in section 2101 of title 46, United States Code.