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APPROVED  
NOV 29 1975

Signed  
11/29

THE WHITE HOUSE  
WASHINGTON  
November 28, 1975

ACTION  
Last Day: December 1

Postal  
11/29  
to Archives  
12/1

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: Enrolled Bill S. 1517 - Foreign Relations Authorization Act, Fiscal Year 1976

Attached for your consideration is S. 1517, sponsored by Senator Sparkman, which:

- Authorizes fiscal year 1976 appropriations of \$818,176,000 for the State Department;
- Authorizes fiscal years 1976 and 1977 appropriations totalling \$94,685,000 for the Foreign Service Buildings Program;
- Authorizes appropriations for the Arms Control and Disarmament Agency of \$23,440,000 in fiscal years 1976 and 1977;
- Amends the Arms Control and Disarmament Agency's basic authorizing legislation to require, among other things, the submission of arms control impact analyses to the Congress in certain circumstances; and
- Contains a number of other provisions which are discussed in the enrolled bill report.

The requirement for arms control impact statements has led to a disagreement among your advisers as to whether the bill should be signed.



- Defense, ERDA and NSC staff feel strongly that such impact statements would be a major handicap for U.S. weapons development efforts and could lead to disclosure of sensitive information.
  
- State, ACDA, and OMB recognize the problems that can be caused by the impact statements but recommend that the bill be signed because the reaction to a veto in the Congress would be very strong and negative, would likely be overridden or worse language would be adopted, perhaps in an even more important piece of legislation.

This issue is discussed in detail in the attached enrolled bill report and NSC's memorandum at Tab A.

OMB, Max Friedersdorf, and Counsel's Office (Chapman) recommend approval of the bill. NSC recommends that you veto the bill.

Decision - S. 1517

Sign MEY (Tab C)

Veto and issue the attached message which has been \_\_\_\_\_ (Tab B)  
cleared by Paul Theis







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

NOV 26 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1517 - Foreign Relations  
Authorization Act, Fiscal Year 1976  
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

December 1, 1975 - Monday

Purpose

Authorizes fiscal year 1976 appropriations of \$818,176,000 for the State Department; authorizes fiscal years 1976 and 1977 appropriations totalling \$94,685,000 for the Foreign Service Buildings Program; authorizes appropriations for the Arms Control and Disarmament Agency of \$23,440,000 in fiscal years 1976 and 1977 and amends the Agency's basic authorizing legislation to require, among other things, the submission of arms control impact analyses to the Congress in certain circumstances; and contains a number of other provisions discussed below.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval
Arms Control and Disarmament Agency	Approval
United States Information Agency	Approval
Department of Agriculture	No objection
Agency for International Development	No objection
Department of Defense	Disapproval (veto message attached)
Energy Research and Development Administration	Disapproval (veto message attached)
National Security Council	Disapproval (informally)
Department of Justice	Defers to other agencies
Civil Service Commission	Defers to other agencies
Central Intelligence Agency	Defers to other agencies



DiscussionState Department

The enrolled bill authorizes fiscal 1976 appropriations totalling \$818,176,000 for the State Department, approximately \$33 million less than the Administration's request (changes are discussed in greater detail below). As requested, the bill also authorizes appropriations of "such additional amounts as may be necessary" for pay raises, increases in other personnel benefits, and other non-discretionary costs.

Significant reductions include:

- approximately \$20 million for the U.S. contribution to the International Commission of Control and Supervision in Vietnam which no longer functions;
- approximately \$25 million for U.S. contributions to the United Nations Educational, Scientific and Cultural Organization (UNESCO), which are prohibited under existing law until the President certifies to Congress that UNESCO has taken satisfactory steps to reverse recent actions of a political character taken against Israel; and
- approximately \$10 million for educational exchange activities, primarily with Japan, which amount was authorized for appropriation in P.L. 94-118, the "Japan-United States Friendship Act," enacted on October 20, 1975.

Significant increases include an unrequested amount of \$20 million for the resettlement of Soviet refugees, with no more than 20 percent of such amount to be used to resettle refugees in any country other than Israel.

The enrolled bill also authorizes a new \$25 million United States Emergency Refugee and Migration Assistance Fund to enable the President to meet unexpected, urgent refugee and migration needs. Under existing law, the President is authorized to transfer up to \$10 million of foreign aid funds to meet emergency needs for migration and refugee assistance. The Administration had



proposed to increase the President's transfer authority to \$25 million to meet the growing number of worldwide refugee situations. The approach embodied in S. 1517 will tend to add to budget totals and to reduce the President's flexibility because of the time and effort required to obtain appropriations to establish and replenish the Fund.

S. 1517 also contains a number of other provisions relating to the State Department which would:

- direct the President to insist that the U.N. take all necessary and appropriate steps to obtain an accounting of U.S. military and civilian personnel missing in Southeast Asia and to report to the Congress within six months on actions taken by the U.N. to obtain such an accounting;
- prohibit use of appropriations for the development or implementation of a U.S. Passport Office proposal to issue machine readable passport books - \$100,000 is authorized, however, for a study of such a proposal which must be submitted to the Congress;
- authorize a fiscal year 1977 appropriation of \$10 million for a U.S. contribution toward the establishment of a United Nations University;
- increase by \$1.5 million, as requested, the ceiling authorized for the Rio Grande canalization project which is under the jurisdiction of the International Boundary and Water Commission; and
- state the sense of the Congress that U.S. ambassadors to foreign countries should be selected on the basis of their qualifications, not because of financial contributions to political campaigns.

The enrolled bill also contains numerous provisions relating to Foreign Service personnel. These provisions would:

- change existing law concerning domestic assignment of Foreign Service Officers (FSO's) to State or local public organizations to require, among other things, a "substantial number" instead of



"at least 50" FSO's per year to be so assigned, to include Congress in the assignments authorized, and to require annual reports to Congress on the program;

- establish statutory grievance procedures for Foreign Service personnel to replace existing administrative procedures -- while State originally opposed provisions proposed for this purpose, the conference report on S. 1517 indicates that the enrolled bill embodies procedures agreed to by representatives of the State Department and the American Foreign Service Association;
- broaden existing authority for certain State Department and Foreign Service personnel to carry firearms for the purpose of protecting foreign and U.S. officials to include protection for members of the immediate families of such officials; and
- authorize certain minor benefits for Foreign Service employees.

#### Foreign Service Buildings

S. 1517 authorizes overall fiscal years 1976 and 1977 appropriations of \$23,085,000 for the capital program (acquisition of properties) and \$71,600,000 for operating expenses (maintenance, operation and alteration of properties) as requested by the Administration. The enrolled bill also reallocates approximately \$7 million in unused fiscal 1975 authorizations, without increasing the overall amount authorized for 1975, which will permit State to seek a supplemental appropriation to complete a Property Exchange Agreement of February 4, 1975, between the United States and Egypt.

#### Arms Control and Disarmament Agency (ACDA)

Historically, appropriations for the ACDA have been authorized on a 2-year basis. For fiscal year 1975, however, Congress provided only a one-year authorization to allow for a major in-depth study and review of the Agency. This study was conducted during the fall of 1975. Many provisions of the enrolled bill, discussed below, reflect the results of the study.





S. 1517 authorizes appropriations of \$23,440,000 for the ACDA for fiscal years 1976 and 1977 and such additional amounts as may be necessary for pay raises, increases in other personnel benefits authorized by law, and other non-discretionary costs. The amount authorized exceeds the Administration's request by \$440,000.

The bill earmarks not to exceed \$1 million of the amount appropriated for the Agency to conduct a study of the impact upon military expenditures of arms control measures agreed to by the U.S. and the Soviet Union. The ACDA director is required to submit periodic reports to the Congress with respect to the study and a final report not later than December 31, 1976. In their report on S. 1517, the conferees noted their intent that this study be funded from a supplemental appropriation, rather than from the Agency's already programmed and appropriated research budget.

The \$440,000 increase is authorized to be used to conduct research in consultation with the International Atomic Energy Agency, with respect to the development of nuclear safeguard techniques.

As requested, the enrolled bill would permit the ACDA Director to grant access to classified information to contractors or subcontractors on the basis of security clearances granted by the Department of Defense. A related amendment would permit the Agency to waive high level security clearances for certain special employees who do not require or have access to classified information.

Among the reasons for the 1975 in-depth review of the ACDA, was a growing concern that the ACDA no longer played as significant a role in the formulation and execution of U.S. arms control policies it once did. Accordingly, a number of the enrolled bill's provisions are designed to strengthen the Agency's role and independence in the development and implementation of U.S. arms control policies and to provide additional information to the Congress regarding such matters. These provisions would:

- change the emphasis in the Agency's mandate from having the capability to perform certain functions

relating to arms control and disarmament matters to having the primary authority within the Executive Branch, under the direction of the President and the Secretary of State, to carry out such functions;

- provide a statutory role for the ACDA Director as principal adviser to the NSC, in addition to being the principal adviser to the Secretary of State and the President, on arms control matters; this role is similar to that of the Joint Chiefs of Staff who, by law, serve as the principal military advisers to the President, NSC and the Secretary of Defense;
- require any agency preparing any legislative or budgetary proposal for:
  - (1) any program for nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,
  - (2) any program of armaments, ammunition, implements of war or military facilities for which the total program cost is estimated to exceed \$250 million or for which the estimated annual authorization exceeds \$50 million, or
  - (3) any other weapons program which may have a significant impact on arms control and disarmament policy or negotiations, as determined by the agency proposing such program or by the ACDA Director,

to provide the ACDA Director, on a continuing basis, full and timely access to detailed information on the nature, scope and purpose of the proposed program. The Director, as he deems appropriate, would assess and analyze the potential impact of the proposed program on arms control and disarmament policies and negotiations and would make recommendations based on such analyses to the agency proposing the program, the NSC, and OMB. Any request to Congress for



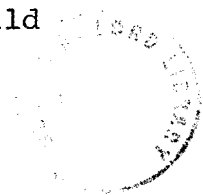
authorization or appropriations for any programs described in (1) or (2) above, or described in (3) above and found by the NSC on the basis of the ACDA Director's recommendations to have a significant impact on arms control and disarmament policy or negotiations, would have to include a complete statement analyzing such impact. In addition, upon request of the appropriate Congressional committees, the ACDA Director would be required, after informing the Secretary of State, to advise the Congress on the arms control impact of any program for which an impact statement had been submitted. The bill would bar any judicial enforcement of these provisions;

- amend existing laws which authorize transfers of arms to foreign countries specifically to require coordination with the ACDA Director and consideration of his opinion as to the arms control implications of arms transfers to foreign countries under those Acts;
- require a more comprehensive and analytical annual report on arms control to Congress

While those sections of the enrolled bill relating to the State Department and the Foreign Service Buildings Program are generally acceptable, many of the provisions included by the Congress with regard to the ACDA, especially the requirement for arms control impact statements, are undesirable.

The arms control impact statement requirement would have the greatest effect on the operations of the Energy Research and Development Administration (ERDA) and Defense. In its enrolled bill letter recommending disapproval of the bill, ERDA states:

"We agree that the Director, ACDA, should have full access to information that he requires in the performance of his duties as principal Executive Branch adviser on arms control and disarmament matters. We also agree that there should be communication with the Congress to enable it to consider such matters effectively. Therefore, while we believe that arrangements can be made under existing law and procedures to allow for these goals to be met, we would



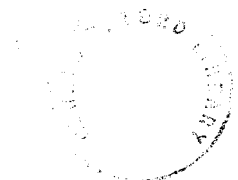
not object to legislation establishing such arrangements. However, we are concerned that the superimposition of a requirement for the submission of impact statements would result in wide distribution and disclosure of much highly sensitive information, such as negotiating positions on proposed treaties, intelligence estimates, battle plans, and weapon design data, and thus in itself be detrimental to United States arms control and disarmament activities and foreign relations activities in general. A proposed veto message is enclosed."

If the bill is approved, ERDA proposes a signing statement (copy attached) to indicate the Executive Branch's interpretation of the arms control impact statement provision to minimize the possible detrimental effects of the bill. ERDA estimates its first year costs under the bill could range from \$200,000 to \$2 million based on a requirement for 5 to 55 impact statements, but anticipates that, as time passes, there will be a tendency to interpret the law more expansively, resulting in greater costs in succeeding years.

Defense's enrolled bill letter also recommends disapproval and includes a proposed veto message. In addition to the concerns ERDA raises, Defense is deeply concerned that the arms control impact statement provisions could result in Defense programs being blocked and would place the Department "in an adversary and even hostile position with the Arms Control and Disarmament Agency and possibly other executive agencies with respect to matters of national security." Like ERDA, Defense believes that, in the long term, the bill would be construed more expansively, resulting in a "growing and severe impact" on Defense programs. Finally, Defense believes disapproval of the bill should be accompanied by a strengthened Executive order to replace the existing Executive order which establishes procedures for interagency coordination of arms control and disarmament matters.

State recommends approval of the bill. Its enrolled bill letter states:

"We are aware that the 'Arms Control Impact Information and Analysis' section of the bill



places an onerous burden on the executive and ought not to have passed Congress. However, it has passed Congress, and should the President veto the bill, the reaction in Congress would be very strong and very negative, and we would probably face an override or, failing that, the same language, or worse language, on whatever other piece of legislation lies at hand, even perhaps that dealing with mutual security."

In summary, State adds:

"...it is our considered and firm opinion that S. 1517 should be signed by the President and that he should inform the Congress of his intention to interpret the ACDA impact statement requirement as narrowly as possible."

Enactment of S. 1517 would impose rigid procedures within the Executive Branch for evaluating the impact of certain proposed weapons systems on arms control and disarmament policy and negotiations and is, therefore, objectionable in that it could deny the President flexibility in determining how he will receive agency advice and recommendations on such matters. If one assumes, however, that the ACDA would act responsibly under the bill in accordance with Presidential policies and that adequate procedures can be developed within the Executive Branch so that the bill's requirements will not be unduly burdensome, then the provision in the bill for arms control impact statements would not necessarily have the dire consequences forecast by Defense and ERDA.

Moreover, Congress has within its power now the ability to obtain testimony and other information on such matters when considering authorization and appropriation requests and in the exercise of its oversight responsibilities. This bill is intended to ensure that such information is prepared and available.

Given the assumption of responsible implementation of the bill discussed above, and the additional assumption that the bill's requirements can be carried out with a reasonable spirit of comity between the Executive Branch and Congress, disapproval of the bill is not necessary.



An important factor to consider in deciding to approve or disapprove the bill is the possibility of sustaining a veto. In addition to State's negative assessment of this possibility, noted above, the record of congressional action on this legislation clearly indicates the difficulties in having a veto upheld. The House originally adopted legislation containing an arms control impact statement position similar to that in the enrolled bill by a vote of 382-28. The Senate version of S. 1517, which contained a provision on arms control impact statements generally considered to be less restrictive than the House version, was adopted by a 76-8 vote. The Conference Committee essentially combined the provisions passed by each House. The House adopted the conference report by a margin of 358-52; no recorded vote was taken in the Senate.

On balance, we believe that S. 1517 should be approved. A veto of this bill which is subsequently overridden, could, we believe, seriously diminish the possibility of working out acceptable understandings with key congressional members as to how the bill should be implemented.

We do not, however, support ERDA's recommendation for a signing statement upon approval to indicate how the Executive Branch will interpret the arms control impact statement requirement. Nor do we concur with State's opinion that you should inform Congress of your intention to interpret the impact statement provision as narrowly as possible. As discussed above with regard to the effect of a veto, we believe the approaches proposed by ERDA and State could lead to direct confrontation with Congress now, precluding the opportunity to reach mutual agreements with the Congress later on implementation of the provision.

If you should decide to disapprove S. 1517, we have prepared a proposed veto message as an alternative to those proposed by Defense and ERDA. It contains language announcing that you will soon issue a new Executive order to replace the existing Executive order on interagency coordination of arms control and disarmament matters. An earlier version of this proposed veto message was circulated to State, Defense, ERDA, ACDA, NSC, Justice and CIA. None objected to this approach



in the event of a veto except ERDA, which felt a new Executive order would be unacceptable to the Congress as a substitute for statutory provisions such as those contained in the enrolled bill.

*James M. Frey*  
Assistant Director for  
Legislative Reference

Enclosures



## MEMORANDUM

## NATIONAL SECURITY COUNCIL

November 28, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: Jeanne W. Davis *JW*  
SUBJECT: S. 1517

The NSC has no objection to the enrolled bill report on S. 1517 in that it accurately reflects the National Security Council staff recommendation that the President disapprove the bill. However, it is our belief that the bill raises serious substantive problems which could result from implementation of this legislation which are not fully discussed in the OMB report. If possible, we would like to see the following comments appended to the OMB report.

It seems perfectly clear that at best such arms control impact statements will add another dimension to the Congressional debate on major weapon systems. At worst--and the more likely outcome for controversial programs where support is thin--the information contained in these statements will be used to counter security-related arguments and defeat or delay some major defense projects, and in particular might well jeopardize support of our most technologically advanced systems. One of the apparent objectives of the bill is to eliminate the "bargaining chip" approach to weapons development. The reason that the impact statements will necessarily be loaded against each weapon system is two-fold:

-- The statement is intended to be one-sided and not to balance arms control considerations with security concerns.

-- The U. S. defense program is founded on remaining ahead of Soviet technology, and in almost all cases, our new weapons development embodies technology well in advance of Soviet capabilities. An arms control impact statement could be expected to make this point for each new weapon system, and will perforce have to conclude that we run the risk of (1) stimulating a Soviet response to "catch up" and (2) foreclosing Soviet interest in arms limitations in the area connected with the particular weapon in question because of Soviet unwillingness to accept a "technical gap".





Through an arms control impact statement, the Administration will be putting an effective tool in the hands of those on the Hill and in the media who oppose the Administration's defense strategy and its major programs. Further, an impact statement, to be complete, will have to include intelligence estimates and the status of negotiations--information that would otherwise be too sensitive for Congressional distribution. If such information were not included, opponents on the Hill would undoubtedly attempt to block funding of programs because of the incompleteness of the required arms control impact statement. This is the tactic employed in virtually every case of a federal environmental impact statement.





TO THE SENATE OF THE UNITED STATES:

I return without my approval S. 1517, the Foreign Relations Authorization Act, Fiscal Year 1976.

I cannot approve S. 1517 because certain provisions of section 146 regarding the Arms Control and Disarmament Agency would impose by law upon the President and key national security officials of the Executive Branch, burdensome, inflexible and unwise procedures governing the manner in which they make vital decisions and recommendations on armaments programs and arms control and disarmament policy and negotiations. The prescribed procedure would place the Director of ACDA in a virtually adversary relationship to the President's other national security policy advisers -- the Secretaries of State and Defense and the Administrator of the Energy Research and Development Administration.

Moreover, section 146 would distort the present responsibilities of the Arms Control and Disarmament Agency and divert it from its main goal of pursuing, within an international framework and through agreement with other nations, arms control and disarmament. The requirements and procedures that would be imposed upon the Executive Branch could work in a manner damaging to our national security by unilaterally constraining our military preparedness and compromising our arms control negotiating policy and strategy.

I understand the concerns of those who supported the provisions of section 146 -- concern for a strong, independent Arms Control and Disarmament Agency, concern that all major armaments proposals are thoroughly assessed not only for their contributions to the defense of the Nation but for their implications to our arms control and disarmament policy and negotiations and concern that the Congress and its committees receive information adequate for them to perform their functions effectively.



I, too, am concerned that the Arms Control and Disarmament Agency should have a strong voice in Executive Branch councils for the formulation of national security policies. We are the only Nation in the world that has an independent agency charged solely with responsibilities for arms control and disarmament.

I, too, am concerned that all major armaments proposals are subjected to analysis in all their implications prior to making my recommendations to the Congress for their authorization or appropriation. The implications for arms control and disarmament policy and negotiations are important ingredients in my final decisions and recommendations.

I, too, am concerned that the Congress and its committees are properly informed. The Congress has a central role in providing for our national defense and assuring a sound foreign policy and, therefore, should have information required to fulfill that role.

Accordingly, I am directing that a new Executive order on the Coordination of Arms Control and Disarmament Policy and Related Matters be prepared. This order will completely update and replace Executive Order No. 11044 of August 20, 1962. It will be designed to strengthen the role and voice of the Arms Control and Disarmament Agency and its Director in the policy formulation processes of the government and to assure the exchange of necessary information. It will meet the essential purposes of the provisions of S. 1517.

A review of United States policy on arms transfer for foreign nations is currently underway by the involved Executive agencies. This is a complex policy and administrative matter affecting a number of agencies and involving the licensing of the export of munitions, the administration of the Foreign Military Sales Act, and policies and practices under the Foreign Assistance Act. I am directing the Assistant to the President for National Security Affairs to assure that as a part of

that policy review there shall be a thorough examination of the process of consultation among the several agencies regarding arms transfers to other countries, a matter dealt with in section 150 of S. 1517. The adequacy of the role of the Arms Control and Disarmament Agency in the consultation mechanism will be specifically evaluated.

I also today directed the Director of the Arms Control and Disarmament Agency to undertake two specific studies in general consonance with the intent of sections 142 and 143 of S. 1517. The first relates to the impact upon military expenditures of the arms control measures mutually agreed to by the United States and the Soviet Union. The second is research, in consultation with other agencies and the International Atomic Energy Agency, with respect to the development of nuclear safeguard techniques.

With these actions and with prompt enactment by the Congress of a substitute measure for the other provisions of S. 1517, we will have significantly strengthened our arrangements for the administration of arms control and disarmament policy and negotiations, and we shall have done so in a manner that preserves Presidential flexibility and appropriate cooperation between the Congress and the Executive.

THE WHITE HOUSE,



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I hereby return without my approval S.1517 - the Foreign Affairs Authorization Bill, Fiscal Year 1976. Section 146 of S.1517 is a direct, Congressional interference with the powers of the President contemplated by the Constitution of the United States as powers which he shall exercise, in his discretion, under Article II of the United States Constitution. The practices and procedures long enjoyed by the branches of our government have over time established concerns, to be exclusively within the discretion of the President, and, similarly, those separate concerns which are separately to be the exclusive prerogatives of the Congress.

The sound exercise of governmental powers in the United States call upon us to respect these practices and procedures and this separation of governmental powers. Within the executive branch, the effective functioning of that branch requires that I shall make the final decisions entrusted in me as the President, that I shall establish the offices and administration within that branch which will enable me best to make such decisions, and maintain control over those offices, and also requires that I shall determine where the competence lies between them with respect to the matters such as those involved in S.1517, to wit, the competence relating to national security, defense, and the means, methods and weapons that are necessarily engaged in these fundamental interests.



The Congress and its committees have timely and continuous access to the information which S.1517 on its face purports to seek. That access is adequately reflected in existing legislation implemented by executive orders of the President. Undoubtedly implementation may lag behind the needs of the Congress with regard to this flow of data, but the corrective, in such cases, lies in adopting appropriate executive procedures, reviewing, and if need be, revising the executive orders. This approach, building on existing practices provides both the executive and legislative branches with the needed, and flexible, means for ensuring that both branches are fully informed to undertake their respective functions.

The legislation proposed in Section 146 of S.1517 is inconsistent with this Constitutional mandate. In addition it interferes with our scheme of government because it is inconsistent with our existing practices and procedures that have built upon this mandate, and it interferes with the present process that characterizes the smooth and therefore effective functioning of two components of the executive branch. It lays open on an untimely basis major United States plans relating to its security. It affords the Arms Control and Disarmament Agency a power - which reverses its present and appropriate function of pursuing, within an international framework, and through agreement with other States, a safeguarded control of weapons.





In place of the fundamental purposes established for that Agency, the bill adds on the function of overseer over the Department of Defense, the Departments of State and Energy Research and Development Administration, to the end that the Arms Control and Disarmament Agency becomes a decisive participant in the defense, weaponry, procurement and even research and development matters, entrusted to the other three agencies. It therefore reduces and impairs the available capabilities of the Arms Control and Disarmament Agency for its own objectives in arms control negotiations, and dissipates them among activities in which the arms control criteria are shifted from the international framework to operate, instead, as the means to impose and institutionalize unilateral - self-imposed - constraints on our own military preparedness and awareness. It imposes for the same reason burdens, unnecessary and costly, on the Energy Research and Development Administration, the Department of Defense and the Department of State.

These impositions create unnecessary and costly burdens for both the Arms Control and Disarmament Agency and the other interested agencies. They divert the Arms Control and Disarmament Agency from major tasks and undertaking major intelligence addressed to its own field of competence. In short, S.1517 reverses the role that the Arms Control and Disarmament Agency was designed to pursue, which was to provide its assessments particularly



with respect to the security afforded the United States in the ratified international agreements which are adhered to and respected by our major adversaries, and to ensure that these limited, but vitally significant, matters are fully respected.



VETO MESSAGE

I hereby return without my approval S. 1517, the proposed Foreign Relations Authorization Act for Fiscal Year 1976. Section 146 of S. 1517 would unduly interfere with the President's ability to carry out his responsibilities in the areas of national security and foreign relations, as contemplated by Article II of the Constitution.

I agree that the Director of the Arms Control and Disarmament Agency should have full access to information that he requires in the performance of his duties as principal Executive Branch adviser on arms control and disarmament matters. I also agree that there should be communication with the Congress to enable it to consider such matters effectively in carrying out its responsibilities under the Constitution. Therefore, while I believe that arrangements can be made under existing law and procedures to provide the Legislative and Executive Branches with a means for ensuring that these goals are met, I would not object to new legislation establishing such arrangements. However, the addition of a requirement that arms control and disarmament impact statements be included with Executive Branch budgetary proposals on weapons programs will result in wide distribution and disclosure of much highly sensitive information, such as negotiating positions on proposed treaties, intelligence estimates, battle plans, and weapon design data. Such distribution and disclosure would interfere with and prevent the effective conduct of United States arms control and disarmament activities and foreign relations activities in general.



## SIGNING STATEMENT

I have today signed into law S. 1517, the proposed Foreign Relations Authorization Act for Fiscal Year 1976. Nevertheless, I am concerned about Section 146 of this law which adds a new Section 36 to the Arms Control and Disarmament Act. This provision, if not properly interpreted, could cause undue interference with the President's ability to carry out his responsibilities in the areas of national security and foreign relations, as contemplated by Article II of the Constitution.

I agree that the Director of the Arms Control and Disarmament Agency should have full access to information that he requires in the performance of his duties as principal Executive Branch adviser on arms control and disarmament matters. I also agree that there should be communication with the Congress to enable it to consider such matters effectively in carrying out its responsibilities under the Constitution. Therefore, while I believe that arrangements can be made under existing law and procedures to provide the Legislative and Executive Branches with a means for ensuring that these goals are met, I do not object to establishment of such arrangements by statute. However, the addition of a requirement that arms control and disarmament impact statements be included with Executive Branch budgetary proposals on weapons programs could, if not carefully implemented, result in wide distribution and disclosure of much highly sensitive information, such as negotiating positions on proposed treaties, intelligence estimates, battle plans, and weapon design data. Such distribution and disclosure would interfere with and prevent the effective conduct of United States arms control and disarmament activities and foreign relations activities in general.

I am therefore directing the National Security Council to assume responsibility for establishing the procedures to be followed by Executive Branch agencies in implementing the new law. It is my intent that these procedures, as a minimum, will:



1. assure consistency in implementation and assure that arms control and disarmament is properly reflected as one aspect of United States national security policy;
2. protect against wide distribution and disclosure of highly sensitive information such as negotiating positions on proposed treaties, intelligence estimates, battle plans, and weapon design data;
3. reflect that impact statements are required automatically only with respect to programs on designated weapons that are in engineering development or some later phase, and, further, that impact statements are not required for such activities as production of special nuclear material or naval nuclear reactors, maintenance of existing weapons, or modifications of existing weapons which do not change their essential characteristics; (Such activities would be covered by impact statements on the weapon systems with which they are associated.)
4. reflect that the agency sponsoring a budgetary proposal is responsible for assuring the inclusion of an impact statement, and that the statement itself may be prepared by another agency or agencies, may be incorporated by reference, and in general need be submitted only once on a designated weapon; (This interpretation would permit agencies supporting or otherwise developing subsystems or components of primary weapon systems to cite the impact statement for the primary system as a sufficient and acceptable assessment of the subsidiary or supporting program.)
5. reflect that the term "technology" in subsection 36(a)(3) refers to weapons technology; (Without this clarification, this provision would have no rational boundaries.) and
6. recognize that impact statements may be classified notwithstanding the omission of certain highly sensitive information.



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

NOV 26 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1517 - Foreign Relations  
Authorization Act, Fiscal Year 1976  
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

December 1, 1975 - Monday

Purpose

Authorizes fiscal year 1976 appropriations of \$818,176,000 for the State Department; authorizes fiscal years 1976 and 1977 appropriations totalling \$94,685,000 for the Foreign Service Buildings Program; authorizes appropriations for the Arms Control and Disarmament Agency of \$23,440,000 in fiscal years 1976 and 1977 and amends the Agency's basic authorizing legislation to require, among other things, the submission of arms control impact analyses to the Congress in certain circumstances; and contains a number of other provisions discussed below.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval
Arms Control and Disarmament Agency	Approval
United States Information Agency	Approval
Department of Agriculture	No objection
Agency for International Development	No objection
Department of Defense	Disapproval (veto message attached)
Energy Research and Development Administration	Disapproval (veto message attached)
National Security Council	Disapproval (informally)
Department of Justice	Defers to other agencies
Civil Service Commission	Defers to other agencies
Central Intelligence Agency	Defers to other agencies

the provisions of section 146 -- concern for a strong,

THOMAS E. MORGAN, PA., CHAIRMAN

CLEMENT J. ZEBECKI, WIS.  
WAYNE E. HAYS, OHIO  
E. H. FORTNER, N.C.  
DANTE B. FASCELL, FLA.  
CHARLES C. DIGGS, JR., MICH.  
ROBERT N. C. NIX, PA.  
DONALD M. FRASER, MINN.  
BENJAMIN S. ROSENTHAL, N.Y.  
LEE H. HAMILTON, IND.  
LESTER L. WOLFF, N.Y.  
JONATHAN B. DINGHAM, N.Y.  
GUS YATTON, PA.  
ROY A. TAYLOR, N.C.  
MICHAEL HARRINGTON, MASS.  
LFO J. RYAN, CALIF.  
CHARLES WILSON, TEX.  
DONALD W. RIEGLE, JR., MICH.  
CAROLISS COLLINS, ILL.  
STEPHEN J. SOLARZ, N.Y.  
HELEN S. MEYNER, N.J.  
DON BONKER, WASH.

WILLIAM S. BROOMFIELD, MICH.  
EDWARD J. LEHRWINSKI, ILL.  
PAUL FINDLEY, ILL.  
JOHN H. BUCHANAN, JR., ALA.  
J. HERBERT BURKE, FLA.  
PIERRE S. DU PONT, DEL.  
CHARLES W. WHALEN, JR., OHIO  
EDWARD G. BIESTER, JR., PA.  
LARRY WINN, JR., KANS.  
BENJAMIN A. GILMAN, N.Y.  
TEHNYSON GUYER, OHIO  
ROBERT J. LAGOMARSINO, CALIF.

Congress of the United States  
Committee on International Relations  
House of Representatives  
Washington, D.C. 20515

November 20, 1975

MARIAN A. CZARNECKI  
CHIEF OF STAFF

The Honorable Lawrence S. Eagleburger  
Deputy Under Secretary of State  
for Management  
Department of State  
Washington, D.C.

Dear Mr. Secretary:

Thank you for your letter of November 15th regarding the Foreign Service grievance legislation.

It is my understanding that Chairman Hays, of our International Operations Subcommittee, will give consideration to including these provisions in the USIA authorization. However, we do not have at present a legislative vehicle to apply them to AID employees as neither house of the Congress had an applicable provision in its version of legislation authorizing appropriations for AID economic assistance programs for FY 1976. I will, however, keep your recommendation in mind as we consider international security legislation and see if something can be done in that bill.

With best wishes, I am

Sincerely yours,

*Thomas E. Morgan*

Chairman

TEM:mcj





UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

WASHINGTON, D.C. 20451

November 20, 1975

Dear Mr. Lynn:

By enrolled bill request dated November 19, 1975, the Office of Management and Budget requested the views and recommendations of the U.S. Arms Control and Disarmament Agency on S. 1517, the "Foreign Relations Authorization Act, Fiscal Year 1976". The Director of the Agency has authorized me to inform you that we recommend the President permit S. 1517 to become law.

The portion of that bill pertaining to the U.S. Arms Control and Disarmament Agency is Part 2 of Title I. That part authorizes appropriations for the Agency for fiscal years 1976 and 1977, as requested by the Administration (Sec. 141), requires the Agency to conduct a study of the impact upon military expenditures of arms control measures mutually agreed to by the United States and the Soviet Union (Sec. 142), authorizes additional research, in consultation with the International Atomic Energy Agency, with respect to the development of nuclear safeguard techniques (Sec. 143), clarifies the authority of the Agency on matters of arms control and disarmament (Sec. 144), designates the Director of the Agency as principal adviser to the National Security Council on arms control and disarmament matters (Sec. 145), establishes a system for Agency advice and recommendations to the Executive Branch with respect to the impact on arms control and disarmament policy and negotiations of various categories of weapons programs, and for the initiating agencies to submit arms control and disarmament impact statements with their authorization or appropriation requests for such programs (Sec. 146), permits the Agency to waive the requirement for high level security clearances for consultants who will not have access to classified information (Sec. 147(a)), authorizes the Agency to grant access to classified information to contractors on the basis of security clearances granted by the Department of Defense, as requested by the Administration (Sec. 147(b)), repeals the existing

The Honorable  
James L. Lynn  
Director  
Office of Management and Budget

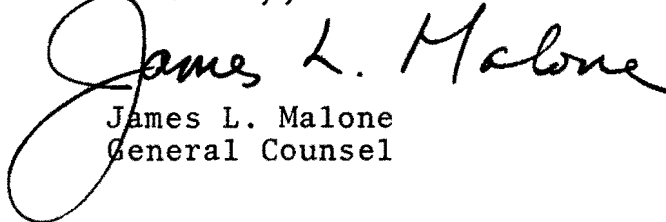




prohibition against propaganda within the United States on the Agency's activities (Sec. 148), requires an expanded Agency annual report to Congress (Sec. 149), and requires the involvement of the Agency in government decisions concerning arms export licenses, military grant assistance, and military sales (Sec. 150).

We estimate that approximately five additional permanent positions will be required to perform the Agency's responsibilities under the Arms Control Impact Information and Analysis provision of the bill (Sec. 146). A one time request for additional appropriations will also be needed to carry out the study of the impact upon military expenditures of arms control measures mutually agreed to by the United States and the Soviet Union (Sec. 142) and the additional research with respect to the development of nuclear safeguard techniques (Sec. 143).

Sincerely,

A large, stylized handwritten signature in cursive script that reads "James L. Malone". The signature is written in dark ink and is positioned above the typed name and title.

James L. Malone  
General Counsel





UNITED STATES CIVIL SERVICE COMMISSION  
WASHINGTON, D.C. 20415

CHAIRMAN

November 21, 1975

Honorable James T. Lynn  
Director  
Office of Management and Budget

Attention: Assistant Director for  
Legislative Reference

Dear Mr. Lynn:

This is in response to your request for the views and recommendation of the Civil Service Commission on enrolled bill S. 1517, a bill "To authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes."

Title IV of the bill contains a number of revisions of the Foreign Service personnel system which is administered by the Department of State. Of particular significance is the establishment by section 404 of a statutory grievance procedure for officers and employees of the Foreign Service and their survivors. This statutory grievance system would replace the present administrative grievance system established by Executive Order 11636.

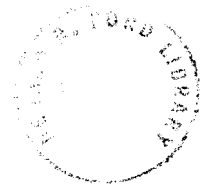
From the standpoint of the Commission's personnel management responsibilities, it has no objection to the personnel provisions of title IV of S. 1517. Since the State Department is the agency with the principal interest in the bill, the Commission defers to that agency for a detailed analysis and recommendation as to action by the President.

Sincerely yours,

*Jayne D. Spain*

~~Robert E. Hampton~~  
Chairman

*acting*



**USIA**  
UNITED STATES  
INFORMATION AGENCY  
WASHINGTON 20547

November 21, 1975

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and  
Budget  
Washington, D. C. 20503

Dear Mr. Frey:

The United States Information Agency is pleased to reply to your request for views and recommendations on S. 1517, the "Foreign Relations Authorization Act, Fiscal Year 1976."

The USIA authorization, which was contained in the bill as it passed the Senate, was deleted in conference without prejudice pending House action. USIA could, however, be affected by several provisions of the bill including Section 105 pertaining to the reopening of the U.S. Consulate in Gothenburg, Sweden; Section 171, the Foreign Service Buildings authorization; and Title IV relating to grievance procedures.

USIA has no objections to the proposed legislation, and would be pleased to see it signed into law.

Sincerely,



Edward Hidalgo  
General Counsel and  
Congressional Liaison





GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

21 NOV 1975

Honorable James T. Lynn  
Director, Office of  
Management and Budget  
Washington, D. C. 20503

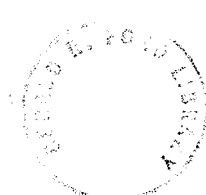
Dear Mr. Lynn:

We refer to your request for the views of the Department of Defense on the Enrolled Enactment of S. 1517, 94th Congress, the "Foreign Relations Authorization Act, Fiscal Year 1976."

The Department of Defense is deeply concerned about the effects of Section 146 of the bill for these reasons:

- It gives the Director, Arms Control and Disarmament Agency and special interests groups of the Congress a blocking power over Department of Defense programs.
- It enables the Arms Control and Disarmament Agency to exercise that power by referring to the impact and uncertainties associated with arms control policy and negotiations.
- In practice it lays open on an untimely basis sensitive technology, tactics, plans, policies, programs, negotiating strategy to special interests groups and to adversaries.
- It places the Department of Defense in an adversary and even hostile position with the Arms Control and Disarmament Agency and possibly other executive agencies with respect to matters of national security.

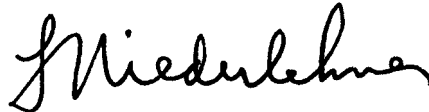
In the long term, Congress would restrict any attempt to construe the bill liberally. There would be no way to avoid its growing and severe impact on Department of Defense programs.



If the President disapproves of this bill, in particular of Section 146, we believe the disapproval should be accompanied by a strengthened executive order to replace Executive Order 11044. This would ensure that the United States Government's concern with arms control policy and negotiations has been fully accommodated and implemented.

For the reasons stated in the attached draft Presidential Message, the Department of Defense recommends that the President disapprove the Enrolled Enactment of S. 1517, 94th Congress, and return the same to the Senate in accordance with Article I, Section 7, Clause 2, of the Constitution.

Sincerely,



L. Niederlehner  
Acting General Counsel

Attachment





UNITED STATES  
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION  
WASHINGTON, D.C. 20545

NOV 21 1975

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget

Dear Mr. Frey:

The Energy Research and Development Administration (ERDA) is pleased to respond to your request for its views and recommendations on Enrolled Bill S. 1517, "[t]o authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes."

ERDA recommends that the President veto the Enrolled Bill. However, if the President decides to approve the bill, ERDA recommends that he issue an interpretative statement at the time of signing.

The bill would, among other things, amend the Arms Control and Disarmament Act by the addition of a new Section 36 that would require any Government agency preparing a legislative or budgetary proposal for:

"(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

"(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having -

"(A) an estimated total program cost in excess of \$250,000,000, or

"(B) an estimated annual program cost in excess of \$50,000,000, or



"(3) any other program involving weapons systems or technology which such Government agency or the Director believes may have a significant impact on arms control and disarmament policy or negotiations,"

to provide the Director, ACDA, on a continuing basis, with full and timely access to detailed information on the proposal.

Further, it would require any request to the Congress for authorization or appropriations for any program described in (1) or (2) above to "include a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations." An impact statement for a program described in (3) above would be required only if the National Security Council, on the basis of the advice and recommendations of the Director, ACDA, found it to have significant arms control and disarmament impact.

The bill would also require the Director, ACDA, upon the request of specified congressional committees, and after informing the Secretary of State, to "advise such committee[s] on the arms control and disarmament implications of any program with respect to which" an impact statement has been submitted to the Congress.

We agree that the Director, ACDA, should have full access to information that he requires in the performance of his duties as principal Executive Branch adviser on arms control and disarmament matters. We also agree that there should be communication with the Congress to enable it to consider such matters effectively. Therefore, while we believe that arrangements can be made under existing law and procedures to allow for these goals to be met, we would not object to legislation establishing such arrangements. However, we are concerned that the superimposition of a requirement for the submission of impact statements would result in wide distribution and disclosure of much highly sensitive information, such as negotiating positions on proposed treaties, intelligence estimates, battle plans, and weapon design data, and thus in itself be detrimental to United States arms control and disarmament activities and foreign relations activities in general. A proposed veto message is enclosed.

Also enclosed is a proposed signing statement for use in the event the President determines not to veto the bill. We believe such a statement would be necessary to indicate the Executive Branch interpretation of the bill, many of the provisions of which are ill-defined, and to minimize the possible detrimental effects of the bill.



The proposed signing statement would state that the National Security Council has been directed to assume responsibility for establishing the procedures to be followed by Executive Branch agencies in implementing the new law, and that these procedures will:

1. assure consistency in implementation and assure that arms control and disarmament is properly reflected as one aspect of United States national security policy;
2. protect against wide distribution and disclosure of highly sensitive information such as negotiating positions on proposed treaties, intelligence estimates, battle plans, and weapon design data;
3. reflect that impact statements are required automatically only with respect to programs on designated weapons that are in engineering development or some later phase, and, further, that impact statements are not required for such activities as production of special nuclear material or naval nuclear reactors, maintenance of existing weapons, or modifications of existing weapons which do not change their essential characteristics; (Such activities would be covered by impact statements on the weapon systems with which they are associated.)
4. reflect that the agency sponsoring a budgetary proposal is responsible for assuring the inclusion of an impact statement, and that the statement itself may be prepared by another agency or agencies, may be incorporated by reference, and in general need be submitted only once on a designated weapon; (This interpretation would permit agencies supporting or otherwise developing subsystems or components of primary weapon systems to cite the impact statement for the primary system as a sufficient and acceptable assessment of the subsidiary or supporting program.)
5. reflect that the term "technology" in subsection 36(a)(3) refers to weapons technology; (We have found no indication of a different intent in the legislative history of this bill. Without this clarification the subsection would have no rational boundaries.) and
6. recognize that impact statements may be classified notwithstanding the omission of certain highly sensitive information.



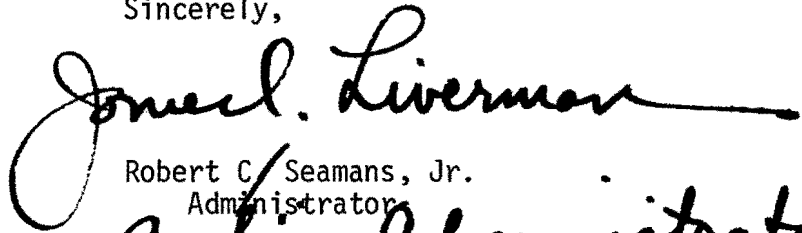
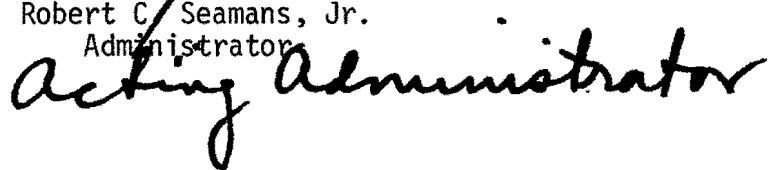


Mr. James M. Frey

-4-

Because of the uncertainties associated with implementation of the bill, ERDA is at this time unable to estimate with any precision its first-year and recurring costs or the relationship of first-year estimated costs to the President's budget. However, we believe that our first-year costs will be somewhere between \$200,000 and \$2,000,000, based on a requirement for between 5 and 55 impact statements, depending upon the criteria used to determine which programs are covered. We would expect that, as time passes, there will be a tendency to interpret the law more expansively, resulting in greater costs in succeeding years.

Sincerely,

  
Robert C. Seamans, Jr.  
Administrator  


Enclosures:

1. Veto Message
2. Signing Statement



CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

24 November 1975

Mr. James M. Frey, Assistant Director  
for Legislative Affairs  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Frey:

This is submitted in the interest of providing views on Section 146 of the Foreign Relations Authorization Act, Fiscal Year 1976, S. 1517, which adds Section 36 to Title III of the Arms Control and Disarmament Act.

Section 36 as a whole appears to be concerned only with military weapons and military research programs and the word "technology" in Section 36(a)(3) is construed as applying solely to military technology, not to intelligence collection technology. I have been advised that the National Security Council and the Office of Management and Budget agree that intelligence collection programs would not be subject to the requirements of this Section.

With respect to Section 36(b)(2), it is our view that "a complete statement analyzing the impact of such programs on arms control and disarmament policy and negotiations" need not include sensitive, finished foreign intelligence. However, to the extent that these impact statements may be required to include finished intelligence as a result of ambiguities of language, it is absolutely essential that such information be afforded proper protection and it would be necessary that such information be transmitted under conditions to protect against its unauthorized disclosure and against unnecessary proliferation.

Sincerely,

  
W. E. Colby  
Director





UNITED STATES  
ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION  
WASHINGTON, D.C. 20545

NOV 24 1975

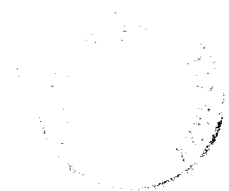
Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget

Dear Mr. Frey:

I have reviewed the ERDA position with respect to enrolled bill S. 1517, Foreign Relations Authorization Act, Fiscal Year 1976, as well as the correspondence we provided to you on this subject under date of 21 November, and wish to confirm my full agreement with the positions and recommendations provided.

Sincerely,

Robert C. Seamans, Jr.  
Administrator





DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

November 24, 1975

Honorable James T. Lynn  
Director  
Office of Management and Budget

Dear Mr. Lynn:

This replies to your request of November 19, 1975, for the Department's views on the enrolled bill "To authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes."

The provisions of the bill do not appear to have a significant effect on Department functions or responsibilities; therefore, we have no objection to approval of the bill.

Sincerely,

A handwritten signature in cursive script that reads "J. Phil Campbell".

J. Phil Campbell  
Acting Secretary

AND BUDGET  
OFFICE OF MANAGEMENT

85:4 NOV 24 1975

RECEIVED



**Department of Justice**  
**Washington, D.C. 20530**

November 24, 1975

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for the views of the Department of Justice on Section 146 of the S. 1517, an enrolled bill that may be cited as the Foreign Relations Authorization Act, Fiscal Year 1976.

Section 146 amends the Arms Control and Disarmament Act to include a section (36) dealing with Arms Control Impact Information and Analysis. It requires government agencies preparing proposals with a certain size or impact on arms control policy to provide the Arms Control and Disarmament Agency with detailed information on the proposals. The ACDA, in turn, analyzes the proposals for NSC, OMB and the agency proposing the program. Requests to Congress for authorizations and appropriations for covered programs would have to include a statement analyzing the impact of such programs on arms controls and disarmament policy or programs. On the request of various congressional committees, the ACDA would have to advise the congressional committee of the implications of the programs covered. The manner in which this provision is carried out cannot be reviewed in court. The provision making disputes under this section non-justiciable is consistent with the position that the Justice Department has taken on whether issues of confidentiality should be decided in the courts. See letter from the Attorney General to the Vice President, June 13, 1975, published in Report of the Commission on the Organization of the Government for the Conduct of Foreign Policy 240 (1975) and Statement of Assistant Attorney General Antonin Scalia on S. 2170, the Congressional Right to Information Act before the Senate Government Operations Committee, October 23, 1975.

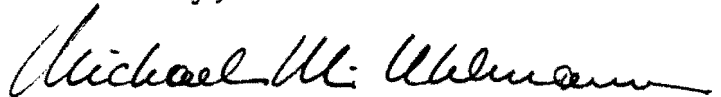


It is possible that particular applications of the statute could lead to questions of confidentiality. However, this is true of many laws otherwise unobjectionable on their face, and the Department of Justice does not believe that, as a legal matter, there is anything in Section 146 which should cause the President not to sign the enrolled bill.

We have also received a package of materials from Mr. Hyde, Assistant Director for Legislative Reference, dated November 21, 1975. This includes a draft veto message dated November 20, 1975, which objects to the bill on separation of powers grounds. We think the draft exaggerates the degree to which the President's power within the executive branch is reduced; under the bill he would still have final power. Moreover, since the bill merely calls for reports to Congress, it is not clear that it is unconstitutional because it violates the doctrine of separation of powers.

There are, of course, policy questions at stake. If the President believes that the bill is undesirable because its provisions are unnecessary or unworkable, he, can of course, veto the bill on those grounds.

Sincerely,



Michael M. Uhlmann  
Assistant Attorney General  
Office of Legislative Affairs





DEPARTMENT OF STATE

Washington, D.C. 20520

November 25, 1975

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Lynn:

In response to your request of November 14 for our view of S.1517, the Secretary has authorized me to inform you that we recommend the President permit the bill to become law.

We are aware that the "Arms Control Impact Information and Analysis" section of the bill places an onerous burden on the executive and ought not to have passed Congress. However, it has passed Congress, and should the President veto the bill, the reaction in Congress would be very strong and very negative, and we would probably face an override or, failing that, the same language, or worse language, on whatever other piece of legislation lies at hand, even perhaps that dealing with mutual security.

This measure is very important to some on the Hill who have fought some battles for the Department -- e.g. Humphrey and Zablocki -- and a matter of indifference to others we often turn to (Congressman Hays told us he might call the President to advise him not to veto the bill). Thus a veto would receive limited support in our judgment.

Additionally, a veto would kill State's FY-76 authorization legislation making hurried Hill action on a continuing resolution necessary, and also leading our supporters in Congress to wonder whether our sense of priorities is not askew.

In sum, it is our considered and firm opinion that S.1517 should be signed by the President and that he should inform the Congress of his intention to interpret the ACDA impact statement requirement as narrowly as possible.

Sincerely,

Robert J. McCloskey  
Assistant Secretary  
for Congressional Relations



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: November 26

Time: 700pm

FOR ACTION: Max Friedersdorf *Sign*  
NSC/S *veto*  
Ken Lazarus *Sign*  
Paul Theis  
Glenn Schleede

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: November 28

Time: 100pm

SUBJECT:

S. 1517 - Foreign Relations Authorization Act, FY 76

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

The subject bill must be to the President Friday afternoon.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.  
For the President





DEPARTMENT OF STATE  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
WASHINGTON, D.C. 20523

Mr. James M. Frey  
Assistant Director  
for Legislative Reference  
Office of Management and Budget  
Washington, D.C.

Dear Mr. Frey:

This letter responds to your request of November 19, 1975 for our comments on S. 1517, an Enrolled Bill.

Our review of the legislation indicates that a significant error has been incorporated in section 692 of the new "Part J - Foreign Service Grievance". The language of this provision was originally intended to apply to USIA and AID as well as the Department. However, it was our understanding that in view of an objection raised by the House Conferees, it was agreed in conference that these grievance provisions would apply only to the Department and that similar provisions would be inserted in the authorization bills of USIA and AID. Pursuant to this agreement specific references to AID and USIA were deleted from section 692(1)A but (apparently) by inadvertent error were not deleted from section 692(1)B with the result that the new grievance procedure might be read to apply to all three foreign affairs agencies if signed by the President.

In furtherance of the understanding the Chairman of the House Committee on International Relations has responded to the State Department outlining his views on initiating the comparable enactments for AID and USIA. Attached is a copy of Chairman Morgan's letter.

While we cannot recommend a veto of the bill solely for purposes of correcting ambiguous provisions affecting AID, a veto by the President would enable us to remedy the serious drafting error.

Sincerely yours,

  
Charles L. Gladson  
General Counsel

Enclosure



Date: November 26

Time: 700pm

FOR ACTION: Max Friedersdorf  
 NSC/S  
 Ken Lazarus  
 Paul Theis  
 Glenn Schleede  
*Bill Seidman*

cc (for information): Jack Marsh  
 Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: November 28Time: 100pm

SUBJECT:

S. 1517 - Foreign Relations Authorization Act, FY 76


## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

The subject bill must be to the President Friday afternoon.


PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.



James H. Cavanaugh  
 For the President

Date: November 26

Time: 700pm

FOR ACTION: Max Friedersdorf  
NSC/S  
Ken Lazarus ✓  
Paul Theis  
Glenn Schleedecc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: November 28

Time: 100pm

SUBJECT:

S. 1517 - Foreign Relations Authorization Act, FY 76

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

The subject bill must be to the President Friday afternoon.

Concur with OMB's recommendation.

Dudley Chapman for Ken Lazarus 11/28/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh  
For the President

Date: November 26

Time: 700pm

FOR ACTION: Max Friedersdorf  
NSC/S  
Ken Lazarus  
Paul Theis  
Glenn Schleede

cc (for information): Jack Marsh  
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: November 28

Time: 100pm

SUBJECT:

S. 1517 - Foreign Relations Authorization Act, FY 76

*November 26, 1975*

ACTION REQUESTED:

For Necessary Action

Prepare Agenda and Brief

For Your Comments

Draft Reply

Draft Remarks

REMARKS:

*Ed's not interested in this is entirely with respect to it's weapons activities which are of concern to NSC rather than DC. I'll defer to NSC. program substance standpoint (a) good management of from the standpoint (b) preserving some of the Exec Branch and (c) preserving I think the subject bill must go to the President Friday afternoon. opportunity for the President to manage. I'd like the balance section 146 is on abolition. I'd like the bill is signed, a statement like Ed's proposal NSC and a statement something like Ed's proposal makes sense. Assessment from my point of view Friedersdorf is correct.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have a substance, I still think  
In view of submitting the document, please  
NSC should draft the document - unless  
That's not the way we do this.  
telerom the Staff Secretary immediately.

James H. Cavanaugh  
For the President

*Schleede*  
GERALD R. FORD  
LIBRARY

THE WHITE HOUSE  
WASHINGTON

November 28, 1975

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX FRIEDERSDORF *M. G.*  
SUBJECT: S. 1517 Foreign Relations Authorization  
Act, FY '76

The Office of Legislative Affairs recommends subject bill be signed.



Les Janka: Per my conversation.  
Pls. give me an o.k. on the OMB  
veto message as soon as possible.

Judy Johnston  
x2219

*This is Paul Theris' edited version.*

*OK*  
*[Signature]*



THE WHITE HOUSE  
WASHINGTON

Lynn May memo

Date: November 26

Time: 700pm

FOR ACTION: Max Friedersdorf  
NSC/S  
Ken Lazarus  
Paul Theis ✓  
Glenn Schleede

cc (for information): Jack Marsh  
Jim Cavanaugh

*del [signature]*

FROM THE STAFF SECRETARY

DUE: Date: November 28

Time: 100pm

SUBJECT:

S. 1517 - Foreign Relations Authorization Act, FY 76

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

The subject bill must be to the President Friday afternoon.

1975 NOV 28 AM 8 18

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh  
For the President





TO THE SENATE:

I return without my approval S. 1517, the Foreign Relations Authorization Act, Fiscal Year 1976.

I cannot approve S. 1517, because certain provisions of section 146 regarding the Arms Control and Disarmament Agency would impose by law, upon the President and key national security officials of the Executive Branch, burdensome, inflexible and unwise procedures governing the manner in which they make vital decisions and recommendations on armaments programs and arms control and disarmament policy and negotiations. The prescribed procedure would place the Director of ACDA in a virtually adversary relationship to the President's other national security policy advisers -- the Secretaries of State and Defense and the Administrator of the Energy Research and Development Administration.

Moreover, section 146 would distort the present responsibilities of the Arms Control and Disarmament Agency and divert it from its main goal of pursuing, within an international framework and through agreement with other nations, arms control and disarmament. The requirements and procedures that would be imposed upon the Executive Branch could work in a manner damaging to our national security by unilaterally constraining our military preparedness and compromising our arms control negotiating policy and strategy.

I understand the concerns of those who supported the provisions of section 146 -- concern for a strong,

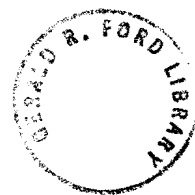


independent Arms Control and Disarmament Agency, concern that all major armaments proposals are thoroughly assessed not only for their contributions to the defense of the nation but for their implications to our arms control and disarmament policy and negotiations, and concern that the Congress and its committees receive information adequate for them to perform their functions effectively.

I, too, am concerned that the Arms Control and Disarmament Agency should have a strong voice in Executive Branch councils for the formulation of national security policies. We are the only nation in the world that has an independent agency charged solely with responsibilities for arms control and disarmament.

I, too, am concerned that all major armaments proposals are subjected to analysis in all their implications prior to making my recommendations to the Congress for their authorization or appropriation. The implications for arms control and disarmament policy and negotiations are important ingredients in my final decisions and recommendations.

I, too, am concerned that the Congress and its committees are properly informed. <sup>the</sup> Congress has a central role in providing for our national defense and assuring a sound foreign policy and, therefore, should have information required to fulfill that role.



Accordingly, I am directing that a new Executive order on the Coordination of Arms Control and Disarmament Policy and Related Matters be prepared. This order will completely update and replace Executive Order No. 11044 of August 20, 1962. It will be designed to strengthen the role and voice of the Arms Control and Disarmament Agency and its Director in the policy formulation processes of the government and to assure the exchange of necessary information. It will meet the essential purposes of the provisions of S. 1517.

A review of United States policy on arms transfer for foreign nations is currently underway by the involved Executive agencies. This is a complex policy and administrative matter affecting a number of agencies and involving the licensing of the export of munitions, the administration of the Foreign Military Sales Act, and policies and practices under the Foreign Assistance Act. I am directing the Assistant to the President for National Security Affairs to assure that as a part of that policy review there shall be a thorough examination of the process of consultation among the several agencies regarding arms transfers to other countries, a matter dealt with in section 150 of S. 1517. The adequacy of the role of the Arms Control and Disarmament Agency in the consultation mechanism will be specifically evaluated.



I also today directed the Director of the Arms Control and Disarmament Agency to undertake two specific studies in general consonance with the intent of sections 142 and 143 of S. 1517. The first relates to the impact upon military expenditures of the arms control measures mutually agreed to by the United States and the Soviet Union. The second is research, in consultation with other agencies and the International Atomic Energy Agency, with respect to the development of nuclear safeguard techniques.

With these actions and with prompt enactment by the Congress of a substitute measure for the other provisions of S. 1517, we will have significantly strengthened our arrangements for the administration of arms control and disarmament policy and negotiations, and we shall have done so in a manner that preserves Presidential flexibility and appropriate cooperation between the Congress and the Executive.

THE WHITE HOUSE

November , 1975

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I understand the concerns of those who supported the provisions of section 146 -- concern for a strong, independent Arms Control and Disarmament Agency, concern that all major armaments proposals are thoroughly assessed not only for their contributions to the defense of the Nation but for their implications to our arms control and disarmament policy and negotiations and concern that the Congress and its committees receive information adequate for them to perform their functions effectively.



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THE WHITE HOUSE

November , 1975

FOR IMMEDIATE RELEASE

Office of the White House Press Secretary

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GERALD R. FORD

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