

FOIA MARKER

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Folder Title:

Chron File - October 1993 #1 [5]

Staff Office-Individual:

Defense Policy-Bell, Robert

Original OA/ID Number:

47

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31	3	2	3	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	For Anthony Lake from Robert Bell. Subject: Trip Report: ABM Treaty Review Conference. Record ID: 9307654. (4 pages)	10/05/1993	P1/b(1)
002. memo	Duplicate of 001. (4 pages)	10/05/1993	P1/b(1)
003. memo	Duplicate of 001. (4 pages)	10/05/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 47

FOLDER TITLE:

Chron File - October 1993 #1 [5]

2016-0152-F

vz4482

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.

UNCLASSIFIED WITH
~~SECRET ATTACHMENT~~

~~SECRET~~

7618

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

October 5, 1993

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL *RGB*

FROM: STEVEN P. ANDREASEN *SPA*

SUBJECT: Chinese Nuclear Test

As per your request, a memorandum to the President regarding the Chinese nuclear test.

RECOMMENDATION

That you sign the attached memorandum to the President at Tab I.

Approve _____ Disapprove _____

Attachment

Tab I Memorandum to the President

Tab A Statement by the Press Secretary

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~~SECRET ATTACHMENT~~

~~SECRET~~

~~SECRET~~

~~SECRET~~

7618

THE WHITE HOUSE
WASHINGTON

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
SUBJECT: Chinese Nuclear Test

The Peoples Republic of China conducted an underground nuclear test at approximately 2200 EST last night at their Lop Nur test site in northwest China. The estimated yield of the test is 105 kilotons, with a range between 52-210 kilotons.

The White House released a statement to the press this morning at 0900 EST (Tab A). As you directed, the statement protects your flexibility on this issue and does not lock us into testing. We briefed the British embassy on the policy statement in advance of its release this morning and will shortly send a guidance cable to all diplomatic posts.

Attachment

Tab A Statement by the Press Secretary

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By N NARA, Date 10/3/2006

7016-052 T

~~SECRET~~

Declassify on: OADR

~~SECRET~~

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

October 5, 1993

STATEMENT BY THE PRESS SECRETARY

Last night, China conducted an underground nuclear test at the Lop Nur test site in northwest China, despite the urging of more than 20 nations, including the United States, not to do so.

The United States deeply regrets this action. We urge China to refrain from further nuclear tests and to join the other nuclear powers in a global moratorium. Such a moratorium will contribute to the achievement of the Administration's goal of completing a Comprehensive Test Ban by 1996, to which the Administration is committed.

The President has today directed the Department of Energy to take such actions as are needed to put the U.S. in a position to be able to conduct nuclear tests next year, provided the notification and review conditions of the Hatfield-Exon-Mitchell amendment are met in the spring of 1994.

The President's ultimate decision on whether to test will be based on fundamental U.S. national security interests, taking into account:

- The contribution further tests would make to improving the safety and reliability of the U.S. arsenal in preparation for a Comprehensive Test Ban Treaty (CTB).
- The extent to which China and others have responded to the U.S. appeal for a global moratorium on testing.
- Progress in the CTB negotiations.
- The implications of further U.S. nuclear tests on our broader non-proliferation objectives.

Administration officials will begin consultations at once with Congress and our allies on these issues.

#

Background Information

U.S. Response to China's Nuclear Test

Today, China conducted an underground nuclear test at the Lop Nur test site in northwest China. More than 20 nations, including the United States, had urged them not to do so, in order not to undermine our non-proliferation efforts.

The President has therefore directed the following in response to today's Chinese test:

- The Department of Energy will take such actions as are necessary to put the United States in a position to be able to conduct nuclear tests next year provided the notification and review conditions of the Hatfield-Exon-Mitchell Amendment are met in the Spring of 1994.
- The President's ultimate decision to test or not test will be based on U.S. fundamental national security interests and will take into account (1) the contribution further tests would make in improving the safety and reliability of the U.S. arsenal in preparation for a CTB, (2) the extent to which China and others have responded to the U.S. appeal for a global moratorium, (3) progress in the CTB negotiations and (4) the implications of further U.S. nuclear tests on our broader nonproliferation objectives.
- Administration officials will begin consultations at once with Congress and our allies on these issues.

The Clinton Administration remains committed to the goal of completing a Comprehensive Test Ban by 1996. The United States urges China to refrain from further nuclear tests and to join the other nuclear powers in a global moratorium.

The United States has been engaged since July with many other nations to prepare for multilateral CTB negotiations. The Geneva-based Conference on Disarmament, with the strong support of the United States and the other four nuclear weapon states, decided on August 10 to give its Nuclear Test Ban Ad Hoc Committee a mandate to begin these negotiations in January 1994. We are also working with others on a UN General Assembly resolution on a CTB which we hope will command broad support. We hope and expect that China will help to bring about a CTB and will carry through on the commitment China has made to Secretary of State Christopher to seek to negotiate a CTB by 1996, a goal that we share.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

October 5, 1993

INFORMATION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL *RGB*FROM: STEVEN P. ANDREASEN *SAS*

SUBJECT: Deputy U.S. Representative to the JCIC

We have approved the nomination of Mark S. Ramee of the Department of State to serve as the Deputy U.S. Representative to the U.S. delegation of the Joint Compliance and Inspection Commission (JCIC), established by the START I Treaty, effective immediately. This position does not carry the rank of Ambassador, nor does it require Senate confirmation.

Mark was nominated by ACDA Director Graham for the position, and strongly supported by the Department of State (his last assignment was in Under Secretary Davis's office). Although OSD nominated their own candidate for the position (the previous incumbent had been an OSD employee), they did not object to Mark.

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

October 5, 1993

INFORMATION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL *RGB*FROM: STEVEN P. ANDREASEN *SAS*

SUBJECT: Deputy U.S. Representative to the JCIC

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	For Anthony Lake from Robert Bell. Subject: Trip Report: ABM Treaty Review Conference. Record ID: 9307654. (4 pages)	10/05/1993	P1/b(1)

COLLECTION:

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National Security Council
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Chron File - October 1993 #1 [5]

2016-0152-F
vz4482

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) 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.

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

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**Office of Public Affairs
United States Mission**

Route de Pregny, 11
1292 Chambésy (Geneva)
Switzerland

Tel (22) 749 4359
Fax (22) 749 4314



PRESS RELEASE

DELEGATES PLEDGE TO STRENGTHEN ABM TREATY

Geneva, Switzerland
October 1, 1993

The fourth review of the Treaty on the Limitation of Anti-Ballistic Missile (ABM) Systems was conducted here from September 27 to October 1, 1993. Under the terms of the ABM Treaty, concluded between the United States and the Union of Soviet Socialist Republics on May 26, 1972, a review of the Treaty must be conducted every five years.

At the conclusion of the Review, the following Joint Communique was released:

"The Fourth Review of the Treaty on the Limitation of Anti-Ballistic Missile Systems was conducted in Geneva, Switzerland, from September 27 to October 1, 1993. The delegations that were present at the review, representing the Republic of Belarus, the Russian Federation, Ukraine, and the United States of America, exchanged views on the operation of the Treaty, on rights and obligations under the Treaty, and on the question of state succession. Commitment to the ABM Treaty was reaffirmed and it was agreed that maintaining the viability of the Treaty in view of political and technological changes remains important. The delegations at the Review advocated continued efforts to strengthen the ABM Treaty."

The issue of which state or states will succeed the Soviet Union for purposes of the ABM Treaty has yet to be agreed, and in the view of the United States, attendance at the Review did not prejudice the eventual outcome of the issue of state succession. Nevertheless, the expressions of support for the Treaty make an important statement concerning the continuing importance of the Treaty, and the United States expresses its appreciation to the states represented at the review for their cooperation and constructive work.

Withdrawal/Redaction Marker

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002. memo	Duplicate of 001. (4 pages)	10/05/1993	P1/b(1)

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UNCLASSIFIED
FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO

FAX

PHONE

Brian Moran 224-6435
Office of Senator Dangers

NUMBER OF PAGES INCLUDING COVER SHEET 3

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INSTRUCTIONS: _____

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO

FAX

PHONE

J. J. Gertler 224-8689
(Sen Robb's Office)

NUMBER OF PAGES INCLUDING COVER SHEET _____

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INSTRUCTIONS: _____

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell
PHONE: (202) 395-3330
FAX: 395-1185

TO	FAX	PHONE
<u>Doug Narell (Sen Dargatzis)</u>	<u>224-1193</u>	<u>224-1186</u>
_____	_____	_____
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_____	_____	_____

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Robert Ball
PHONE: (202) 395-3530
FAX: 395-1185

TO	FAX	PHONE
<u>Jean-Pierre Cehan</u>	<u>944-6164</u>	

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ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO.	8489
CONNECTION TEL	92245213
CONNECTION ID	Canon G3
START TIME	10/05 13:45
USAGE TIME	01'39
PAGES	3/003

PHOTOCOPY PRESERVATION

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Robert Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
<u>Senator Exon</u>	<u>224-5213</u>	

NUMBER OF PAGES INCLUDING COVER SHEET 3

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ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO.	8497
CONNECTION TEL	92241867
CONNECTION ID	G3
START TIME	10/05 14:29
USAGE TIME	01'37
PAGES	3/003

PHOTOCOPY PRESERVATION

UNCLASSIFIED
FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO Senator Richard Bryan FAX 224-1867 PHONE _____

NUMBER OF PAGES INCLUDING COVER SHEET 3

SPECIAL INSTRUCTIONS: _____

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10/05/93 14:33 ☎223951185

001

ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO.	8496
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CONNECTION ID	SENATOR LEVIN
START TIME	10/05 14:32
USAGE TIME	01'27
PAGES	3/003

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO

FAX

PHONE

David Lewis

224-1388

Office of Senator Levin

NUMBER OF PAGES INCLUDING COVER SHEET 3

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07/05/93 13:50 223951185

001

ACTIVITY REPORT

TRANSMISSION OK

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CONNECTION ID	G3
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USAGE TIME	01'38
PAGES	3/003

PHOTOCOPY PRESERVATION

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
<u>SENATOR Reid</u>	<u>224-7327</u>	

NUMBER OF PAGES INCLUDING COVER SHEET 3

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05/93 13:59 223951185

001

ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO.	8487
CONNECTION TEL	92242693
CONNECTION ID	G3
START TIME	10/05 13:59
USAGE TIME	00'19
PAGES	1/001

10/03 13:53 ☎223951185

001

ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO.	8488
CONNECTION TEL	92242693
CONNECTION ID	G3
START TIME	10/05 13:51
USAGE TIME	02'00
PAGES	3/003

UNCLASSIFIED
FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Robert Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
<u>Jim Bodner</u>	<u>224-2693</u>	
<u>Office of Senator Cohen</u>		

NUMBER OF PAGES INCLUDING COVER SHEET 3

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10/05/93 13:56 223951185

001

ACTIVITY REPORT

TRANSMISSION OK

TX/RX NO.	8492
CONNECTION TEL	92251143
CONNECTION ID	G3
START TIME	10/05 13:54
USAGE TIME	01'37
PAGES	3/003

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THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
<u>Congressman Kyl</u>	<u>225-1143</u>	

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ACTIVITY REPORT

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PHOTOCOPY PRESERVATION

UNCLASSIFIED
FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
<u>Senator Hatfield</u>	<u>224-0276</u>	

NUMBER OF PAGES INCLUDING COVER SHEET 3

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TRANSMISSION REPORT

TRANSMISSION OF

EX. BY NO. 550

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START TIME 10:05:45:00

USAGE TIME 02:00

TABLES 17000

UNCLASS FIED
FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Bob Bell

PHONE: (202) 395-3330

FAX: 395-1185

TO	FAX	PHONE
<u>Congressman John Spratt</u>	<u>225-0464</u>	

NUMBER OF PAGES INCLUDING COVER SHEET 3

SPECIAL INSTRUCTIONS: _____

UNCLASSIFIED

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

October 5, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*FROM: PETER FEAVER *PDP*SUBJECT: Defense Revised Draft Bill: Promotion of
Confirmed Officers on the Promotion List

At Tab II Defense proposes an amendment to Title 10, U.S. Code, modifying current promotion practices. The proposed amendment is a revised version of an earlier proposal and would cover officers whose names were on the promotion list but whose promotions were held up pending the investigation of adverse information. The amendment would authorize the Secretary of Defense to restore the rank and effective date for pay of those officers, once confirmed, to what it would be if there had been no delay. The new version incorporates changes the NSC staff recommended earlier. The NSC staff concurs with the draft bill as revised. Staff concurrence was confirmed before the deadline by telecon; this memorandum serves as a record.

Concurrence by: *In Draft*
Jeremy RosnerRECOMMENDATION

That you sign and forward the memorandum at Tab I.

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 Revised Draft Bill: Promotion of
Confirmed Officers on the Promotion List

The National Security Council staff concurs with the proposed bill.

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

7604

URGENT

October 4, 1993

LEGISLATIVE REFERRAL MEMORANDUM**LRM #D-420
DRAFT #340****TO: Legislative Liaison Officer -**

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

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

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

SUBJECT: DEFENSE REVISED Draft Bill
Promotion of Confirmed Officers on the
Promotion List

DEADLINE: 2:00PM October 5, 1993

COMMENTS: Please note that this is a revised version of a draft bill that was circulated on Sept. 8th. DOD asked for the quick turn around because it would like to get this included in the Defense Authorization bill conference report. Therefore, if we have not heard from you by the deadline, we will assume you have no comment on this revised draft.

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 Lewis
Chris Bertram
Howard Paster
Janet Forsgren
Delphine Motley

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)

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

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

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

Dear Mr. Speaker:

Enclosed is a draft of proposed legislation "To authorize the promotion of confirmed officers on a promotion list, when the Senate has not given its advice and consent to the entire list and for other purposes."

This proposal is part of the Department of Defense Legislative Program for the 103rd 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

On occasion, problems arise when the Department of Defense submits promotion lists to the Senate for its advice and consent, as required for most promotions of officers on the active duty list by section 624(c) of title 10, United States Code. From time to time, the Senate will give its advice and consent to a promotion list, except for one or more officers on it who, in the Senate's opinion, require further inquiry into matters affecting fitness for promotions. Since, under section 624(a)(2), promotions are to be made in the order in which they appear on the promotion list and after officers previously selected for

promotion in that competitive category have been promoted, an argument can be made that no confirmed officer on such a list who is junior to a nonconfirmed officer may himself be promoted until the Senate either confirms the senior officer or finally does not give its advice and consent (which, under section 629(b), removes the officer's name from the list). Proposed section 624(e)(1), as contained in section 1(b) of the bill, would remove any statutory impediment to the promotion of such junior officers and thereby facilitate their orderly promotion in accordance with the needs of the service.

Proposed section 624(e)(2), as contained in section (1)(b), would grant the service secretaries the same power to make an officer whole in the cases of delayed Senate confirmation outlined above as they presently possess in cases of formal promotion delay. Under proposed section 624(e)(2), the Secretary concerned could, upon the officer's confirmation, adjust his date of rank, effective date for pay and allowances in the higher grade, and position on the active duty list to be what they would have been had he been confirmed with the other officers on the list, or grant intermediate relief if the Secretary deems it appropriate. This authority would be used in cases where (1) the allegations which gave rise to the original delay in confirmation have been found to be groundless; and (2) the officer would suffer an injustice if such an adjustment was not made. The service secretaries already possess such powers, acting through boards for the correction of military records under section 1552 of title 10.

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TO SCHREIBER

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However, in cases such as this it is inappropriate to place the burden on the service member to petition the board. The Secretary should have the authority to provide relief and correct the injustice on his initiative. Proposed section 624(e)(2) would empower the Secretary concerned to afford the officer meaningful relief, during his tenure in the grade to which promoted, by an expeditious administrative process.

Cost and Budget Data

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

sincerely

Enclosure

1. Draft Bill
2. Sectional Analysis

A BILL

1 To authorize the continued promotion of confirmed officers on a
2 promotion list, when the Senate has not given its advice and
3 consent to the entire list, and for other purposes.

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

6 Sec. 1. (a) Section 624(a)(2) of title 10, United States Code, is
7 amended by striking out "subsection (d)," and inserting in lieu
8 thereof "subsections (d) and (e),".

9 (b) Section 624 of such title is amended by adding at the
10 end the following:

11 "(e)(1) Notwithstanding the provisions of subsection (a)

12 (2), if the Senate --

13 (A) has neither given its advice and consent under
14 subsection (c) to the appointment of one or more officers
15 on a promotion list, nor completed its consideration of
16 those officers under section 629(b) of this title, and

17 (B) has given its advice and consent to the appointment of one
18 or more other officers on the same promotion list,

19 then appointments of officers which have received the Senate's
20 advice and consent may be made in the order in which their names
21 appear on the promotion list.

22 (2) In the event that the Senate later gives its advice and
23 consent to the appointment of an officer described in subparagraph
24 (1)(A) of this section, the Secretary concerned may, upon such
25 appointment, adjust that officer's date of rank, effective date for
26 pay and allowances in the higher grade to which appointed, and

- 1 position on the active-duty list as the Secretary considers
- 2 appropriate under the circumstances."

SECTION-BY-SECTION ANALYSIS OF**A BILL**

"To authorize the continued promotion of confirmed officers on a promotion list, when the Senate has not given its advice and consent to the entire list, and for other purposes."

Section 1(b) of the bill amends section 524 of title 10, United States Code, to authorize the Secretary concerned, in a case where the Senate has given its advice and consent to the promotion of some, but not all officers on a promotion list, to appoint those confirmed officers junior to the nonconfirmed officers on the list in the order and at the time they would otherwise have been appointed. Should the Senate later confirm an additional officer on the same promotion list, the Secretary concerned may, upon his appointment, give him the same date of rank, effective date for pay and allowances in the higher grade, and the same position on the active-duty list he would have had the delay not occurred, or make such other adjustments as the Secretary considers appropriate.

Section 1(a) of the bill makes a conforming amendment.

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

October 5, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RbB*FROM: PETER FEAVER *PDF*SUBJECT: Transportation Statement for the Record RE: HR
2082, NDRF Ship Disposal Act of 1993

Tab I provides a proposed statement for the record, prepared by the Department of Transportation, on Administration policy concerning the disposal of ships in the National Defense Reserve Fleet. The statement outlines how the U.S. government has sold obsolete ships for scrap in previous fiscal years. The statement notes that the proceeds have been used to improve other ships in the Reserve Fleet and otherwise improve merchant marine operations.

Concurrences by: *J* Steven Jones and *JR* Jeremy RosnerRECOMMENDATION

That you sign and forward the memorandum at Tab I.

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: Transportation statement for the Record RE: HR
2082, NDRF Ship Disposal Act of 1993

The National Security Council staff concurs in the proposed statement.

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

October 4, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-1377

TO: Legislative Liaison Officer -

DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
TREASURY - Richard S. Carro - (202)622-1146 - 228
GSA - William R. Ratchford - (202)501-0563 - 237
NSC - William H. Itoh - (202)395-3723 - 249

FROM: JAMES J. JUKES (for) *Ji*
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: TRANSPORTATION Statement for the Record RE:
HR 2082, NDRF Ship Disposal Act of 1993

DEADLINE: 10:00 A.M. TUESDAY October 5, 1993

COMMENTS: If we do not hear from you by the deadline, we will
assume that you have no comment.

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:
Meg DiBari
John McClelland
Bob Damus
Mike Schmidt
Cookie Walden

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

STATEMENT FOR THE RECORD
MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION
BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE
OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE
ON
USE OF PROCEEDS FROM THE SALE OF OBSOLETE VESSELS IN THE
NATIONAL DEFENSE RESERVE FLEET
AND H.R. 2082, THE "NDRF SHIP DISPOSAL ACT OF 1993"

2082

September 29, 1993

Mr. Chairman, thank you for the opportunity to present this statement for the record. We are pleased to offer the Maritime Administration's (MARAD's) view on the use of proceeds from the sale of obsolete vessels in the National Defense Reserve Fleet (NDRF). Since there are currently several bills regarding the use of these proceeds before you, we will confine our comments to the broad policy issues raised. We will also comment on H.R. 2082, the "NDRF Ship Disposal Act of 1993," cosponsored by Subcommittee Chairman Lipinski and Congressman Wyden.

The Merchant Ship Sales Act of 1946 (1946 Act) created a Government-owned and -administered National Defense Reserve Fleet (NDRF) of inactive, but potentially useful, merchant ships at reserve fleet anchorages, which could be activated to meet shipping requirements during national emergencies. Under the provisions of the 1946 Act, MARAD placed in reserve for national defense those ships which, after consultation with the Secretary of the Navy, were retained for national defense purposes.

In 1976, in a Memorandum of Agreement between MARAD and the Department of the Navy, the NDRF was separated into the Ready Reserve Force (RRF) and the non-RRF fleet. The RRF is the surge component of the NDRF, maintained so that ships can be activated within five, ten, or twenty days. The non-RRF ships in the NDRF are primarily older dry cargo ships that could be used for follow-up sustainment of Department of Defense sealift requirements. Use of proceeds received from scrapping the obsolete non-RRF vessels is the subject of the first part of this hearing.

In 1977, Public Law 95-177 gave the Secretary of Commerce (now Transportation) permanent authority to continue to upgrade vessels in the NDRF through the acquisition of suitable vessels, as available, for the purpose of strengthening the fleet by adding more modern ships. This became Section 510(i) of the Merchant Marine Act, 1936, as amended (1936 Act).

Under Section 510(i) of the 1936 Act, proceeds from the scrap sale of obsolete vessels in the NDRF are deposited and retained in the 510(i) subaccount of the Vessel Operating Revolving Fund (VORF). Current law permits these funds to be used for the acquisition of vessels for the NDRF and the expenses of laying up and towing these vessels into the reserve fleet site. In Fiscal Year 1992, \$10.578 million was required for NDRF acquisition,

layup and towing expenses. \$1.414 million has been spent on NDRF layup and towing expenses in FY 1993 to date. There is currently \$3.6 million in the VORF account; all of these funds will be expended in FY 1993.

Obsolete NDRF vessels are now sold competitively on the world market. The current scrap price is about \$70 per ton. Average offers accepted by MARAD for these vessels were \$73 per ton in FY 1991, and \$82 per ton in FY 1992. The scrapping value of vessels in the last two years has been about \$300,000 per ship. This amount varies according to the size of the vessel and world scrapping prices at the time of scrapping. The resulting VORF funds permit the acquisition of larger, faster, more modern ships for the fleet and, potentially, as upgrade candidates for the RRF.

During OPERATIONS DESERT SHIELD and DESERT STORM, RRF ships carried over one-quarter of the sealift dry cargo transported by U.S.-flag ships. Together, all U.S.-flag ships engaged in this crisis carried almost eighty percent of the total dry cargo sealift; about ninety-five percent of the cargo needed to support military operations in the Persian Gulf was provided by sealift. Such adequate and reliable U.S.-flag sealift capacity remains indispensable to national security. The sale of obsolete NDRF vessels is the only means for MARAD to replenish the VORF, and

thus restore and maintain the resources which have served the nation so effectively.

Other specific activities for which the VORF may be used have been spelled out in amendments to appropriations acts and monitored closely by Congressional appropriations committees. For example, the Appropriations Acts for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for Fiscal Years 1992 and 1993 directed MARAD to use proceeds from the sale or disposal of obsolete NDRF ships for facility and training ship maintenance, modernization, and repair; for the acquisition of equipment such as simulators; and for fuel costs at the United States Merchant Marine Academy (USMMA) and the State maritime academies. In FY 1992, \$5 million was used for heating plant renovation and facility repair for the United States Merchant Marine Academy; \$1.8 million was used to purchase training simulators and schoolship fuel oil at the State maritime academies. To date in FY 1993, \$248,000 has been used for heating plant renovation at the USMMA and \$1.0 million has been used for schoolship fuel oil at the State schools. Recently, the Maritime Administrator approved the use of an additional \$1.97 million for state school and USMMA needs in FY 1993. Allotments will be issued shortly. A total of \$6.8 million in the VORF was spent for these purposes in FY 1992. A total of \$1.248 million has been spent in FY 1993 to date.

By virtue of their tonnage scrap value, NDRF ships determined to be obsolete are, therefore, important to keep the program viable and to keep the USMMA and State maritime academies operational. Future plans for the NDRF include possible replacement or expansion of the tanker portion of the fleet. At this time, Department of Defense (DOD) requirements call for an expansion from the current level of 13 to 36 tankers by 1999. When Volume III of DOD's Mobility Requirements Study is completed, a final determination of the future tanker level will be made. If the final decision is only to maintain the current level, MARAD may replace these tankers with more modern ones that will become available when the Oil Pollution Act double-hull requirements take effect. The VORF is MARAD's only resource to accomplish this goal.

If a substantial amount of the expected future revenue from scrap sales is not available, because these assets are disposed of for other purposes, a serious deficiency in the ability to purchase suitable upgrade candidates for the RRF would result. MARAD, therefore, cannot support the use of scrap proceeds for purposes other than those authorized by Section 510(i) of the 1936 Act and recent appropriations acts.

H.R. 2082, the National Defense Reserve Fleet Ship Disposal Act of 1993, would require MARAD to dispose of all NDRF vessels

by January 1, 1999 that are not assigned to the RRF or specifically authorized or required by statute to be used for a particular purpose. H.R. 2082 allows for efficient and advantageous disposal of obsolete vessels. Additionally, it provides the Department of Transportation and Department of Defense with the necessary flexibility to retain ships which are still militarily useful or needed for use by a State or Federal governmental agency. The five-year scrapping plan in H.R. 2082 should permit MARAD to avoid saturation of the scrap market and take advantage of favorable market conditions to obtain the greatest return to the U.S. Government for these assets. MARAD's solicitation policy for ship disposals is to open the bids to U.S. and foreign scrap companies and sell the vessels to the highest bidder. The vessels are sold "as is, where is" at the highest possible price in order to obtain the maximum return to the U.S. Government for use in purchasing more modern, militarily useful vessels.

In recent years, the agency began a more aggressive disposal policy to move out those NDRF vessels no longer deemed militarily useful and which were in the poorest material condition. For example, in FY 1991, nine ships were sold for scrap, while in FY 1992, 18 vessels were sold for scrap. To date, 33 vessels have been sold for scrap in FY 1993. The agency recently issued another solicitation for scrap disposal of 12 vessels on

September 1, 1993. Bids are due by October 15, 1993.

The total number of vessels in the NDRF on September 27, 1993, was 231; 96 of these vessels comprise the RRF and 135 make up the non-RRF portion. An additional 45 cannot be scrapped because they are (1) scheduled to be upgraded to the RRF, (2) militarily useful, (3) being used by State or Federal agencies, (4) the site of an endangered falcon nest, (5) offshore Petroleum Distribution Systems, or (6) part of the artificial fish reef program. Fifteen of these vessels have been sold and are currently awaiting removal by the new owners. At this time, MARAD plans to retain an additional 29 vessels to be used for necessary spare parts and equipment for RRF ships. These spare parts and equipment are no longer available commercially; therefore, these 29 vessels are the agency's only source for RRF spare parts and equipment. The remaining 46 vessels are scheduled to be scrapped. A review of these assets is underway, and as a result, up to 14 additional spare equipment ships will likely be moved to the scrapping category. We believe that we should be able to complete scrapping of these obsolete NDRF vessels within the 5-years provided by H.R. 2082.

MARAD appreciates this opportunity to submit its statement
for the record of the September 29, 1993 hearing.

##

103D CONGRESS
1ST SESSION

H. R. 2082

To direct the Secretary of Transportation to dispose of certain vessels in the National Defense Reserve Fleet.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1993

Mr. WYDEN (for himself and Mr. LIPINSKI) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To direct the Secretary of Transportation to dispose of certain vessels in the National Defense Reserve Fleet.

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 "NDRF Ship Disposal
5 Act of 1993".

6 **SEC. 2. DISPOSAL OF NATIONAL DEFENSE RESERVE FLEET**
7 **VESSELS.**

8 (a) **DISPOSAL REQUIREMENT.—**

9 (1) **IN GENERAL.**—Notwithstanding any other
10 provision of law (other than paragraph (3)) and be-

1 fore January 1, 1999, the Secretary of Transpor-
2 tation shall dispose of all vessels that are in the Na-
3 tional Defense Reserve Fleet on the date of the en-
4 actment of this Act and that—

5 (A) are not assigned to the Ready Reserve
6 Force component of that fleet; and

7 (B) are not specifically authorized or re-
8 quired by statute to be used for a particular
9 purpose.

10 (2) NOTIFICATION OF SECRETARY OF THE
11 NAVY.—The Secretary shall notify the Secretary of
12 the Navy of the intent of the Secretary to dispose
13 of a vessel under this section, by not later than 90
14 days before the date of that disposal.

15 (3) LIMITATIONS ON DISPOSAL REQUIRE-
16 MENT.—

17 (A) RETENTION FOR NATIONAL DEFENSE
18 PURPOSES.—The Secretary shall not dispose of
19 a vessel under this section if the Secretary of
20 the Navy certifies to the Secretary within 30
21 days after receiving notification of the intent of
22 the Secretary to dispose of the vessel, that—

23 (i) the vessel is militarily useful, and

(ii) retention of the vessel in the National Defense Reserve Fleet is necessary for national defense purposes.

(B) USE BY STATE OR FEDERAL AGENCY.—The Secretary is authorized to not dispose of a vessel otherwise required to be disposed of under this section if the Secretary certifies to the Congress that the vessel is needed for use by a State or Federal governmental agency.

(C) RECERTIFICATION REQUIRED AFTER ONE YEAR.—Notwithstanding subparagraphs (A) and (B), the Secretary—

(i) may dispose of a vessel after the one-year period beginning on the date on which the Secretary of the Navy makes a certification described in subparagraph (A) with respect to the vessel, unless the Secretary of the Navy makes a subsequent certification under that subparagraph with respect to the vessel; and

(ii) shall dispose of a vessel after the one-year period beginning on the date the Secretary makes a certification described in subparagraph (B) with respect to the

1 vessel, unless the Secretary makes a subse-
 2 quent certification under that subpara-
 3 graph with respect to the vessel.

4 (D) ENDANGERED SPECIES ACT.—This
 5 section shall not be construed as superseding,
 6 or authorizing any activity prohibited by, the
 7 Endangered Species Act of 1973 (16 U.S.C.
 8 1531 et seq.).

9 (4) METHOD OF DISPOSAL.—Except as pro-
 10 vided in subsection (c), the Secretary shall dispose
 11 of vessels pursuant to this section—

12 (A) in accordance with section 508 or
 13 510(i) of the Merchant Marine Act, 1936 (46
 14 App. U.S.C. 1158, 1160(i)); and

15 (B) in the case of vessels disposed of after
 16 3 months after the effective date of this section,
 17 in accordance with the plan submitted by the
 18 Secretary under subsection (b).

19 (b) VESSEL DISPOSAL PLAN.—

20 (1) IN GENERAL.—The Secretary shall submit
 21 to the Congress a plan for disposing of vessels pur-
 22 suant to this section, by not later than 3 months
 23 after the effective date of this section.

24 (2) CONTENTS.—The plan submitted under this
 25 subsection shall include—

(A) procedures to be followed in disposing of vessels, including procedures for notifying the Secretary of the Navy pursuant to subsection (a)(2);

(B) standards developed by the Secretary for—

(i) identifying vessels to be disposed of,

(ii) establishing the priority for disposing of each vessel so identified, and

(iii) making certifications under subsection (a)(3)(B);

(C) standards developed by the Secretary of the Navy for making certifications under subsection (a)(3)(A); and

(D) a preliminary schedule for vessel disposals which indicates the number of vessels, or percentage of the total number of vessels required to be disposed of, that will be disposed of each year.

(c) USE OF VESSELS FOR ARTIFICIAL REEF PROGRAM.—

(1) IDENTIFICATION AND APPLICATION BY STATE.—The Secretary may select not more than 15 of the vessels required to be disposed of under this

1 section, for which any State may apply for use as an
2 offshore artificial reef in accordance with the Act en-
3 titled "An Act to authorize appropriations for fiscal
4 year 1973 for certain programs of the Department
5 of Commerce and for other purposes", approved Au-
6 gust 22, 1972 (16 U.S.C. 1220 et seq.).

7 (2) REQUIREMENT TO TRANSFER.—The Sec-
8 retary shall transfer, in accordance with the Act re-
9 ferred to in paragraph (1), a vessel identified under
10 paragraph (1) to a State which fulfills the require-
11 ments for that transfer under that Act.

12 (d) DEFINITIONS.—For purposes of this section:

13 (1) NATIONAL DEFENSE RESERVE FLEET.—
14 The term "National Defense Reserve Fleet" means
15 that fleet maintained under section 11 of the Mer-
16 chant Ship Sales Act of 1946 (50 App. U.S.C.
17 1744).

18 (2) SECRETARY.—The term "Secretary" means
19 the Secretary of Transportation.

20 (e) EFFECTIVE DATE.—This section shall take effect
21 on January 1, 1994.

○