

FOIA MARKER

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Folder Title:

Chron File - August 1993 #2 [1]

Staff Office-Individual:

Defense Policy-Bell, Robert

Original OA/ID Number:

46

Row:	Section:	Shelf:	Position:	Stack:
31	3	2	2	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Lynn Davis et al from Robert Bell. Subject: IWG on CTB - Next Steps. (1 page)	08/10/1993	P1/b(1)
001b. briefing paper	Gameplan: Preparing for CTBT Negotiations. (2 pages)	08/10/1993	P1/b(1)
001c. draft	cable re: Non-Paper for PERM-5 on CTBT Negotiations. (6 pages)	08/10/1993	P1/b(1)
001d. form	[CIA Act] [partial] (1 page)	08/10/1993	P3/b(3)
002. cable	re: Part I Significant Military Exercise Brief [Accurate Test 93] (1 page)	07/15/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 46

FOLDER TITLE:

Chron File - August 1993 #2 [1]

2016-0152-F

vz4456

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. briefing paper	Gameplan: Preparing for CTBT Negotiations. (2 pages)	08/10/1993	P1/b(1)

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National Security Council
Defense Policy and Arms Control (Robert Bell)
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001c. draft	cable re: Non-Paper for PERM-5 on CTBT Negotiations. (6 pages)	08/10/1993	P1/b(1)
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001d. form	[CIA Act] [partial] (1 page)	08/10/1993	P3/b(3)

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TIME OF TRANSMISSION

~~SECRET~~

TIME OF RECEIPT

**WHITE HOUSE
SITUATION ROOM**PRECEDENCE: IMMEDIATE
PRIORITY
ROUTINE

RELEASER: _____

DTG: _____

MESSAGE NO. _____ CLASSIFICATION ~~SECRET~~ PAGES _____FROM ROBERT BELL 3330 386
(NAME) (PHONE NUMBER) (ROOM NO.)

MESSAGE DESCRIPTION IWG on CTB - Next Steps

TO (AGENCY)	DELIVER TO	DEPT/ROOM NO.	PHONE NUMBER
STATE	LYNN DAVIS	ROOM 7510	647-1049
DEFENSE	FRANK WISNER	ROOM 4E808	703/697-7200
CIA	(b)(3)		
DOE	JOHN KELIHER	ROOM 7B222	586-0645
JCS	MICHAEL RYAN	ROOM 2E868	703/695-4605
ACDA	THOMAS GRAHAM	ROOM 5930	647-9610

REMARKS:

[001d]

URGENT - PLEASE CALL FOR PICK UP.

Unclassified upon
removal of classified
attachments vz 11/08/16~~SECRET~~

~~SECRET~~

~~SECRET~~

5930

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 10, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*
FROM: KEITH HAHN *KH*
SUBJECT: Significant Military Exercise ACCURATE TEST 93

Attached at Tab I is a proposed memorandum to the Executive Secretary, Department of Defense, approving military exercise ACCURATE TEST 93. At Tab II Defense recommends approval and State concurs.

ACCURATE TEST 93 is a combined air exercise with the Omani Air Force designed to improve tactical air operations, airspace management and air defense capabilities. It will involve eight U.S. F-16 aircraft and an undetermined number of Omani Jaguar aircraft at Thumrait Air Base and the Rubkut range in Oman, and will take place September 1-9.

The critical cancellation date is August 18, 1993.

Concurrence by: Bruce *BH* Medel

RECOMMENDATION

That you sign the memorandum at Tab I approving the exercise.

Attachments

Tab I Memorandum for Signature
Tab II OSD Executive Secretary Memorandum, August 6, 1993

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By *W* NARA, Date *10/3/2016*
216-052-F

~~SECRET~~

Declassify on: OADR

~~SECRET~~

NATIONAL SECURITY COUNCIL
WASHINGTON, D C. 20506

MEMORANDUM FOR BG MICHAEL B. SHERFIELD
Executive Secretary
Department of Defense

SUBJECT: Significant Military Exercise ACCURATE TEST 93

Military exercise ACCURATE TEST 93 is approved.

William H. Itoh
Executive Secretary

~~SECRET~~

OFFICE OF THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1000

6 AUG 1993

MEMORANDUM FOR EXECUTIVE SECRETARY, NATIONAL SECURITY COUNCIL
SUBJECT: Significant Military Exercise - ACCURATE TEST 93 (U)

The Department of Defense recommends NSC approval of the attached Significant Military Exercise Brief, Exercise ACCURATE TEST 93. The Department of State concurs with this recommendation.

Please note the critical cancellation date is
18 August 1993.

Michael B. Sherfield
Michael B. Sherfield
Executive Secretary

Attachments:
As stated

This memo is UNCLASSIFIED when separated from its attachment.

CLASSIFIED BY USCINCCENT
DECLASSIFY ON OADR

~~SECRET~~

Sec Def Cont Nr.

X62175

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. cable	re: Part I Significant Military Exercise Brief [Accurate Test 93] (1 page)	07/15/1993	P1/b(1)

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 10, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: KEITH HAHN *KH*

SUBJECT: Recognition of Korean Theater Service with Armed
Forces Expeditionary Medal

At Tab II we have been asked to comment on, and provide a proposed response to, a request from the Veterans of Foreign Wars that the Armed Forces Expeditionary Medal be awarded to all servicemen and women who have served in the DMZ in Korea since 1953. The VFW recommends that the award be announced at their annual convention in Dallas on August 23, if possible.

The Armed Forces Expeditionary Medal has traditionally been awarded for participation in operations involving combat and covering clearly defined periods of time. For example, it was awarded for Operations Desert Shield/Desert Storm, but not for previous operations in the Persian Gulf. It was only recently approved for operations in Somalia. Furthermore, the award of this medal to those who served in the DMZ would have to distinguish between those individuals who actually were at the line, rather than the support personnel in their units who remain far removed from possible danger.

Discussions with Mike Sherfield indicate that there is more history to this issue than is indicated in the VFW letter. We should forward this request to OSD for comment and a proposed draft.

Concurrence by: Sandra Kristoff *SK*

RECOMMENDATION

That you sign the memorandum at Tab I forwarding this request to OSD Executive Secretary for a proposed response.

Attachments

Tab I Memorandum to the OSD Executive Secretary
Tab A Incoming Correspondence

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR BG MICHAEL B. SHERFIELD
Executive Secretary
Department of Defense

SUBJECT: Recognition of Korean Theater Service with
Armed Forces Expeditionary Medal

We have been asked by the Chief of Staff's office to provide our reaction to the Veterans of Foreign Wars' request (attached) to award the Armed Forces Expeditionary Medal to service personnel who served in the Korean DMZ since 1953. Please provide your comments and a proposed response on this request by August 14.

William H. Itoh
Executive Secretary

Attachment
As stated

From the Office of the Chief of Staff

Phone: 202/456-6797

Fax: 202/456-1121

Staff
5872

Date: 8.5.93 Response needed by: 8.15.93

COS Office Contact: Bill Burton

	Action	FYI		Action	FYI
Joan Baggett			Leon Panetta		
Rahm Emanuel			Howard Paster		
Mark Gearan			John Podesta		
David Gergen			Jack Quinn		
Jack Gibbons			Carol Rasco		
Marcia Hale			Bob Rubin		
Alexis Herman			Eli Segal		
Nancy Hernreich			Ricki Seidman		
Tony Lake	☒		George Stephanopoulos		
Bruce Lindsey			Christine Varney		
Katie McGinty			David Watkins		
Regina Montoya			Maggie Williams		
Dee Dee Myers					
Roy Neel					
Bernie Nussbaum					

Remarks:

Please advise your reaction / proposed response.

Response:

THE DEPUTY SECRETARY OF VETERANS AFFAIRS
WASHINGTON

August 4, 1993

Memorandum to Mack McLarty, Chief of Staff

Subject: Recognition of Korean Theatre Service Personnel

Attached is a copy of a letter from Jack Carney, Commander in Chief of the Veterans of Foreign Wars (VFW) concerning awarding the Armed Forces Expeditionary Medal to our American service personnel serving in Korea. I believe this recommendation has merit and I further recommend that DoD be asked to investigate the possibilities of doing it. If need be the award could be restricted to certain units/personnel who serve or have served on the DMZ.

This award would do several things,

- Demonstrate the President's recognition of the difficult and dangerous job our service personnel are doing
- Indicate his appreciation of these men and women

Announcement at the VFW Convention is a great idea, if it is not too late. If I may be of assistance please let me know.



Hershel W. Gober

Attachment

VETERANS OF FOREIGN WARS OF THE UNITED STATES

VFW MEMORIAL BUILDING
200 Maryland Avenue, NE Washington, DC 20002
Telephone: (202) 543-2239 Fax: (202) 543-6719

LARRY W. RIVERS
THE EXECUTIVE DIRECTOR - WASHINGTON OFFICE

TO: HERSHEL GOBER
 DEPUTY SECRETARY OF VETERANS AFFAIRS

FAX #: 202-535-8665

RE: KOREAN SERVICE MEDAL

Hershel:

Attached is a letter Jack sent to President Clinton July 26, 1993. As you know (and as the President saw a few weeks ago) the DMZ in Korea has been and remains a very dangerous place. Over the years the VFW has tried to convince the Department of Defense that those who have served in Korea deserve recognition for their valuable and often dangerous service by awarding the Armed Forces Expeditionary Medal to them. To do so would not cost the government any money, would not change the status of the servicemen and servicewomen that served there - it would only recognize the special nature of their service. Any help you could give us in this regard would certainly be appreciated - by both the VFW and those who have served in Korea.

We are optimistic that Secretary of Defense Aspin is going to accept our invitation to be our keynote speaker at the opening of our National Convention in Dallas on Monday August 23rd. Any help you could give in that regard would also be appreciated. If Secretary Aspin does accept it would be GREAT and a feather in the President's cap if the Secretary could announce such an award. It would be a GREAT way for this President and this Secretary to show how they appreciate those American servicemen and servicewomen who have over the years placed themselves in harm's way. And it can be done at no cost to the government! Hershel, its a "no brainer" and a winner for the President.

Any help would be appreciated. Thanks and keep up the good work.

Larry - 3August93 @ 8:45am.
Page 1 of 3 Pages



THE COMMANDER-IN-CHIEF

July 26, 1993

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Our paths nearly crossed in Korea last week when visiting our servicemen and women stationed in their battle positions just south of the DMZ. I watched on television your visit to the forward most outpost of freedom at Panmunjon. Just a few days later I stood on the same spot and looked north toward a hostile and still menacing foe. While I stood there it occurred to me, and perhaps to you as well, that we, as a nation, have done so little for those who have stood guard on this frontier of freedom.

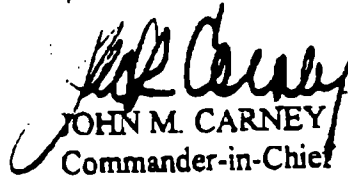
Even though the Armistice is forty years old, over that time our servicemen and women have endured the near constant danger of North Korean aggression. On many occasions over those years, we suffered casualties as a result of the North's provocative actions. And yet, in all those years we, as a nation, have failed to recognize the danger we placed these brave men and women in and the achievement in keeping the peace along this most dangerous border.

Therefore, I've decided to ask you to consider directing the Defense Department to recognize the service and sacrifice of those who stood in harms way in Korea. It seems to me it is appropriate to award the Armed Forces Expeditionary Medal to all of our military personnel who served for an appropriate period of time in Korea since the 1953 Armistice. This, I believe, would be a fitting tribute and welcome recognition of those who served and are serving freedom's cause so well. I feel certain your Commander in Korea, General Gary Luck, with whom I spoke, would heartily support your action on this.

Lastly, Mr. President, I'm probably the last Korean War veteran who will serve as Commander-in-Chief of the 2.2 million member Veterans of Foreign Wars. I would sincerely appreciate your favorable consideration of this request before my official term expires on August 26, 1993 and I turn over this post to a long line of Vietnam comrades.

In closing, let me offer you my best wishes and sincere thanks for considering this request.

Respectfully,


JOHN M. CARNEY
Commander-in-Chief

KOREAN FACT SHEET

- Since 1945, the Korean Peninsula has been a hot spot bringing four of the world's strongest powers (U. S., USSR, China and Japan) into conflict.
- The Korean War from 1950 to 1953, cost 54,248 American lives and left 8,177 missing in action.
- Despite the 40 year old Armistice, Korea remains one of the world's most dangerous military flash points.
 - In 1968, a North Korean commando team raided the Korean capital attempting to kill the Korean president.
 - Also in 1968, the North Koreans seized the USS Pueblo, captured and tortured its crew.
 - In 1969, the North Koreans shot down a U. S. Air Force patrol aircraft killing the entire crew.
 - In 1976, North Koreans attacked and killed two U. S. officers with axes within sight of the Panmunjon Armistice Commission Headquarters.
 - In 1978, North Korea shot down a U.S. helicopter temporarily imprisoning two wounded U.S. pilots.
 - In 1984, a U. S. soldier was killed by North Koreans attempting to recapture a defector.
- Approximately 43,000 U. S. troops are now serving in Korea and over 31,000 are located within range of North Korean artillery.
- The 20,000-man 2nd U. S. Infantry Division conducts daily combat patrols and ambushes inside the Demilitarized Zone (DMZ) and mans two guard posts just outside the DMZ.
- Other 2nd Division soldiers are based at over twenty observation sites along the DMZ within range of North Korean machine guns and artillery.
- U. S. soldiers serving in the Joint Security Area at Panmunjon are confronted daily by physical threats from North Korean guards.
- Almost two million soldiers, sailors, airmen and Marines have served in Korea since the 1953 Armistice. The U. S. has suffered 89 killed and 132 wounded from hostile North Korean actions since the Armistice was signed.

TO: SHERFIELD, M

FROM: ITOH

DOC DATE: 10 AUG 93
SOURCE REF:

KEYWORDS: DEFENSE POLICY
WH REFERRAL

KOREA SOUTH

PERSONS: GOBER, H

SUBJECT: RECOGNITION OF KOREAN THEATER SERVICE W/ ARMED FORCES EXPEDITIONARY
MEDAL

ACTION: ITOH SGD MEMO

DUE DATE: 09 AUG 93 STATUS: C

STAFF OFFICER: HAHN

LOGREF:

FILES: PA

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
EXECSIC
HAHN
KRISTOFF

COMMENTS: _____

DISPATCHED BY 

DATE 8/10

BY HAND 

W/ATTCH

OPENED BY: NSWEA

CLOSED BY: NSKDB

DOC 3 OF 3

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 10, 1993

MEMORANDUM FOR BG MICHAEL B. SHERFIELD
Executive Secretary
Department of Defense

SUBJECT: Recognition of Korean Theater Service with
Armed Forces Expeditionary Medal

We have been asked by the Chief of Staff's office to provide our reaction to the Veterans of Foreign Wars' request (attached) to award the Armed Forces Expeditionary Medal to service personnel who served in the Korean DMZ since 1953. Please provide your comments and a proposed response on this request by August 14.


William H. Itoh
Executive Secretary

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WASHINGTON

August 4, 1993

Memorandum to Mack McLarty, Chief of Staff

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LARRY W. RIVERS

THE EXECUTIVE DIRECTOR - WASHINGTON OFFICE

TO: HERSHEL GOBER
 DEPUTY SECRETARY OF VETERANS AFFAIRS

FAX #: 202-535-8665

RE: KOREAN SERVICE MEDAL

Hershel:

Attached is a letter Jack sent to President Clinton July 26, 1993. As you know (and as the President saw a few weeks ago) the DMZ in Korea has been and remains a very dangerous place. Over the years the VFW has tried to convince the Department of Defense that those who have served in Korea deserve recognition for their valuable and often dangerous service by awarding the Armed Forces Expeditionary Medal to them. To do so would not cost the government any money, would not change the status of the servicemen and servicewomen that served there - it would only recognize the special nature of their service. Any help you could give us in this regard would certainly be appreciated - by both the VFW and those who have served in Korea.

We are optimistic that Secretary of Defense Aspin is going to accept our invitation to be our keynote speaker at the opening of our National Convention in Dallas on Monday August 23rd. Any help you could give in that regard would also be appreciated. If Secretary Aspin does accept it would be GREAT and a feather in the President's cap if the Secretary could announce such an award. It would be a GREAT way for this President and this Secretary to show how they appreciate those American servicemen and servicewomen who have over the years placed themselves in harm's way. And it can be done at no cost to the government! Hershel, its a "no brainer" and a winner for the President.

Any help would be appreciated. Thanks and keep up the good work.

Larry - 3August93 @ 8:45am.

Page 1 of 3 Pages



THE COMMANDER-IN-CHIEF

July 26, 1993

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Our paths nearly crossed in Korea last week when visiting our servicemen and women stationed in their battle positions just south of the DMZ. I watched on television your visit to the forward most outpost of freedom at Panmunjon. Just a few days later I stood on the same spot and looked north toward a hostile and still menacing foe. While I stood there it occurred to me, and perhaps to you as well, that we, as a nation, have done so little for those who have stood guard on this frontier of freedom.

Even though the Armistice is forty years old, over that time our servicemen and women have endured the near constant danger of North Korean aggression. On many occasions over those years, we suffered casualties as a result of the North's provocative actions. And yet, in all those years we, as a nation, have failed to recognize the danger we placed these brave men and women in and the achievement in keeping the peace along this most dangerous border.

Therefore, I've decided to ask you to consider directing the Defense Department to recognize the service and sacrifice of those who stood in harms way in Korea. It seems to me it is appropriate to award the Armed Forces Expeditionary Medal to all of our military personnel who served for an appropriate period of time in Korea since the 1953 Armistice. This, I believe, would be a fitting tribute and welcome recognition of those who served and are serving freedom's cause so well. I feel certain your Commander in Korea, General Gary Luck, with whom I spoke, would heartily support your action on this.

Lastly, Mr. President, I'm probably the last Korean War veteran who will serve as Commander-in-Chief of the 2.2 million member Veterans of Foreign Wars. I would sincerely appreciate your favorable consideration of this request before my official term expires on August 26, 1993 and I turn over this post to a long line of Vietnam comrades.

In closing, let me offer you my best wishes and sincere thanks for considering this request.

Respectfully,


JOHN M. CARNEY
Commander-in-Chief

KOREAN FACT SHEET

- Since 1945, the Korean Peninsula has been a hot spot bringing four of the world's strongest powers (U. S., USSR, China and Japan) into conflict.
- The Korean War from 1950 to 1953, cost 54,248 American lives and left 8,177 missing in action.
- Despite the 40 year old Armistice, Korea remains one of the world's most dangerous military flash points.
 - In 1968, a North Korean commando team raided the Korean capital attempting to kill the Korean president.
 - Also in 1968, the North Koreans seized the USS Pueblo, captured and tortured its crew.
 - In 1969, the North Koreans shot down a U. S. Air Force patrol aircraft killing the entire crew.
 - In 1976, North Koreans attacked and killed two U. S. officers with axes within sight of the Panmunjon Armistice Commission Headquarters.
 - In 1978, North Korea shot down a U.S. helicopter temporarily imprisoning two wounded U.S. pilots.
 - In 1984, a U. S. soldier was killed by North Koreans attempting to recapture a defector.
- Approximately 43,000 U. S. troops are now serving in Korea and over 31,000 are located within range of North Korean artillery.
- The 20,000-man 2nd U. S. Infantry Division conducts daily combat patrols and ambushes inside the Demilitarized Zone (DMZ) and mans two guard posts just outside the DMZ.
- Other 2nd Division soldiers are based at over twenty observation sites along the DMZ within range of North Korean machine guns and artillery.
- U. S. soldiers serving in the Joint Security Area at Panmunjon are confronted daily by physical threats from North Korean guards.
- Almost two million soldiers, sailors, airmen and Marines have served in Korea since the 1953 Armistice. The U. S. has suffered 89 killed and 132 wounded from hostile North Korean actions since the Armistice was signed.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 10, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: KEITH HAHN *KH*

SUBJECT: Recognition of Korean Theater Service with Armed
Forces Expeditionary Medal

At Tab II we have been asked to comment on, and provide a proposed response to, a request from the Veterans of Foreign Wars that the Armed Forces Expeditionary Medal be awarded to all servicemen and women who have served in the DMZ in Korea since 1953. The VFW recommends that the award be announced at their annual convention in Dallas on August 23, if possible.

The Armed Forces Expeditionary Medal has traditionally been awarded for participation in operations involving combat and covering clearly defined periods of time. For example, it was awarded for Operations Desert Shield/Desert Storm, but not for previous operations in the Persian Gulf. It was only recently approved for operations in Somalia. Furthermore, the award of this medal to those who served in the DMZ would have to distinguish between those individuals who actually were at the line, rather than the support personnel in their units who remain far removed from possible danger.

Discussions with Mike Sherfield indicate that there is more history to this issue than is indicated in the VFW letter. We should forward this request to OSD for comment and a proposed draft.

Concurrence by: Sandra Kristoff *SK*

RECOMMENDATION

That you sign the memorandum at Tab I forwarding this request to OSD Executive Secretary for a proposed response.

Attachments

Tab I Memorandum to the OSD Executive Secretary
Tab A Incoming Correspondence

From the Office of the Chief of Staff

Phone: 202/456-6797

Fax: 202/456-1121

Start
5872

Date: 8-5-93

Response needed by: 8-15-93

COS Office Contact: Bill Burton

	Action	FYI		Action	FYI
Joan Baggett			Leon Panetta		
Rahm Emanuel			Howard Paster		
Mark Gearan			John Podesta		
David Gergen			Jack Quinn		
Jack Gibbons			Carol Rasco		
Marcia Hale			Bob Rubin		
Alexis Herman			Eli Segal		
Nancy Hernreich			Ricki Seidman		
Tony Lake	☒		George Stephanopoulos		
Bruce Lindsey			Christine Varney		
Katie McGinty			David Watkins		
Regina Montoya			Maggie Williams		
Dee Dee Myers					
Roy Neel					
Bernie Nussbaum					

Remarks:

Please advise your reaction / proposed response.

Response:

NATIONAL SECURITY COUNCIL
WASHINGTON, D C. 20506

August 9, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: KEITH HAHN *KH*

SUBJECT: Defense Draft Bill, Retirement or Enlistment of
Certain Limited Duty Officers of the Navy and
Marine Corps

The draft bill at Tab II would allow Navy and Marine Corps Limited Duty Officers (LDOs) who are not selected for promotion two times in a row to have the same eligibility for retirement as regular and warrant officers. Regular and warrant officers are allowed to remain in the military if they are within two years of retirement eligibility. LDOs currently are not allowed to remain until retirement.

The proposal would also allow LDOs who twice fail selection to revert to an enlisted grade to finish out their time until retirement, rather than reverting to warrant officer status. This would avoid the problems associated with having a large group of warrant officers, which the Navy and Marine Corps do not use to as great an extent as the Army and Air Force.

Concurrence by: Jeremy Rosner *JR*

RECOMMENDATION

That you sign the memorandum at Tab I concurring in the draft bill.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JANET R. FORSGREN

FROM: WILLIAM H. ITOH

SUBJECT: Defense Draft Bill, Retirement or Enlistment of
Certain Limited Duty Officers of the Navy and
Marine Corps

The National Security Council staff concurs in the draft Defense bill.

7 pgs.

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

August 5, 1993

LEGISLATIVE REFERRAL MEMORANDUM

**LRM #D-339
DRAFT #315**

TO: Legislative Liaison Officer -

**TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
NSC - William H. Itoh - (202)395-3723 - 249**

**FROM: JANET R. FORSGREN (for) *Janet R. Forsgren*
Assistant Director for Legislative Reference**

**OMB CONTACT: Melissa Cook (395-3924)
Secretary's line (for simple responses): 395-7362**

**SUBJECT: DEFENSE Draft Bill Retirement or Enlistment
of Certain Limited Duty Officers of the Navy
and Marine Corps.**

DEADLINE: C.O.B. August 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:

**{ Tom Stanners
Wendell Waites
Howard Paster
Chris Bertram
Delphine Motley
Janet Forsgren**

LRM #D-339

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:

Melissa Cook
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3924
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM:

(Date)
(Name)
(Agency)
(Telephone)

SUBJECT: DEFENSE Draft Bill Retirement or Enlistment
of Certain Limited Duty Officers of the Navy
and Marine Corps.

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

AUG 3 '93 16:38 FROM OSD-LRS

TO PETERSON

PAGE.002



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20301-1600

August 3, 1993

Mr. Bernard H. Martin
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Martin:

The enclosed legislative proposal, Department of Defense Legislative Item 103-024, "To amend title 10, United States Code, to provide for the retirement or enlistment of certain limited duty officers of the Navy and Marine Corps after a second failure of selection for promotion," is forwarded for review in accordance with Office of Management and Budget Circular A-19.

The General Counsel has approved the forwarding of this legislative initiative.

Sincerely,

Deborah McLaughlin
for Samuel T. Brick, Jr.
Director, Legislative Reference
Service

Enclosure:
As Stated

AUG 3 '93 16:40 FROM OSD-LRS

TO PETERSON

PAGE.003

The Honorable Thomas S. Foley
Speaker of the House of Representatives
Washington, D.C. 20515

**DRAFT
FOR
OMB A-19
REVIEW**

Dear Mr. Speaker:

Enclosed is a draft of proposed legislation, "to amend title 10, United States Code, to provide for the retirement or enlistment of certain limited duty officers of the Navy and Marine Corps after a second failure of selection for promotion."

This proposal is part of the Department of Defense legislative program for the 103d Congress. 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 proposal for the consideration of the Congress.

Purpose of the Legislation

This legislative proposal applies to limited duty officers in the Naval service who have twice failed selection for promotion to the next higher grade. The purpose of the legislation is twofold: first, it would establish a similar right to achieve retirement eligibility for limited duty officers of the Navy and Marine Corps as now exists for those officers who are not designated for limited duty and for warrant officers; second, it would provide clear authority for enlistment in a grade determined by the Secretary if a limited duty officer, having twice failed selection, was not within two years of achieving retirement eligibility and it would terminate the current option of reversion to warrant officer grade now provided in section 6383 of title 10, United States Code.

Section 632 of title 10, United States Code, provides that officers of the Navy serving in grades of lieutenant commander and lieutenant and officers of the Marine Corps serving in grades of major and captain, who are not designated for limited duty, shall be retained on active duty until qualified for retirement in their present grades if they will qualify for such retirement within two years of the date on which they would be involuntarily separated following the second failure of selection. Section 580 of title 10 establishes similar authority for warrant officers. However, under section 6383 of title 10, the limited duty officer in the same grade as an officer not designated for limited duty is not retained automatically in his current grade until eligible for retirement under the same circumstances. Rather, the options provided are discharge, possible continuation on active duty in his current grade if selected by a board convened by the Secretary

AUG 3 '93 16:40 FROM OSD-LRS

TO PETERSON

PAGE.004

of the Navy under authority of section 611(b) of Title 10, or reversion to a warrant officer grade.

There is no compelling reason to discharge the limited duty officer who is within two years of retirement eligibility when non-limited duty officers are retained until retirement under the same circumstances. While authority to continue the officers in question by board action does exist under section 6383(i) of title 10, it is considered inefficient and unnecessary to hold a board for limited duty officers when officers not designated for limited duty in the same grades are automatically retained until eligible for retirement. This proposal would thus promote efficiency in the management of limited duty officers of the Navy and Marine Corps.

Some limited duty officers may twice fail of selection for lieutenant or lieutenant commander, captain or major, before reaching the point of being within two years of qualifying for retirement. Others may be considered not qualified for promotion to lieutenant (junior grade) or first lieutenant. Officers in this category will not have been commissioned from the warrant ranks, but from the middle enlisted grades. Some recognition should be given the effort and time that those officers will have invested in a military career and it is considered unduly harsh to terminate their military careers at that point. The enlistment option is considered to be the best way of permitting such an individual to continue his or her career when retirement as an officer is not available and is preferred to the current practice of appointment in a warrant officer grade. Reversion to the warrant officer grades creates significant manpower planning and integration difficulties in those ranks and therefore is not a desired option. The possibility of continuation in the grade then serving would be preserved through Board action for officers with the rank of Lieutenant Commander (Major) or Lieutenant (Captain) if, in the opinion of the Secretary, the needs of the Navy so require.

Cost and Budget Data

This proposal would result in no increase in cost to the Department of Defense.

Sincerely,

Enclosure
(1) Draft Bill

AUG 3 '93 16:41 FROM OSD-LRS

TO PETERSON

PAGE.005

A BILL

**DRAFT
FOR
OMB A-19**

To amend title 10, United States Code, to provide for the retirement and enlistment of certain limited duty officers of the Navy and Marine Corps after a second failure of selection for promotion.

REVIEW

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETIREMENT OR ENLISTMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS.

Section 6383 of title 10, United States Code, is amended—

(1) in subsections (a), (b), and (d), by striking "Except as provided in subsection (i)," each place such phrase appears and inserting in lieu thereof in each instance "Except as provided in subsections (f) and (h).";

(2) by amending subsection (f) to read as follows:

"(f)(1) Any officer subject to discharge under subsection (b), (d) or (e) who is not eligible for retirement and to whom paragraph (2) of this subsection does not apply, may, upon his request and in the discretion of the Secretary of the Navy, be enlisted in the grade prescribed by the Secretary.

"(2) If any officer subject to discharge under subsection (b) or (d) is, on the date on which he is to be discharged, within two years of qualifying for retirement under section 6323 of this title, he shall be retained on active duty until he is qualified for retirement and shall then be retired under that section, unless he is sooner retired or discharged under another provision of law.";

(3) by striking subsection (g);

(4) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and

AUG 3 '93 18:41 FROM OSD-LRS

TO PETERSON

PAGE.006

8

1 (i) respectively; and

2 (5) in subsection (h) (as redesignated by paragraph 4), by striking "or the
3 discharge under subsection (d)" and inserting in lieu thereof "or the
4 discharge under subsection (b) or (d)".

TO: FORSGREN, J

FROM: ITOH

DOC DATE: 11 AUG 93
SOURCE REF:

KEYWORDS: NAVY
LEGISLATIVE REFERRAL

DEFENSE POLICY

PERSONS:

SUBJECT: DOD DRAFT BILL / RETIREMENT OR ENLISTMENT OF CERTAIN LIMITED DUTY
OFFICERS OF NAVY & MARINE CORPS

ACTION: KENNEY SGD MEMO

DUE DATE: 10 AUG 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
ROSNER

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSMFM

CLOSED BY: NSKDB

DOC 3 OF 3

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

August 11, 1993

MEMORANDUM FOR JANET R. FORSGREN

FROM: WILLIAM H. ITOM *Wan*SUBJECT: Defense Draft Bill, Retirement or Enlistment of
Certain Limited Duty Officers of the Navy and
Marine Corps

The National Security Council staff concurs in the draft Defense bill.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 9, 1993

ACTION

SIGNED

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: KEITH HAHN *KH*

SUBJECT: Defense Draft Bill, Retirement or Enlistment of
Certain Limited Duty Officers of the Navy and
Marine Corps

The draft bill at Tab II would allow Navy and Marine Corps Limited Duty Officers (LDOs) who are not selected for promotion two times in a row to have the same eligibility for retirement as regular and warrant officers. Regular and warrant officers are allowed to remain in the military if they are within two years of retirement eligibility. LDOs currently are not allowed to remain until retirement.

The proposal would also allow LDOs who twice fail selection to revert to an enlisted grade to finish out their time until retirement, rather than reverting to warrant officer status. This would avoid the problems associated with having a large group of warrant officers, which the Navy and Marine Corps do not use to as great an extent as the Army and Air Force.

Concurrence by: Jeremy Rosner

RECOMMENDATION

That you sign the memorandum at Tab I concurring in the draft bill.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

7 pgs.

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

August 5, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-339
DRAFT #315

TO: Legislative Liaison Officer -

TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
NSC - William H. Itoh - (202)395-3723 - 249

FROM: JANET R. FORSGREN (for) *Janet R. Forsgren*
Assistant Director for Legislative Reference

OMB CONTACT: Malissa Cook (395-3224)
Secretary's line (for simple responses): 395-7362

SUBJECT: DEFENSE Draft Bill Retirement or Enlistment
of Certain Limited Duty Officers of the Navy
and Marine Corps.

DEADLINE: C.O.B. August 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:

{ Tom Stanners
Wendell Waites.
Howard Paster
Chris Bertram
Delphine Motley
Janet Forsgren

LRM #D-339

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:

Malissa Cook
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3924
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM:

_____ (Date)
_____ (Name)
_____ (Agency)
_____ (Telephone)

**SUBJECT: DEFENSE Draft Bill Retirement or Enlistment
of Certain Limited Duty Officers of the Navy
and Marine Corps.**

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

AUG 3 '93 16:38 FROM OSD-LRS

TO PETERSON

PAGE.002



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20301-1600

August 3, 1993

Mr. Bernard H. Martin
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Martin:

The enclosed legislative proposal, Department of Defense Legislative Item 103-024, "To amend title 10, United States Code, to provide for the retirement or enlistment of certain limited duty officers of the Navy and Marine Corps after a second failure of selection for promotion," is forwarded for review in accordance with Office of Management and Budget Circular A-19.

The General Counsel has approved the forwarding of this legislative initiative.

Sincerely,

Deborah McLaughlin
for Samuel T. Brick, Jr.
Director, Legislative Reference
Service

Enclosure:
As Stated

AUG 3 '93 18:48 FROM OSD-LRS

TO PETERSON

PAGE.003

The Honorable Thomas S. Foley
Speaker of the House of Representatives
Washington, D.C. 20515

**DRAFT
FOR
OMB A-19
REVIEW**

Dear Mr. Speaker:

Enclosed is a draft of proposed legislation, "To amend title 10, United States Code, to provide for the retirement or enlistment of certain limited duty officers of the Navy and Marine Corps after a second failure of selection for promotion."

This proposal is part of the Department of Defense legislative program for the 103d Congress. 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 proposal for the consideration of the Congress.

Purpose of the Legislation

This legislative proposal applies to limited duty officers in the Naval service who have twice failed selection for promotion to the next higher grade. The purpose of the legislation is twofold: first, it would establish a similar right to achieve retirement eligibility for limited duty officers of the Navy and Marine Corps as now exists for those officers who are not designated for limited duty and for warrant officers; second, it would provide clear authority for enlistment in a grade determined by the Secretary if a limited duty officer, having twice failed selection, was not within two years of achieving retirement eligibility and it would terminate the current option of reversion to warrant officer grade now provided in section 6383 of title 10, United States Code.

Section 632 of title 10, United States Code, provides that officers of the Navy serving in grades of lieutenant commander and lieutenant and officers of the Marine Corps serving in grades of major and captain, who are not designated for limited duty, shall be retained on active duty until qualified for retirement in their present grades if they will qualify for such retirement within two years of the date on which they would be involuntarily separated following the second failure of selection. Section 580 of title 10 establishes similar authority for warrant officers. However, under section 6383 of title 10, the limited duty officer in the same grade as an officer not designated for limited duty is not retained automatically in his current grade until eligible for retirement under the same circumstances. Rather, the options provided are discharge, possible continuation on active duty in his current grade if selected by a board convened by the Secretary

AUG 3 '93 18:40 FROM OSD-LRS

TO PETERSON

PAGE.004

of the Navy under authority of section 611(b) of Title 10, or reversion to a warrant officer grade.

There is no compelling reason to discharge the limited duty officer who is within two years of retirement eligibility when non-limited duty officers are retained until retirement under the same circumstances. While authority to continue the officers in question by board action does exist under section 6383(i) of title 10, it is considered inefficient and unnecessary to hold a board for limited duty officers when officers not designated for limited duty in the same grades are automatically retained until eligible for retirement. This proposal would thus promote efficiency in the management of limited duty officers of the Navy and Marine Corps.

Some limited duty officers may twice fail of selection for lieutenant or lieutenant commander, captain or major, before reaching the point of being within two years of qualifying for retirement. Others may be considered not qualified for promotion to lieutenant (junior grade) or first lieutenant. Officers in this category will not have been commissioned from the warrant ranks, but from the middle enlisted grades. Some recognition should be given the effort and time that those officers will have invested in a military career and it is considered unduly harsh to terminate their military careers at that point. The enlistment option is considered to be the best way of permitting such an individual to continue his or her career when retirement as an officer is not available and is preferred to the current practice of appointment in a warrant officer grade. Reversion to the warrant officer grades creates significant manpower planning and integration difficulties in those ranks and therefore is not a desired option. The possibility of continuation in the grade then serving would be preserved through Board action for officers with the rank of Lieutenant Commander (Major) or Lieutenant (Captain) if, in the opinion of the Secretary, the needs of the Navy so require.

Cost and Budget Data

This proposal would result in no increase in cost to the Department of Defense.

Sincerely,

Enclosure

(1) Draft Bill

AUG 3 '93 16:41 FROM OSD-LRS

TO PETERSON

PAGE.005

A BILL

**DRAFT
FOR
OMB A-19
REVIEW**

To amend title 10, United States Code, to provide for the retirement and enlistment of certain limited duty officers of the Navy and Marine Corps after a second failure of selection for promotion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETIREMENT OR ENLISTMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY AND MARINE CORPS.

Section 6353 of title 10, United States Code, is amended—

(1) in subsections (a), (b), and (d), by striking "Except as provided in subsection (i)," each place such phrase appears and inserting in lieu thereof in each instance "Except as provided in subsections (f) and (h).";

(2) by amending subsection (f) to read as follows:

"(f)(1) Any officer subject to discharge under subsection (b), (d) or (e) who is not eligible for retirement and to whom paragraph (2) of this subsection does not apply, may, upon his request and in the discretion of the Secretary of the Navy, be enlisted in the grade prescribed by the Secretary.

"(2) If any officer subject to discharge under subsection (b) or (d) is, on the date on which he is to be discharged, within two years of qualifying for retirement under section 6323 of this title, he shall be retained on active duty until he is qualified for retirement and shall then be retired under that section, unless he is sooner retired or discharged under another provision of law.";

(3) by striking subsection (g);

(4) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and

AUG 3 '93 16:41 FROM OSD-LRS

TO PETERSON

PAGE.006

8

1 (i) respectively; and

2 (5) in subsection (b) (as redesignated by paragraph 4), by striking "or the
3 discharge under subsection (d)" and inserting in lieu thereof "or the
4 discharge under subsection (b) or (d)".

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 11, 1993

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH:

ROBERT BELL *Rob*

FROM:

KEITH HAHN *KH*

SUBJECT:

Letter to the President from Representative Michel, Et Al, RE: Global Cooperative Initiatives

At Tab B Representative Bob Michel and seven other Republican congressmen have written the President to express their concern about the Global Cooperative Initiatives program in the FY94 Defense Authorization bill. In particular, they are worried that the \$200 million for peacekeeping operations undermines the constitutional prerogative of Congress to approve, through the funding of military resources, the involvement of U.S. forces in military operations.

Since the authorization bill has not gone before Congress yet, they ask that the President reconsider this initiative. The letters at Tab A note that these funds are needed to improve U.S. responsiveness to peacekeeping contingencies and are not intended to commit large numbers of U.S. forces to military operations for extensive periods of time.

Concurrences by:

In draft Richard Clarke, Alan Kreczko and Jeremy Rosner *In draft* *In draft*

RECOMMENDATION

That you forward the memorandum and letters at Tab I to the President for signature.

Attachments:

Tab I Memorandum for the President
Tab A Letters to Congressmen
Tab B Incoming Correspondence

THE WHITE HOUSE
WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
HOWARD PASTER

SUBJECT: Letters to Representative Michel, Et Al,
RE: Global Cooperative Initiatives

Purpose

To respond to a letter from Representative Bob Michel and seven other Republican congressmen in which they express their concern about the funds for the Global Cooperative Initiatives program requested in the FY94 Defense Authorization bill.

Background

The Global Cooperative Initiative includes programs for humanitarian assistance, foreign disaster relief, promotion of democracy and peacekeeping operations. Included in this category in the current draft of the FY94 Defense Authorization bill is a request for \$200 million to establish a fund for peacekeeping operations. These congressmen are concerned that such a fund would undermine the constitutional prerogative of Congress to approve, through the allocation of funds for specific operations, the involvement of U.S. forces in contingencies abroad.

The letters at Tab A point out that the purpose of this fund is to improve the initial responsiveness of U.S. forces to peacekeeping contingencies and is not intended, nor is it sufficient, to support large numbers of U.S. forces in military operations for an extended period of time.

RECOMMENDATION

That you sign the letters at Tab A.

Attachments

Tab A Letters to Congressmen
Tab B Incoming Correspondence

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Mr. Leader:

I greatly appreciate your writing to share your concern about discussions within the Administration on certain aspects of the proposed FY94 Defense Authorization request. Many of the elements of the request -- such as the establishment of a peacekeeping fund that you mentioned in your letter -- reflect our efforts to refocus U.S. military forces and programs to the new international security environment. Nowhere is the need for change greater than in the way we look at and conduct peacekeeping operations around the world.

The Global Cooperative Initiatives program you cite in your letter represents an attempt to meet this imperative. We are still reviewing and refining a specific legislative proposal, in consultation with Congress. I appreciate your concerns about both the constraints in our defense budget and Congress' prerogatives with regard to war powers. I will bear those concerns in mind as our work on this proposal proceeds.

Thank you again for your letter. We will keep you informed as we review the procedures that would govern the use of the peacekeeping contingency fund and the other Global Cooperative Initiatives.

Sincerely,

The Honorable Robert H. Michel
Minority Leader
House of Representatives
Washington, D.C. 20515

Congress of the United States
Washington, DC 20515

August 3, 1993

The Honorable Bill Clinton
President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

With the House scheduled to begin consideration of the FY94 Defense Authorization bill this week, we wanted to express our strong concern and objections to a central element of your defense program -- the so-called Global Cooperative Initiatives.

These programs, comprising almost half a billion dollars of the defense budget request, represent a disturbing trend to fund an increasing amount of foreign assistance and peacekeeping activities out of the defense budget function. Wholly apart from the merit of these programs, humanitarian assistance, foreign disaster relief, promotion of democracy, peacekeeping and related activities all belong in the foreign operations and State Department appropriations and not buried within a defense budget that is already enduring drastic reductions. While next year's allocation for these activities may appear modest in relation to the overall defense account, the impact over a five-year period to an already declining budget is likely to be significant and lead to a further erosion of military preparedness and capability.

Of particular concern with the Global Cooperative Initiatives program is the component requesting \$200 million to establish an earmarked contingency fund for peacekeeping operations. As you know, the defense budget is a peacetime budget designed to, as a general rule, only fund the equipping, training and maintenance of a capable military force for the possibility of hostilities. By comparison, funding for actual military operations are not included in the annual budgets and have historically required congressional approval through reprogramming or supplemental budget requests. By seeking an earmarked peacekeeping fund, the Administration is asking Congress to prospectively approve the necessary funding resources to engage in unspecified and undetermined military operations. We consider this to be an alarming precedent that incrementally eats away at the constitutional prerogative of Congress to control the purse strings.

We understand that this package of initiatives has been the subject of intense debate within the Administration. Since the Congress has yet to receive a formal legislative proposal

The Honorable Bill Clinton
August 3, 1993
page two

on this package, we strongly urge you to reconsider these ill-conceived proposals.

Sincerely,

Bob Michel

Dick Armes

Bill Malloy

Bricker

New Director

Henry J. Hyde

Tom DeLoach

Duncan Hunter

NATIONAL SECURITY COUNCIL

WASHINGTON, D C. 20506

August 11, 1993

MEMORANDUM FOR ROSE GOTTEMOELLER
DAN PONEMAN
GEORGE TENET

FROM: ROBERT BELL *RB*

SUBJECT: ACDA Reorganization Plan

Attached is a draft ACDA reorganization plan which has been provided to NSC staff on an informal basis. Please provide me with your comments by COB Thursday, August 12. I will interpret no response as your concurrence.

Attachment
As stated

August 11, 1993

Limited Changes to ACDA's Structure
To Meet Near-Term Requirements

There are pressing arms control and nonproliferation challenges facing ACDA that require immediate attention. Chief among these are the start-up of CTB negotiations, the need for a more focused approach to the array of FSU issues, and increasing requirements associated with regional arms control and NPT extension.

Another challenge that needs to be addressed in the near term is the refocusing of the Verification and Implementation Bureau (VI) to better support the substantive bureaus with technical and intelligence analysis and provide support for, and to coordinate ACDA positions on verification, compliance and implementation issues.

Near-Term Necessary Changes

The following changes can be effected with minimal additional resources and disruption:

-- Former Soviet Union issues are to be consolidated in one bureau (Strategic and Nuclear Affairs); SNA is to be refocused on SSD-related issues, assistance to the republics, and defense conversion. FSU defense conversion and HEU sales go from the Nonproliferation Policy Bureau to the Strategic and Nuclear Affairs Bureau. The bureau is to be renamed the Strategic and Eurasian Affairs Bureau and the divisions refocused/renamed to reflect the post-Cold War world as follows:

- o Strategic Negotiations and Implementation Division (START II, JCIC, SVC, future strategic arms control and strategic CBMs);
- o Strategic and Tactical Defense Division (ABM Treaty/SCC, ASATs, ballistic missile defense, defense cooperation discussions);
- o Defense Conversion Division;
- o Denuclearization Division (SSD, HEU sales, and associated FSU assistance, environmental concerns, consultation/coordination with Allies on FSU issues).

-- Chemical and biological weapons policy, including all aspects of the CWC and BWC, will be consolidated in the Science and Technological Policy Division of the Multilateral Affairs Bureau.

-- A Nuclear Testing Policy Division is to be established in Multilateral Affairs by moving the nuclear testing expertise from Nonproliferation Policy and VI to the Multilateral Affairs Bureau. Rationale is that the Conference on Disarmament will play an important role in CTB negotiations and that ACDA will lead in backstopping these negotiations.

-- Two new divisions are to be created in Nonproliferation Policy:

- o A Regional Arms Control Division to focus on the growing requirements arising from arms control-related issues in the Middle East, Latin America, South Asia, the Far East and Africa.
- o An NPT Extension Division to handle the burgeoning workload associated with preparations for the Nuclear Nonproliferation Treaty Extension Conference in 1995.

-- The Defense Programs Division in NP will be abolished. WMEAT will be handled by Operations Analysis.

-- The Verification and Implementation Bureau is to be refocused, expanded and strengthened as follows:

- o The bureau is to be renamed "Intelligence, Verification and Information Support (IVIS)."
- o IVIS is to focus on (1) providing verification, compliance and intelligence support in the form of research, analysis and technical expertise to the substantive bureaus; (2) coordinating and integrating ACDA views on compliance and verification issues; (3) providing implementation analysis and inspectors; (4) compiling and managing arms control and nonproliferation data bases.
- o An Intelligence Research and Analysis Division is to be established, initially made up largely of detailees from the intelligence community, to provide analytical support to the substantive bureaus. The existing Intelligence Division is to be renamed the Intelligence Resources Division and have the twin missions of disseminating intelligence data and finished intelligence throughout ACDA and acting as liaison with other policy agencies and the intelligence community. The rationale is to enhance ACDA's intelligence expertise, so as to better serve the Agency in a host of new areas and to lay the foundation for eventual ACDA membership in the intelligence community.

- o The Office of the Chief Science Advisor is to be abolished and Operations Analysis incorporated into IVIS.* Rationale is that this is consistent with the utility of consolidating ACDA policy support services in one bureau.
- o IVIS, as the locus of technical, scientific, and intelligence expertise within ACDA, is to retain the mission (briefly given to the Chief Science Advisor last fall) of coordinator, in conjunction with the intelligence community, of USG-wide research and development on arms control and nonproliferation verification, monitoring technologies and related programs. Rationale is that a large portion of R&D funding, particularly in the nonproliferation area, is on DOD/intelligence community programs.
- o IVIS, to accommodate new and existing missions, is to be reconfigured into five components as follows:
 - Verification Division;
 - Compliance and Implementation Division;
 - Intelligence Research and Analysis;
 - Intelligence Resources;
 - Operations Analysis and Information Management Group.

*The Office of the Chief Science Advisor position is abolished under current House/Senate legislation now under consideration by Congress.

TO: ITOH

FROM: JUKES, J

DOC DATE: 11 AUG 93
SOURCE REF: I-1054

KEYWORDS: DOD PRODUCTION
AVIATION

SCIENTIFIC
LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: DOD PROPOSED RPT RE HR-1260 / NATL AERONAUTICAL RESEARCH &
COMPETITIVENESS ACT OF 1993

ACTION: PREPARE MEMO ITOH TO JUKES

DUE DATE: 20 AUG 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
CLAUSSEN
FROMAN
JONES
ROSNER

FOR INFO
GROSS
ITOH
KENNEY

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSKT }

CLOSED BY:

DOC 1 OF 1

6044

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

August 11, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1054

TO: Legislative Liaison Officer -

**COMMERCE - Michael A. Levitt - (202)482-3086 - 324
ENERGY - Bob Rabben - (202)586-6718 - 209
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
NSC - William H. Itoh - (202)395-3723 - 249
CEA - Francine Obermiller - (202)395-5036 - 242
GSA - William R. Ratchford - (202)501-0563 - 237 (Sec. 5)
NASA - Jeff Lawrence - (202)358-1948 - 219
NEC - Sonia Mathews - (202)456-6722 - 429
OSTP - Susanne Bachtel - (202)456-7116 - 288**

**FROM: JAMES J. JUKES (for) *Ji-*
Assistant Director for Legislative Reference
Bonaparte Liu (395-3490)
OMB CONTACT: Jeffrey WEINBERG (395-3457)
Secretary's line (for simple responses): 395-3454**

**SUBJECT: DEFENSE Proposed Report RE: HR 1260, National
Aeronautical Research and Competitiveness Act
of 1993.**

DEADLINE: NOON August 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:

**Howard Paster
Greg Simon
Kathy Peroff
Jack Fellows
Steve Isakowitz
Bruce Campbell
Steve Dotson
Greg Henry
Bill Mc Quaid (sec. 5)**

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

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



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D.C. 20301-1600

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

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Defense on H.R. 1260, 103rd Congress, a bill "To provide for the establishment of a joint aeronautical research and development program between the National Aeronautics and Space Administration and the Department of Defense, and for other purposes."

The Department of Defense is very concerned about the proposed legislation. The intent and ultimate effect of the legislation is not clear. It potentially could weaken significantly Department of Defense involvement in aeronautics technology development, to the detriment of both national defense and economic competitiveness.

H.R. 1260 would require the Administrator of the National Aeronautics and Space Administration and the Secretary of Defense to develop a five-year plan for a joint aeronautical research and development program. The objectives of the plan include enhancing public and private aeronautical technology development; providing the opportunity for private defense contractors to be involved in transition activities to the civilian sector; and the transfer of Federal Government-developed technologies to the private sector. H.R. 1260 also would establish an Aeronautical Research and Advisory Committee, with a majority of industry representatives, to provide advice and recommendations regarding the five-year plan.

The scope and intent of the joint research and development program contemplated by H.R. 1260 are not clear. Section 3(a) requires a joint program on dual-use aeronautical technologies that includes virtually all areas of defense interest; Section 4(a) requires a five-year plan setting forth the research and development necessary to advance aeronautical technologies, presumably including technologies for both military and civilian needs; Section 4(c) requires a five-year schedule for the decrease of Federal contribution to the plan; and Section 2 suggests that the Department's contributions could be phased out over the five-year period. A possible interpretation of these

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OCT 10 1993
RECEIVED

provisions is that the plan required by Section 4(a) and the joint program required by section 3(a) are to encompass all aeronautical technology development efforts that are not uniquely military in nature, and that Department of Defense involvement in these efforts could be phased out over five years.

If the foregoing interpretation correctly reflects the intent of H.R. 1260, then the Department of Defense would oppose its enactment. The Department maintains an aggressive aeronautical technology program aimed at high-payoff military goals, and the majority of these efforts are dual-use in nature. Substantially reducing these efforts would be inconsistent with defense needs, and could also result in a significant decrease in the rate of aeronautical technology advancement for both military and civil uses. The military has traditionally led the pace of aeronautical technology development, and this technology has been applied to civil applications; for example, every large civilian aircraft gas-turbine engine has its origins in a military engine and/or in military technology programs. The continuing need for superior air power will continue to provide impetus aeronautical technology development.

If the interpretation stated earlier is not correct, then H.R. 1260 should be modified to define its scope and intent more precisely. In particular, the intended impact of H.R. 1260 on the current and planned programs of the Department of Defense and the National Aeronautics and Space Administration, which are well coordinated and complimentary, should be made clear.

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,

TO: PETERSON, R

FROM: ITOH

DOC DATE: 11 AUG 93
SOURCE REF:

KEYWORDS: MARITIME
LEGAL ISSUES
NAVY SHIPBUILDING

INTL TRADE
LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: JUSTICE PROPOSED RPT ORE HR-1402 SHIPBULDERS REFORM ACT

ACTION: KENNEY SGD MEMO

DUE DATE: 09 AUG 93 STATUS: C

STAFF OFFICER: HAHN

LOGREF: 9304726

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: NSWFA

CLOSED BY: NSASK

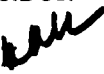
DOC 3 OF 3

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 11, 1993

MEMORANDUM FOR RONALD K. PETERSON

FROM:

WILLIAM H. ITO 

SUBJECT:

Justice Proposed Report RE: HR 1402, Shipbuilders
Trade Reform Act of 1993

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

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 9, 1993

SIGNED

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: KEITH HAHN *KH*

SUBJECT: Justice Proposed Report RE: HR 1402, Shipbuilders
Trade Reform Act of 1993

At Tab II Justice provides its response to provisions of HR 1402 that would require that "all information presented to or obtained by the Secretary during the course of the administrative proceedings, including all governmental memoranda pertaining to the case" be available to the public. Justice is opposed to this legislation primarily because it encroaches on the President's constitutional authority to protect the confidentiality of Executive Branch deliberations. In addition, Justice is concerned that the legislation would also interfere with the President's exercise of his authority to conduct diplomatic negotiations.

Concurrences by: Steve Jones, Alan Kreczko, Mike Froman and
Jeremy Rosner *AK* *MF*

RECOMMENDATION

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

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

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

5884
SPECIAL

August 4, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1022

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3086 - 324
STATE - Julie C. Norton - (202)647-2137 - 225
TREASURY - Richard S. Carro - (202)622-1146 - 228
NSC - William H. Itoh - (202)395-3723 - 249
NEC - Sonia Mathews - (202)456-6722 - 429
LABOR - Robert A. Shapiro - (202)219-8201 - 330
CEA - Francine Obermiller - (202)395-5036 - 242
USTR - Fred Montgomery - (202)395-3475 - 223
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325

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

OMB CONTACT: Annette ROONEY (395-7300)
Secretary's line (for simple responses): 395-6194

SUBJECT: JUSTICE Proposed Report RE: HR 1402,
Shipbuilders Trade Reform Act of 1993

DEADLINE: August 18, 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:
L. Witt
L. Fernandez
H. Paster

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: Annette ROONEY
 Office of Management and Budget
 Fax Number: (202) 395-5691
 Analyst/Attorney's Direct Number: (202) 395-7300
 Branch-Wide Line (to reach secretary): (202) 395-6194

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

SUBJECT: JUSTICE Proposed Report RE: HR 1402,
 Shipbuilders Trade Reform Act of 1993

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



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This presents the views of the Department of Justice on H.R. 1402, the "Shipbuilders Trade Reform Act of 1993." We have a constitutional concern with respect to one of the bill's provisions.

Section 203(g)(4) of the bill would require that the record for judicial review of the Secretary of Commerce's determination to place or retain a country on a list of countries subject to sanctions for subsidizing shipbuilders include "all information presented to or obtained by the Secretary during the course of the administrative proceeding, including all governmental memoranda pertaining to the case"

This provision could require public disclosure of internal Executive Branch deliberations. The provision could place on the public record, for example, even the most preliminary analyses and recommendations concerning a country's practices prepared for the Secretary by staff within his department, or advisory materials provided by the Department of State or other Executive departments or agencies to aid the Secretary in his deliberations concerning a country's compliance with the standards the bill would impose.

Mandatory disclosure of such matters could chill innovation and the candid exchange of ideas within the Executive Branch with respect to the matters addressed by the bill. The requirement raises substantial constitutional concerns because it would encroach on the President's constitutional authority to protect the confidentiality of Executive Branch deliberations. A unanimous Supreme Court recognized that authority in United States v. Nixon, 418 U.S. 683 (1974). The Court found that the deliberative process privilege is "fundamental to the operation of Government and inextricably rooted in the separation of powers

under the Constitution." Id. at 708. The Court explained that "[a] President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately." Id.

The provision also could require disclosure of information concerning diplomatic negotiations that address foreign nations' shipbuilding subsidies and that, thus, might obviate the need to place or retain one or more nations on the Secretary's list. Such information might be disclosed to the Secretary and, if so, could become subject to disclosure outside the Executive Branch. Such public disclosure could interfere with the President's exercise of his authority to conduct diplomatic negotiations. That function is committed to the President by the Constitution. As the Supreme Court has recognized, the President has the authority to determine what information about such negotiations may be disclosed in the public interest, and when such disclosure should occur. See United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 320 (1936); cf. The Federalist No. 64 392-93 (J. Jay) (C. Rossiter ed. 1961).

We recommend that section 203(g)(4) be revised so as not to require that deliberative materials or materials concerning diplomatic negotiations be included in the record for judicial review.

We look forward to continuing to work with you on this legislation. Please call on us if we may be of further assistance.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Sheila F. Anthony
Assistant Attorney General

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

August 9, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL *RB*

FROM:

KEITH HAHN *KH*

SUBJECT: Justice Proposed Report RE: HR 1402, Shipbuilders
Trade Reform Act of 1993

At Tab II Justice provides its response to provisions of HR 1402 that would require that "all information presented to or obtained by the Secretary during the course of the administrative proceedings, including all governmental memoranda pertaining to the case" be available to the public. Justice is opposed to this legislation primarily because it encroaches on the President's constitutional authority to protect the confidentiality of Executive Branch deliberations. In addition, Justice is concerned that the legislation would also interfere with the President's exercise of his authority to conduct diplomatic negotiations.

Concurrences by:

7
Steve Jones, Alan Kreczko, Mike Froman and
Jeremy Rosner *AK* *MS-*

RECOMMENDATION

That you sign the memorandum at Tab I concurring in the proposed Justice 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: Justice Proposed Report RE: HR 1402, Shipbuilders
Trade Reform Act of 1993

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

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

5884
SPECIAL

August 4, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1022

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3086 - 324
STATE - Julie C. Norton - (202)647-2137 - 225
TREASURY - Richard S. Carro - (202)622-1146 - 228
NSC - William H. Itoh - (202)395-3723 - 249
NEC - Sonia Mathews - (202)456-6722 - 429
LABOR - Robert A. Shapiro - (202)219-8201 - 330
CEA - Francine Obermiller - (202)395-5036 - 242
USTR - Fred Montgomery - (202)395-3475 - 223
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325

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

OMB CONTACT: Annette ROONEY (395-7300)
Secretary's line (for simple responses): 395-6194

SUBJECT: JUSTICE Proposed Report RE: HR 1402,
Shipbuilders Trade Reform Act of 1993

DEADLINE: August 18, 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:
L. Witt
L. Fernandez
H. Paster



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This presents the views of the Department of Justice on H.R. 1402, the "Shipbuilders Trade Reform Act of 1993." We have a constitutional concern with respect to one of the bill's provisions.

Section 203(g)(4) of the bill would require that the record for judicial review of the Secretary of Commerce's determination to place or retain a country on a list of countries subject to sanctions for subsidizing shipbuilders include "all information presented to or obtained by the Secretary during the course of the administrative proceeding, including all governmental memoranda pertaining to the case"

This provision could require public disclosure of internal Executive Branch deliberations. The provision could place on the public record, for example, even the most preliminary analyses and recommendations concerning a country's practices prepared for the Secretary by staff within his department, or advisory materials provided by the Department of State or other Executive departments or agencies to aid the Secretary in his deliberations concerning a country's compliance with the standards the bill would impose.

Mandatory disclosure of such matters could chill innovation and the candid exchange of ideas within the Executive Branch with respect to the matters addressed by the bill. The requirement raises substantial constitutional concerns because it would encroach on the President's constitutional authority to protect the confidentiality of Executive Branch deliberations. A unanimous Supreme Court recognized that authority in United States v. Nixon, 418 U.S. 683 (1974). The Court found that the deliberative process privilege is "fundamental to the operation of Government and inextricably rooted in the separation of powers

under the Constitution." Id. at 708. The Court explained that "[a] President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately." Id.

The provision also could require disclosure of information concerning diplomatic negotiations that address foreign nations' shipbuilding subsidies and that, thus, might obviate the need to place or retain one or more nations on the Secretary's list. Such information might be disclosed to the Secretary and, if so, could become subject to disclosure outside the Executive Branch. Such public disclosure could interfere with the President's exercise of his authority to conduct diplomatic negotiations. That function is committed to the President by the Constitution. As the Supreme Court has recognized, the President has the authority to determine what information about such negotiations may be disclosed in the public interest, and when such disclosure should occur. See United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 320 (1936); cf. The Federalist No. 64 392-93 (J. Jay) (C. Rossiter ed. 1961).

We recommend that section 203(g)(4) be revised so as not to require that deliberative materials or materials concerning diplomatic negotiations be included in the record for judicial review.

We look forward to continuing to work with you on this legislation. Please call on us if we may be of further assistance.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Sheila F. Anthony
Assistant Attorney General