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REPORT
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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

OCTOBER 23, 1989.—Ordered to be printed

Mr. BEILENSON, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2834]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1991."

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1991 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) The amounts authorized to be appropriated by section 101, and the authorized personnel ceilings as of September 30, 1991, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations to accompany S. 2834 of the One Hundred First Congress.

(b) Such Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch of the Government.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1991 under sections 102 and 202 or this Act when he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1991 $27,900,000, of which amount $6,580,000 shall be available for the Security Evaluation Office.

SEC. 202. AUTHORIZATION OF PERSONNEL END-STRENGTH.

(a) AUTHORIZED PERSONNEL LEVEL.—The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1991, including 50 full-time personnel who are authorized to serve in the Security Evaluation Office. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) REPRESENTATION OF INTELLIGENCE ELEMENTS.—During fiscal year 1991, personnel of the Intelligence Community Staff shall be selected so as to provide representation from elements of the United States Government engaged in intelligence activities.

(c) REIMBURSEMENT.—During fiscal year 1991, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be

detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1991, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1991 $164,600,000.

SEC. 302. CIA FORMER SPOUSE QUALIFYING TIME.

Section 204(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting before the period at the end of paragraph (4) "during the participant's service as an employee of the Central Intelligence Agency".

SEC. 303. ELIMINATION OF 15-YEAR CAREER REVIEW FOR CERTAIN CIA EMPLOYEES.

Section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out the second sentence and inserting in lieu thereof the following: "Any officer or employee who elects to accept designation as a participant entitled to the benefits of the system shall remain a participant of the system for the duration of his or her employment with the Agency. Such election shall be irrevocable except as and to the extent provided in section 301(d) of this Act and shall not be subject to review or approval by the Director.".

SEC. 304. SURVIVOR ANNUITIES UNDER CIARDS FOR SPOUSES OF REMARRIED, RETIRED PARTICIPANTS.

(a) CALCULATION OF REDUCTION IN ANNUITIES.—Section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "or elected under section 226(e)" after "(unless such reduction is adjusted under section 222(b)(5))".

(b) ELECTION OF REDUCTION IN ANNUITY.—Section 226 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end the following new subsection:

"(e) Upon remarriage occurring on or after the date of the enactment of this subsection to a spouse other than the spouse at the time of retirement, a retired participant whose annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement may

irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, a reduction in the retired participant's annuity for the purpose of providing an annuity for such retired participant's spouse in the event such spouse survives the retired participant. The reduction shall be effective the first day of the month which begins nine months after the date of remarriage. For any remarriage that occurred before the date of the enactment of this subsection, the retired participant may make such an election within two years after such date. To the greatest extent practicable, the retired participant shall pay a deposit under the same terms and conditions as those prescribed for retired employees under the Civil Service Retirement and Disability System under section 8339(j)(5)(C)(ii) of title 5, United States Code. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under section 221(b).".

(c) CONFORMING AMENDMENT.—Section 226(d) of such Act is amended by striking out "This" and inserting in lieu thereof "Subsections (a) through (c) of this".

SEC. 305. REDUCTION OF REMARRIAGE AGE.

(a) REDUCTION OF REMARRIAGE AGE FOR SURVIVOR AND RETIREMENT BENEFITS.—The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in section 221—

(A) in subsections (b)(1)(A) and (b)(3)(C), by striking out "age 60" each place it appears and inserting in lieu thereof "age 55"; and

(B) in subsection (g)(1), by striking out "age sixty" each place it appears and inserting in lieu thereof "age 55";

(2) in section 222—

(A) by striking out "60 years of age" each place it appears in subsections (a)(2), (a)(3)(A), and (b)(2) and inserting in lieu thereof "55 years of age"; and

(B) by striking out "age 60" each place it appears in subsections (b)(3), (b)(5)(A), (c)(3)(C), (c)(3)(D), and (c)(4) and inserting in lieu thereof "age 55"; and

(3) in section 232(b)(1), by striking out "attaining age sixty" in the last sentence and inserting in lieu thereof "attaining age 55".

(b) EFFECTIVE DATE OF AMENDMENTS.—(1) The amendments made by subsection (a) relating to widows or widowers shall apply in the case of a surviving spouse's remarriage occurring on or after July 27, 1989, and with respect to periods beginning after such date.

(2) The amendments made by subsection (a) relating to former spouses shall apply with respect to any former spouse whose remarriage occurs after the date of enactment of this Act.

SEC. 306. ELECTION BETWEEN CIARDS ANNUITY AND OTHER SURVIVOR ANNUITIES.

Section 221(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end the following paragraph:

"(3) A surviving spouse who married a participant after his or her retirement shall be entitled to a survivor annuity payable from the fund under this title only upon electing this annuity

instead of any other survivor benefit to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.".

SEC. 307. RESTORATION OF FORMER SPOUSE BENEFITS AFTER DISSOLUTON OF REMARRIAGE.

(a) SURVIVOR ANNUITY.—Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(2) in subsection (c)(1)(B) after "fifty-five" by inserting ", except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce"; and

(3) by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (c)(2)(A) of this section, the thirty-month application requirement for a survivor annuity under this section to be payable shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(b) RETIREMENT BENEFITS.—Section 225 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), is amended—

(1) in subsection (c)(1)(B)(i) by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce" after "fifty-five years of age";

(2) in subsection (b)(1) after "fifty-five" by inserting ", except that the entitlement of the former spouse to benefits under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce";

(3) by redesignating subsection (e) as subsection (f); and

(4) by adding after subsection (d) the following new subsection (e):

"(e) Notwithstanding subsection (c)(4)(A) of this section, the thirty-month application requirement for benefits under this section to be payable shall not apply in cases in which a former spouse's entitlement to such benefits is restored under subsection (b)(1) or (c)(1)(B) of this section.".

(c) HEALTH BENEFITS.—Section 16(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after paragraph (2) the following new paragraph:

"(3)(A) A former spouse who is not eligible to enroll or to continue enrollment in a health benefits plan under this section solely because of remarriage before age fifty-five shall be restored to such eligibility on the date such remarriage is dissolved by death, annulment, or divorce.

"(B) A former spouse whose eligibility is restored under subparagraph (A) may, under regulations which the Director of the Office of

Personnel Management shall prescribe, enroll in a health benefits plan if such former spouse—

"(i) was an individual referred to in paragraph (1) and was an individual covered under a benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to the Agency employee or annuitant; or

"(ii) was an individual referred to in paragraph (2) and was an individual covered under a benefits plan immediately before the remarriage ended the enrollment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1990. No benefits provided pursuant to the amendments made by this section shall be payable with respect to any period before such effective date.

(e) COMPLIANCE WITH BUDGET ACT.—Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 402. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 403. TREATMENT OF CERTAIN ALIEN EMPLOYEES IN HONG KONG.

(a) AUTHORITY.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in subsection (b), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(b) ELIGIBLE ALIENS.—An alien eligible under subsection (a) is an alien who—

(1) is an employee of the Foreign Broadcast Information Service in Hong Kong; or

(2) is the spouse or child of an alien described in paragraph (1) if accompanying or following to join the alien in coming to the United States.

SEC. 404. EXCEPTED POSITIONS FROM THE COMPETITIVE SERVICE.

Section 621 of the Department of Energy Organization Act (42 U.S.C. 7231) is amended by adding at the end thereof the following new subsection:

"(f) All positions in the Department which the Secretary determines are devoted to intelligence and intelligence-related activities of the United States Government are excepted from the competitive service, and the individuals who occupy such positions as of the date of enactment of this Act shall, while employed in such positions, be exempt from the competitive service."

SEC. 405. INTELLIGENCE COMMUNITY CONTRACTING

The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner that would maximize the procurement of products produced in the United States. For purposes of this provision, the term "Intelligence Community" has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 501. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICES.

(a) AUTHORITY.—The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency, if the Secretary of Defense determines that those military airlift services are provided for activities related to national security objectives.

(b) As used in subsection (a), the term "Department of Defense reimbursement rate" means the amount charged a component of the Department of Defense by another component or the Department of Defense.

SEC. 502. PUBLIC AVAILABILITY OF MAPS, ETC., PRODUCED BY DEFENSE MAPPING AGENCY.

(a) IN GENERAL.—(1) Chapter 167 of title 10, United States Code, is amended by adding at the end of the following new section:

"§ 2796. Maps, charts, and geodetic data: public availability; exceptions

"(a) The Defense Mapping Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

"(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geodetic product in the possession of, or under the control of, the Department of Defense—

"(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to gov-

ernment officials of the agreeing parties or that restricts use of such product or information to government purposes only;

"(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods used to obtain source material for production of the geodetic product; or

"(C) that contains information that the Director of the Defense Mapping Agency has determined in writing would, if disclosed, reveal military operational or contingency plans.

"(2) In this subsection, the term 'geodetic product' means any map, chart, geodetic data, or related product.

"(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

"(2) Regulations under this section shall address the conditions under which release of geodetic products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

"(A) in the case of allies of the United States; and

"(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.".

"(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2796. Maps, charts, and geodetic data: public availability; exceptions.".

"(b) DEADLINE FOR INITIAL REGULATIONS.—Regulations to implement section 2796 of title 10, United States Code, as added by subsection (a), shall be published in the Federal Register for public comment in accordance with subsection (c) of that section not later than 90 days after the date of the enactment of this Act.

SEC. 503. POST-EMPLOYMENT ASSISTANCE FOR CERTAIN NSA EMPLOYEES.

The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following new section:

"SEC. 17. (a) Notwithstanding any other law, the Director of the National Security Agency may use appropriated funds to assist employees who have been in sensitive positions who are found to be ineligible for continued access to Sensitive Compartmented Information and employment with the Agency, or whose employment has been terminated—

"(1) in finding and qualifying for subsequent employment,

"(2) in receiving treatment of medical or psychological disabilities, and

"(3) in providing necessary financial support during periods of unemployment.

"if the Director determines that such assistance is essential to maintain the judgment and emotional stability of such employee and avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had access. Assistance provided under this section for an employee shall not be pro-

vided any longer than five years after the termination of the employment of the employee.

"(b) The Director of the National Security Agency shall report annually to the Appropriations Committees of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representative with respect to any expenditure made pursuant to this section.".

SEC. 504. USE OF COMMERCIAL ACTIVITIES AS COVER SUPPORT TO INTELLIGENCE COLLECTION ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 21 of title 10, United States Code, is amended—

(1) by inserting after the chapter heading the following:

SEC. 431. AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

"(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 1995.

"(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

"(1) be coordinated with and (where appropriate) be supported by, the Director of Central Intelligence; and

"(2) to the extent the activity takes place within the United State, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

"(c) DEFINITIONS.—As used in this subchapter:

"(1) the term 'commercial activities' means activities that are conducted in a manner consistent with prevailing commercial practice and includes—

"(A) the acquisition, use, sale, storage and disposal of goods and services;

"(B) entering into employment contracts and leases and other agreements for real and personal property;

"(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

"(D) acquiring licenses, registrations, permits, and insurance; and

"(E) establishing corporations, partnerships, and other legal entities.

"(2) the term 'intelligence collection activities' means the collection of foreign intelligence and counterintelligence information.

"SEC. 432. USE DISPOSITION, AND AUDITING OF FUNDS.

"(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

"(b) AUDITS.—The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

"(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. The results of all such audits shall be promptly reported to the intelligence committees (as defined in section 437(d) of this subchapter).

"SEC. 433. RELATIONSHIP WITH OTHER FEDERAL LAWS.

"(a) IN GENERAL.—Except as provided by subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

"(b) AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.—(1) If the Secretary of Defense determines, in connection with a commercial activity authorized pursuant to section 431, that compliance with certain Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence activity, the Secretary may, to the extent necessary to prevent such compromise, waive compliance with such laws or regulations.

"(2) Any determination and waiver by the Secretary under paragraph (1) shall be made in writing and shall include a specification of the laws and regulations for which compliance by the commercial activity concerned is not required consistent with this section.

"(3) The authority of the Secretary under paragraph (1) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, or a Secretary of a military department.

"(c) FEDERAL LAWS AND REGULATIONS.—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are only those Federal laws and regulations pertaining to the following:

"(1) The receipt and use of appropriated and nonappropriated funds.

"(2) The acquisition or management of property or services.

"(3) Information disclosure, retention, and management.

"(4) The employment of personnel.

"(5) Payments for travel and housing.

"(6) The establishment of legal entities or government instrumentalities.

"(7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

"SEC. 434. RESERVATION OF DEFENSES AND IMMUNITIES.

"The submission to judicial proceedings in a State or other legal jurisdiction, in connection with a commercial activity undertaken pursuant to this subchapter, shall not constitute a waiver of the defenses and immunities of the United States.

"SEC. 435. LIMITATIONS.

"(a) LAWFUL ACTIVITIES.—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

"(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

"(c) PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

"(d) NOTICE TO UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

"(2) In this subsection, the term 'United States person' means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

"SEC. 436. REGULATIONS.

"The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

"(1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;

"(2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;

"(3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to subsection 433(b), or to approve the establishment or conduct of commercial activities pursuant to this subchapter;

"(4) designate a single office within the Defense Intelligence Agency to be responsible for the management and supervision of all activities authorized under this subchapter;

"(5) require that each commercial activity proposed to be authorized under this subchapter be subject to appropriate legal review before the activity is authorized; and

"(6) provide for appropriate internal audit controls and oversight for such activities.

"SEC. 437. CONGRESSIONAL OVERSIGHT.

"(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this subchapter (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

"(b) CURRENT INFORMATION.—Consistent with Title V of the National Security Act of 1947, the Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter. The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter.

"(c) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. Such report shall include (with respect to the fiscal year covered by the report)—

"(1) a description of any exercise of the authority provided by subsection 433(b) of this subchapter;

"(2) a description of any expenditure of funds made pursuant to this subchapter (whether from appropriated or non-appropriated funds); and

"(3) a description of any actions taken with respect to audits conducted pursuant to section 432 of this subchapter to implement recommendations or correct deficiencies identified in such audits.

"(d) INTELLIGENCE COMMITTEES DEFINED.—As used in this section, the term 'intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(b) EFFECTIVE DATE.—The Secretary of Defense may not authorize any activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

(1) the end of the 90-day period beginning on the date of the enactment of this Act; or

(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).

SEC. 505. DISCLOSURE TO MEMBERS OF CONGRESS OF CLASSIFIED DEFENSE INTELLIGENCE AGENCY REPORT RELATING TO MILITARY PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR.

The Secretary of Defense shall provide to any Member of Congress, upon request, full and complete access to the classified report of the Defense Intelligence Agency commonly known as the Tighe Report, relating to efforts by the Special Office for Prisoners of War/Missing in Action of the Defense Intelligence Agency to fully account for

United States military personnel listed as prisoner, missing, or unaccounted for in military actions. The Secretary may withhold from disclosure under the preceding sentence any material that in the judgment of the Secretary would compromise sources and methods of intelligence.

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

REPEAL OF HUGHES-RYAN AMENDMENT

SEC. 601. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is repealed.

OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 602. Title V of the National Security Act of 1947 is amended by striking out section 501 (50 U.S.C. 413) and inserting in lieu thereof the following new sections:

"GENERAL PROVISIONS

SEC. 501. (a)(1) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title.

"(2) Nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities.

"(b) The President shall ensure that any illegal intelligence activity is reported promptly to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity.

"(c) The President and the intelligence committees shall establish such procedures as may be necessary to carry out the provisions of this title.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

"(f) As used in this section, the term 'intelligence activities' includes, but is not limited to, covert actions as defined in section 503(e).

"REPORTING INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTION

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities, other than a covert action as defined in section 503(e), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"PRESIDENTIAL APPROVAL AND REPORTING OF COVERT ACTIONS

"SEC. 503(a). The President may not authorize the conduct of a covert action by departments, agencies, or entities of the United States Government unless the President determines such an action is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

"(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than forty-eight hours after the decision is made.

"(2) Except as permitted by paragraph (1), a finding may not authorize or sanction covert actions, or any aspect of such actions, which have already occurred.

"(3) Each finding shall specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any significant way in such actions. Any employee, contractor, or contract agent of a department, agency, or entity of the United States Government other than the Central Intelligence Agency directed to participate in any way in a covert action shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency, or entity, to govern such participation.

"(4) each finding shall specify whether it is contemplated that any third party which is not an element of, or a contractor or contract agent of, the United States Government, or is not otherwise subject to United States Government policies and regulations, will be used to fund or otherwise participate in any significant way in the covert action concerned, or be used to undertake the covert action concerned on behalf of the United States.

"(5) A finding may not authorize any action that would violate the Constitution or any statute of the United States.

"(b) To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action—

"(1) shall keep the intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and

"(2) shall furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"(c)(1) The President shall ensure that any finding approved pursuant to subsection (a) shall be reported to the intelligence committees as soon as possible after such approval and prior to the initiation of the covert actions authorized by the finding, except as otherwise provided in paragraph (2) and paragraph (3).

"(2) If the President determines it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, such finding may be reported to the Chairmen and Ranking Minority Members of the Intelligence committees, the Speaker and Minority Leader of the House of Representatives, the Majority and Minority Leaders of the Senate, and such other Member or Members of the joint congressional leadership as may be included by the President.

"(3) On rare occasions, the President may direct that covert actions be initiated before reporting such actions to the intelligence committees. On such occasions, the President shall fully inform the intelligence committees in a timely fashion and shall provide a statement of the reasons for not giving prior notice.

"(4) In a case under paragraph (1), (2) or (3), a copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee. Where access to a finding is limited to the Members of Congress specified in paragraph (2), a statement of the reasons for limiting such access shall also be provided.

"(d) The President shall ensure that the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c)(2), are notified of any significant change in a previously approved covert action, or any significant undertaking pursuant to a previous-

ly approved finding, in the same manner as findings are reported pursuant to subsection (c).

"(e) As used in this title, the term 'covert action' means an activity or activities conducted by an element of the United States Government to influence political, economic, or military conditions abroad so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities;

"(2) traditional diplomatic or military activities or routine support to such activities;

"(3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or

"(4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.

"A request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States shall be deemed to be a covert action.

"(f) No covert action may be conducted which is intended to influence United States political processes, public opinion, policies, or media.".

LIMITATIONS ON USE OF FUNDS

SEC. 603. Section 502 of the National Security Act of 1947 (50 U.S.C. 414)—

(1) is redesignated as section 504;

(2) is amended in subsection (a)(2) by striking out "501" and inserting in lieu thereof "503"; and

(3) is amended by adding at the end the following:

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be expended, or may be directed to be expended, for any covert action, as defined in section 503(e), unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.

"(e) Except as provided in section 204(b) (appearing under the heading 'GENERAL PROVISIONS—DEPARTMENT OF JUSTICE') of the Department of Justice Appropriations Act, 1988 (contained in Public Law 100-202) and in section 423 of title 10, United States Code, funds available to an intelligence agency which are not appropriated funds may be obligated or expended for an intelligence or intelligence related activity only if they are used for activities reported to the appropriate congressional committees pursuant to procedures, jointly agreed upon by such committees and, as appropriate, the Director of Central Intelligence or the Secretary of Defense, which identify types of activities for which nonappropriated funds may be

expended and under what circumstances an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.".

TRANSFERS OF DEFENSE ARTICLES OR SERVICES

SEC. 604. Section 503 of the National Security Act of 1947 (50 U.S.C. 415)—

(1) is redesignated as section 505; and

(2) is amended in subsection (a)(1) by inserting "or the anticipated transfer in any fiscal year of any aggregation of defense articles or defense services," after "service."

And the House agree to the same.

ANTHONY C. BEILENSON,
DAVE MCCURDY,
ROBERT W. KASTENMEIER,
ROBERT A. ROE,
MATTHEW F. MCHUGH,
BERNARD J. DWYER,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICHOLAS MAVROULES,
BILL RICHARDSON,
STEPHEN J. SOLARZ,

From the Committee on Armed Services, for the consideration of Department of Defense Tactical Intelligence and related activities and Section 504 of the House Bill:

LES ASPIN,
IKE SKELTON,

Managers on the Part of the House.

DAVID L. BOREN,
BILL COHEN,
SAM NUNN,
ERNEST F. HOLLINGS,
BILL BRADLEY,
ALAN CRANSTON,
DENNIS DECONCINI,
HOWARD M. METZENBAUM,
JOHN GLENN,
ORRIN G. HATCH,
FRANK H. MURKOWSKI,
ARLEN SPECTER,
JOHN WARNER,
ALFONSE M. D'AMATO,
JOHN C. DANFORTH,

From the Committee on Armed Services:

J. JAMES EXON,
STROM THURMOND,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2834) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DoD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special confernce group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate. This special conference group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act, 1991. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation category of Military Pay.

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1991 and establish personnel ceilings applicable to such activities.

The Senate bill had included a provision stating that any limitation, restriction, or condition that pertained to an amount specified in the classified Schedule of Authorizations was incorporated into the Act. The House amendment did not contain a similar provision. While the conferees agreed that any limitation, restriction, or condition set forth in any footnote to the amounts specified in the classified Schedule of Authorizations was itself part of such Schedule, they believed it was unnecessary to specify this in the statute.

SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. Section 103 of the conference report is identical to section 103 of the Senate bill and section 103 of the House amendment.

The conferees emphasize that the authority conveyed by section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for coverages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, and so forth. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Title II of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1991 for the Intelligence Community Staff and provides for administration of the staff during fiscal year 1991 in the same manner as the Central Intelligence Agency. The conference report authorizes $27,900,000 and 240 personnel. The Senate bill authorized $28,900,000 and 240 positions; the House amendment authorized $27,900,000 and 240 positions.

Included in the funds authorized for the Intelligence Community Staff are $6,580,000 for the Security Evaluation Office (SEO). In last year's conference report on the FY 1990 Intelligence Authorization Act (see pages 21-22, H. Rept. 101-367, 101st Congress, 1st Session), the conferees expressed concern that for various reasons the SEO had failed to make the contribution expected of it by the committees as the focal point for bringing to bear the unique capabilities of the Intelligence Community on the problems of embassy

security. The conference report set forth in detail what the conferees believed the organizational relationships and functions of the SEO should be to achieve the role envisioned for it.

The conferees on this year's bill continue to support the language in last year's conference report on SEO.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SECTION 301

Section 301 of the conference report authorizes appropriations for fiscal year 1991 of $164,600,000 for the CIA retirement and Disability Fund. Both the Senate bill (section 301) and the House amendment (section 301) authorized $164,600,000.

SECTION 302

Section 302 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to make clear that the five years of marriage spent outside the United States required to qualify for former spouse status must have occurred during periods of the participant's service with the CIA. Section 302 is identical to section 402 of the Senate bill and section 302 of the House amendment.

SECTION 303

Section 303 amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to eliminate the statutory provisions requiring a 15-year career review and a re-election option for CIARDS and FERS Special Category participants to remain under CIARDS or in FERS Special Category status for the duration of their CIA service. Section 303 is identical to section 401 of the Senate bill and section 303 of the House amendment.

SECTION 304

Section 304 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to permit a retiree under CIARDS who failed to elect a survivor benefit for a prior spouse to elect to provide a survivor benefit upon remarriage after retirement. Section 304 is identifical to section 404 of the Senate bill and, except for a conforming amendment regarding the effective date, identical to section 304 of the House amendment.

SECTION 305

Section 305 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to lower, from 60 to 55, the age before which an entitlement to retirement benefits, in the case of former spouses, and survivor benefits, in the case of surviving spouses and former spouses, shall terminate because of the remarriage of the former spouse or surviving spouse. Section 305 is identical to section 305 of the House amendment. Section 406 of the Senate bill, while written in terms of removing impediments to the effectiveness of a previous executive

order, achieved the same result but applied only to surviving spouses.

SECTION 306

Section 306 amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to require a surviving spouse, who marries a retiree and becomes entitled to a CIARDS survivor annuity, to choose between such annuity and any other federal government survivor annuity to which he or she may be entitled. Section 306 is identifical to section 306 of the House amendment and, except for technical drafting differences, to section 403 of the Senate bill.

SECTION 307

Section 307 of the conference report amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees to restore certain survivor, retirement, and health benefits to former spouses whose benefits were terminated because of remarriage before age 55 and whose remarriage was later dissolved by death, divorce, or annulment. Section 307 is identical to section 307 of the House amendment and, except for technical drafting differences, substantially similar to section 405 of the Senate bill.

TITLE IV—GENERAL PROVISIONS

SECTION 401

Section 401 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 401 is identical to section 401 of the House amendment and, except for technical drafting differences, to section 801 of the Senate bill.

SECTION 402

Section 402 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 402 is identifical to section 402 of the House amendment. The Senate bill did not contain a similar provision.

SECTION 403

Section 403 of the conference report authorizes the Director of Central Intelligence to apply any unused portion of the annual allocation provided by section 7 of the CIA Act of 1949, for fiscal years 1991 through 1996, to permit the entry into the United States of employees of the Foreign Broadcast Information Service in Hong Kong, and their dependents, prior to the end of fiscal year 1997. Section 403 is identical to section 407 of the Senate bill. The House amendment did not contain a similar provision.

SECTION 404

Section 404 of the conference report amends the Department of Energy Reorganization Act to provide that all positions within the Department which are determined by the Secretary to be devoted to intelligence and intelligence-related activities are expected from the competitive service. Section 404 is identical to section 601 of the Senate bill. The House amendment did not contain a similar provision.

SECTION 405

The House amendment contained a provision authorizing the Director of Central Intelligence, under certain circumstances, and with the concurrence of the Secretary of Commerce, to award contracts to domestic firms that, if competitive bidding procedures were followed, would be awarded to a foreign firm. The Senate bill did not contain a similar provision. The conferees adopted a provision requiring the DCI to direct that, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, elements of the Intelligence Community should award contracts in a manner that would maximize the procurement of products produced in the United States. The conferees note that the use of a differential in evaluating the bids of domestic and foreign firms is not inconsistent with the meaning of the term "fiscally sound."

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SECTION 501

Section 501 of the conference report authorizes the Secretary of Defense to permit a component of the Department to charge the CIA the same rate for military airlift services as would be charged another component of the Department if the Secretary determines that such services are provided for activities related to national security objectives. Section 501 is identical to section 503 of the Senate bill and, except for technical drafting differences, to section 503 of the House amendment.

SECTION 502

Section 502 of the conference report amends chapter 167 of title 10 of the United States Code to (a) authorize withholding from public disclosure unclassified maps, charts and related geodetic data produced by the Defense Mapping Agency, and (2) provide for the public sale by the Defense Mapping Agency of unclassified maps and charts of scales 1:500,000 and smaller. Section 502 is identical to section 502 of the House amendment. The Senate bill did not contain a similar provision.

SECTION 503

Section 503 of the conference report amends the National Security Agency Act of 1959 to provide discretionary authority to the Director of the National Security Agency to utilize appropriated

funds to provide assistance to former National Security Agency employees for up to five years after leaving such employment if the Director determines such assistance is essential to avoid circumstances that might lead to the unlawful disclosure of classified information to which the employee to be assisted had access. Section 503 is identical to section 502 of the Senate bill. The House amendment did not contain a similar provision.

SECTION 504

Section 504 of the conference report adds a new subchapter II to chapter 21 of title 10 of the United States Code empowering the Secretary of Defense to authorize the conduct of commercial activities necessary to provide sufficient security for authorized intelligence collection activities undertaken abroad by the Department of Defense. Section 504 incorporates portions of similar provisions found in section 501 of the Senate bill and section 503 of the House amendment, with the following significant modifications.

The House amendment contains a sunset clause providing that no commercial activities could be conducted after September 30, 1995. The Senate bill contained no similar provision. The conferees adopted the House provision, with modifications to permit the continuation of commercial activities initiated prior to December 31, 1995.

The House amendment provided that all activities undertaken pursuant to this subchapter be coordinated with the Director of Central Intelligence. The Senate bill provided that all such activities be approved by the Director of Central Intelligence. The conferees adopted the House position, but intend that the Director of Central Intelligence nonetheless be in a position to disapprove such activities should they conflict with other U.S. intelligence or foreign policy objectives, or if he should not consider them operationally sound. The conferees also emphasize that the Director of Central Intelligence and the Director of the Federal Bureau of Investigation are requried to provide appropriate support to the Department of Defense in carrying out activities pursuant to this subchapter. Finally, in approving this subchapter, the conferees do not intend to terminate, supplant, or alter any support that DoD may now be receiving from the CIA, FBI, or other department or agency of the Executive Branch in support of its intelligence collection activities.

The Senate bill required prior notice to the intelligence committees and the armed services committees of the establishment of any corporation, partnership, or other legal entity. The House amendment required the provision of prompt notice of such establishment to the intelligence committees. The conferees adopted the House provision, modified to require that such notice be provided to the appropriate committees of Congress.

The Senate bill also directed the Secretary of Defense to keep the intelligence and armed services committees fully and currently informed of actions taken under the new authority and to provide such committees with an annual report. The House amendment limited these reporting requirements to the intelligence committees. The Conference Report refers instead to "appropriate commit-

tees of the Congress." Pursuant to Senate Resolution 400 of the 94th Congress, Rule XXV of the Rules of the Senate, and Rule XLVIII of the Rules of the House of Representatives, the appropriate committees are the Select Committee on Intelligence and the Committee on Armed Services of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

The Senate bill permitted the delegation of the Secretary of Defense's authority to waive certain laws and regulations to an official of rank no lower than Assistant Secretary of Defense or to the secretary of a military department. The House amendment did not permit this authority to be delegated to the service secretaries. The conferees adopted the Senate provision.

The Senate bill required the personal approval of the Secretary of Defense or the Deputy Secretary of Defense for the establishment of a corporation, partnership, or other legal entity. The House bill did not contain a similar provision. The conferees adopted the Senate provision, modified to require the personal approval of the Secretary of Defense or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to the new subchapter. The conferees agree that "sensitive" activities authorized pursuant to this subchapter which the Secretary or Deputy Secretary must personally approve include, but are not limited to, those activities specified in current Defense Department directives requiring referral of intelligence collection plans to the Office of the Secretary of Defense in certain circumstances. The conferees also agree that an example of a "sensitive" activity is the first time an operational activity utilizing the authority of this subchapter is to be conducted in a country that is itself a target of such collection. Another dimension of sensitivity is size. The Defense Department regulations required by this subchapter should specify a level of anticipated commercial activity and a number of employees to be involved in such activity above which the Secretary or Deputy Secretary's personal approval would be required.

SECTION 505

The House amendment contained a provision requiring the Secretary of Defense to provide to Members of Congress a classified report prepared for the Director of the Defense Intelligence Agency concerning military personnel listed as prisoner, missing, or unaccounted for. The Senate bill did not contain a similar provision. The conferees adopted the House provision.

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

Sections 601–605 of the conference report contain significant provisions regarding congressional oversight of intelligence activities, including requirements relating to the authorization of covert actions by the President and the reporting of covert actions to the Congress. These provisions would for the first time in statute impose the following requirements:

A finding must be in writing.

A finding may not retroactively authorize covert activities which have already occurred.

The President must determine that the covert action is necessary to support identifiable foreign policy objectives of the United States.

A finding must specify all government agencies involved and whether any third party will be involved.

A finding may not authorize any action intended to influence United States political processes, public opinion, policies, or media.

A finding may not authorize any action which violates the Constitution of the United States or any statutes of the United States.

Notification to the congressional leaders specified in the bill must be followed by submission of the written finding to the chairmen of the intelligence committees.

The intelligence committees must be informed of significant changes in covert actions.

No funds may be spent by any department, agency or entity of the Executive Branch on a covert action until there has been a signed, written finding.

Sections 601–605 are substantially similar to title VII of the Senate bill, with technical and drafting changes and the substantive changes noted below. The House bill did not contain similar provisions.

The conferees note that sections 601–605 are based on legislation (S. 1721 and H.R. 3822) which was reported by the intelligence committees in the 100th Congress (S.Rept. 100–276; H.Rept. 100–703, parts 1 and 2) but, although passed by the Senate, did not reach the House floor.

Current law, which has been in effect since 1980, requires prior notice of covert actions in most cases, but recognizes that in certain undefined cases the President may withhold prior notice, but must then provide notice "in a timely fashion." The legislative history of this language makes clear that its drafters intended that prior notice could be withheld only in exigent circumstances when a quick reaction to events was necessary and that notice would be forthcoming in a few days.[1] In November, 1986, the Department of Justice, ignoring the intent of Congress, issued a legal opinion construing the "in a timely fashion" language "to leave the President with virtually unfettered discretion to choose the right moment" for notifying Congress.

The conferees categorically reject this opinion and state unequivocally that the "timely fashion" provision of the conference report means that in exigent circumstances where the President needs to implement a covert action immediately to protect United States interests the President may do so without first notifying the intelligence committees, but then must notify the committees within a few days.

The conferees note that S. 1721 and H.R. 3822, referred to above, would have required that when prior notice was not afforded because of exigent circumstances, notice was to follow within 48 hours. The conferees also note that the President views that kind

[1] See H.Rept. 100–175, part 1, pages 9–11.

of notice requirement as a limitation on his authority under the Constitution. In the interest of avoiding a confrontation with the executive branch on this issue and to ensure the enactment of the requirements and limitations contained herein, the conferees essentially restated the current provisions of law requiring notice in a timely fashion in those "rare cases" when prior notice is not given. The following letter to Chairman Beilenson states the President's intention in this area:

"AUGUST 20, 1990.

"DEAR MR. CHAIRMAN: I am aware of your concerns regarding the provision of notice to Congress of covert action and the December 17, 1986, opinion of the Office of Legal Counsel of the Department of Justice, with which you strongly disagree primarily because of the statement that; 'a number of factors combine to support the conclusion that the "timely fashion" language should be read to leave the President with virtually unfettered discretion to choose the right moment for making the required notification.'

"I can assure you that I intend to provide notice to Congress of covert action in a fashion sensitive to these concerns. The statute requires prior notice or, when to prior notice is given, timely notice. I anticipate that in almost all instances, prior notice will be possible. In those rare instances where prior notice is not provided, I anticipate that notice will be provided within a few days. Any withholding beyond this period will be based upon my assertion of authorities granted this office by the Constitution.

"I am sending a similar letter to Congressman Hyde.

"Sincerely,

"GEORGE BUSH".

The conferees note that the current law, restated in the conference report, already permits the President, in extraordinary circumstances, to afford the requisite notice to the leadership of Congress and the chairman and ranking minority members of the intelligence committees rather than to the two committees. The conferees intend that this provision be utilized when the President is faced with a covert action of such extraordinary sensitivity or risk to life that knowledge of the covert action should be restricted to as few individuals as possible. In such cases it is expected that knowledge of the action will be similarly limited within the executive branch.

The conferees further note that in defining for the first time in statute the term "covert action" they do not intend that the new definition exclude any activity which heretofore has been understood to be a covert action, nor to include any activity not heretofore understood to be a covert action. The new definition is meant to clarify the understanding of intelligence activities that require presidential approval and reporting to Congress; not to relax or go beyond previous understandings.

Some concern has been expressed that the language contained in the report accompanying the Senate bill (S. Rept. 101-358) on the definition of "covert action" may inadvertently include certain activities that do not merit treatment as covert action. The conferees

agree that the intent of Congress should be clarified to avoid misunderstanding.

The definition of "covert action" applies only to activities in which the role of the United States Government is not intended to be apparent or acknowledged publicly. Therefore, the definition of "covert action" does not apply to acknowledged United States government activities which are intended to mislead a potential adversary as to the true nature of United States military capabilities, intentions, or operations, Likewise, the definition of "covert action" does not apply to acknowledged United States government activities which are intended to influence public opinion or governmental attitudes in foreign countries. In both cases, the activity is not a "covert action" because the United States government acknowledges the activity as being an activity of the United States government. Concealment or misrepresentation of the true nature of an acknowledged United States activity does not make it a "covert action," even if the concealment or misrepresentation is intended to influence political, economic, or military conditions abroad. Similarly acknowledged United States activities intended to influence public opinion or governmental attitudes in foreign countries are not "covert action," even if specific objectives of the activities are concealed. The conferees agree that the definition of "covert action" does not apply unless the fact of United States government involvement in the activity is itself not intended to be acknowledged.

In addition, certain counterintelligence activities which are intended to influence military conditions abroad do not fall within the definition of "covert action." The definition of "covert action" expressly exempts "traditional counterintelligence activities," which include double agent operations and operations to frustrate intelligence collection activities by hostile foreign powers. The ordinary objectives of such traditional counterintelligence activities might include influencing the intelligence gathered by foreign powers regarding specific United States military capabilities, intentions, or operations. The conferees agree that the fact that such activities may have a substantial influence on the military plans and programs of certain foreign powers does not make them "covert action." However, there is a line beyond which such activities could, at least in theory, be undertaken to effect major changes in the national defense policies of such foreign powers or to provoke significant military responses by such foreign powers. If such activities were to be undertaken for such purposes, they would exceed the ordinary objectives of traditional counterintelligence activities and would constitute "covert action." The conferees agree that none of the counterintelligence activities which the Department of Defense has reported to the intelligence committees constitute covert action within the meaning of this definition.

Furthermore, there is concern about which activities conducted in connection with an imminent or ongoing United States military operation abroad may be treated as "covert action." The language of the Committee report does not specifically address such activities.

It is the intent of the conferees that military activities conducted by military personnel under the direction and control of a United

States military commander (whether or not the U.S. sponsorship of such activities is apparent or later to be acknowledged) which immediately precede or take place during the execution of a military operation, where the U.S. role in the overall operation is apparent or is intended to be acknowledged publicly, should be treated as part of the military operation itself, i.e. as a "traditional military activity," and not considered a "covert action."

For the period immediately preceding or during the execution of a military operation, the conferees intend to draw a line between activities that are and are not under the direction and control of the military commander. Activities that are not under the direction and control of a military commander should not be considered as "traditional military activities." In such circumstances, if the U.S. role in such activities is not apparent or to be acknowledged, and such activities do not otherwise constitute "routine support to a traditional military activity," as explanied in the report accompanying the Senate bill, the Conferees intend that they should be treated as "covert actions." such interpretation is consistent with the existing practice of the Intelligence Committees.

Whether or not activities undertaken well in advance of a possible or eventual U.S. military operation constitute "covert action" will depend in most cases upon whether they constitute "routine support" to such an operation, as explained in the report accompanying the Senate bill.

Modifications to Title VII of Senate Bill

Unauthorized Disclosure

As rewritten by the conference report, section 501 of the National Security Act of 1947 contains a provision (section 501(e)) found in current law which states that: "Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods." The Senate bill did not contain a similar provision.

The conferees believe it is important to point out, as this provision does, that for the purpose of the preambular clause contained in sections 502 and 503(b) of the National Security Act of 1947, disclosure of information by an intelligence agency to the intelligence committees cannot be an "unauthorized disclosure." This provision is not intended, however, to negate the effect of the preambular clause in sections 502 and 503(b).

Initiation of Covert Actions

The Senate bill contained a provision stating that "nothing in this title shall be construed as a limitation on the power of the President to initiate (covert actions) in a manner consistent with his powers confirmed by the Constitution." The conference report does not include this provision.

Authorization of Covert Actions

The Senate bill's provision regarding presidential findings was stated in terms of permitting the President to authorize covert actions when certain conditions were met. The conferees agreed to recast the formulation as a restriction on the conduct of covert actions in order to conform to the formulation of the Hughes-Ryan amendment.

Presidential Determination

As rewritten by the conference report, section 503(a) of the National Security Act of 1947 requires the President, among other things, to determine that a covert action is necessary to support identifiable foreign policy objectives of the United States. The term "identifiable" was not contained in the Senate bill.

The conferees note that the "identifiable" requirement, which is intended to prevent an overly general or speculative statement of objectives, will help ensure that the foreign policy interests to be served by a covert action are well-thought out prior to approval and not contrived after the fact. Covert actions should be an instrument of foreign policy, not a substitute for foreign policy.

Third-Party Requests

As rewritten by the conference report, section 503(e) of the National Security Act of 1947, which defines "covert action," states that "(a) request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States shall be deemed to be a covert action." This provision, not contained in the Senate bill, is intended to prevent the conduct of a covert action at the specific request of the United States that bypasses the requirements for Administration review, presidential approval, and consultation with the intelligence committees. It encompasses within the definition of covert action the indirect conduct of covert action through another country and ensures that the same review, accountability, and oversight that applies to a covert action conducted exclusively by the United States, or jointly with another country, will apply to a covert action conducted indirectly by the United States.

Timing of Prior Notice

The conference report requires that the President shall provide the intelligence committees with notice of a covert action finding as soon as possible after the finding is approved and prior to the initiation of the covert action. The Senate bill required only that such notice be given prior to the initiation of the covert action.

The conferees note that the primary purpose of prior notice is to permit the intelligence committees, on behalf of the Congress, to offer advice to the President. This purpose would be thwarted if the President waits until immediately prior to the initiation of the covert action to provide notice. It is important to remember that discussion with and advice from the intelligence committees must, in the case of covert actions, substitute for the public and congres-

sional debate which normally precedes major foreign policy actions of the U.S. government.

Notification of Congressional Leadership

The Senate bill, and current law, as discussed above, permit the President in certain circumstances to provide notice of a covert action to the chairmen and ranking minority members of the intelligence committees, the Speaker and Minority Leader of the House of Representatives, and the Majority and Minority Leader of the Senate. The conference report adds new language permitting the President to provide notice to additional members of the joint congressional leadership.

Non-Appropriated Funds

Section 603 of the conference report contains a provision not found in the Senate bill which adds a new section 504(e) to the National Security Act of 1947 requiring that, except for funds generated in FBI undercover operations and in Department of Defense counterintelligence operations, non-appropriated funds spent for intelligence or intelligence-related activities may be used by an intelligence agency only if the use is pursuant to procedures jointly agreed upon by the intelligence committees and appropriations committees, and the Director of Central Intelligence and the Secretary of Defense, as appropriate. The purpose of section 504(e) is to insure control over non-appropriated funds similar to those that have applied under existing section 502 to the use of appropriated funds for intelligence or intelligence-related activities, including covert actions. The procedures referred to, which have been in effect since 1988, deal with the categories of uses of non-appropriated funds identified to the committees by the relevant intelligence agencies and require reporting to the committees concerning such funds.

Additional Report of Covert Arms Transfer

Section 604 of the conference report redesignates section 503 of the National Security Act of 1947 as section 505 and amends section 505 so as to require that the intelligence committees be notified of the proposed covert transfer of items on the munitions list worth more than $1 million, as is required by current law, and also of the anticipated transfer of such items aggregating more than $1 million in any fiscal year. Thus, if the executive branch has agreed to covertly transfer 12 items, all of which are worth $100,000, during any fiscal year to a foreign recipient, it should report prior to the first transfer of a single such item that it anticipates transferring an aggregate of items which in total will be worth more than $1 million. The obligation to report an anticipated transfer would occur when the executive branch determines that it will make such a transfer or series of transfers, whether or not it draws this conclusion during the fiscal year in which the transfers in excess of $1 million are made, and even if the decision occurs in a prior fiscal year. If no expectation exists that items worth more than $1 million will be transferred, no obligation to report is imposed by the section.

REORGANIZING DEPARTMENT OF DEFENSE INTELLIGENCE

The report of the Senate Intelligence Committee accompanying S. 2834 (S. Rept. 101-358) indicated that a major review of Department of Defense intelligence priorities, resources, organizations, roles, and functions should be undertaken. The report further directed the Secretary of Defense and, where appropriate, the Director of Central Intelligence (DCI) to review all Department of Defense intelligence and intelligence-related activities and, to the maximum degree possible, consolidate or begin consolidating all disparate or redundant functions, programs, and entities and, concurrently, to strengthen joint intelligence organizations and operations. The Senate report called on the Secretary of Defense and the DCI to report on their efforts to examine these issues by no later than March 1, 1991, and indicated that the Committee intended to initiate studies and hold hearings to monitor the progress of these efforts.

Subsequent to the issuance of the Senate Intelligence Committee report, the Senate Armed Services Committee included a section in its version of the defense authorization bill for fiscal year 1991 entitled "Intelligence Priorities and Reorganization" (Section 904) which directs the Secretary of Defense, together with the Director of Central Intelligence, to conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) program and the National Foreign Intelligence Program (NFIP). The Senate bill also requires that the number of personnel assigned or detailed in aggregate to NFIP programs and related TIARA programs shall be reduced by not less than five percent during each of fiscal years 1992 through 1996.

In the defense authorization conference, the House receded to the Senate with regard to the Section 907 (formerly Section 904) provisions. However, the conferees from the Permanent Select Committee on Intelligence strongly disagreed with the action taken by the House conferees on this matter. For that reason, two conferees from the Intelligence Committee signed the conference report noting an exception to Section 907. The third Intelligence Committee conferee withheld his signature from the conference report, at least in part because of his concern with Section 907.

The Permanent Select Committee on Intelligence acknowledged that intelligence was in a state of transition and that budgets in the coming years would not be able to support the level of growth that the intelligence community has enjoyed in the recent past. However, the Committee believed that it was imperative that sufficient resources be made available to ensure that the intelligence community can fulfill critical requirements so that policymakers will have the kind of information vital to protecting our national security. At the same time, the Committee urged the Director of Central Intelligence and the Secretary of Defense to ensure a coordinated, comprehensive, baseline review of functional and organizational priorities and a strong management infrastructure committed to prioritizing resources and requirements.

The conferees agreed that redundancy within the intelligence community exists and that joint intelligence organizations within the Department of Defense should be strengthened. Indeed, the Ad-

ministration has reached the same conclusions. Accordingly, the Secretary of Defense has mandated that a study be conducted by the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (C^3I) to review the very concerns stated in the report of the Senate Intelligence Committee. The conferees look forward to receiving the results of this study and anticipate that some organizational restructuring and personnel reductions based on a fresh assessment of requirements, priorities, structure and available resources, will follow from the study effort. The conferees intend to use this information as a basis for their own respective inquiries into this matter during the fiscal year 1992 budget review. However, they plan for their reviews to range more broadly, not only encompassing the entities and resources of Department of Defense intelligence, but also including elements of the NFIP which do not lie within the ambit of defense intelligence.

The conferees further agree that the intelligence budget, much like the defense budget, will be constrained in coming years. However, the conferees reserve judgment on how large a reduction may be required. Similarly, with respect to a 25 percent reduction in defense intelligence personnel as mandated by the defense authorization bill, the conferees believe that initiation of such action, in advance of a thorough review of resources, priorities, and requirements, would be premature. Without that review, the conferees lack the information needed to determine proper personnel levels and do not feel that ongoing Administration planning for fiscal year 1991 and beyond should necessarily, at this time, be based on an assumption of a 25 percent reduction in personnel. The conferees note that they intend to conduct studies and hearings on these matters during the fiscal year 1992 and subsequent budget reviews. The conferees further note that the fiscal year 1992 and subsequent authorization bills will include personnel levels that are appropriate with such reviews. The conferees believe that the purpose of the mandated personnel reduction was to set goals to be met only after the conclusion of the Congressional budget process, and that it does not require the Administration to meet these reductions in the fiscal year 1992 budget submission nor in the accompanying multiyear defense plan. In fact, the conference report on the DoD authorization bill states that, "nothing in this provision [section 907] would preclude the President from submitting whatever budget proposal in this area he deems appropriate."

Finally, the conferees applaud the professional efforts of the defense intelligence community which, over the last ten years, has been rebuilt from the drastically reduced state to which it had declined in the 1970s. The conferees intend to be supportive of measures to reallocate resources resulting from any reorganization of defense intelligence to cover new and emerging requirements, such as economic competitiveness, counternarcotics, counterterrorism, and the proliferation of biological, chemical and nuclear weapons throughout the world, but expect that some of the resources for these needs will come from departments and elements previously focused on the Soviet Union and Eastern Europe.

CAMBODIA

The House amendment contained a provision that placed restrictions of the obligation and expenditure of any funds authorized for assistance to the Cambodian non-communist resistance. The primary restrictions in the House amendment were that only non-lethal assistance could be provided and any assistance had to be consistent with those provisions of current law which prohibit assistance to the Khmer Rouge. In addition, the House amendment established a procedure whereby the unexpended balance of any assistance funds would be transferred to a non-intelligence agency selected by the President within 30 days after the conclusion of a comprehensive political settlement to the Cambodian conflict. Under the House amendment, any funds made available by the intelligence authorization act were to be in addition to any funds made available by the foreign assistance appropriations bill for fiscal year 1991.

The Senate bill did not contain a comparable provision or authorize funds for assistance to the Cambodian non-communist resistance.

The conferees concluded that, because the provision in the Conference Report on this issue is so inextricably connected with classified information, it is not prudent or possible to retain in public life the modified version of section 601 of the House amendment. Therefore, the full text is contained in the Classified Annex to this Joint Explanatory Statement. The Classified Annex may be read by Members of Congress in the offices of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

The conferees agree that any program of non-lethal assistance to the Cambodian non-communist resistance should be structured in such a way as to promote a Cambodian peace settlement. The conferees also agree that any non-lethal assistance being provided the non-communist resistance should transition to an overt, acknowledged program of U.S. assistance. Funds have been authorized for this purpose. The conferees further agree that any additional non-lethal assistance should also promote the Cambodian peace settlement, and that the House and Senate should have the opportunity to openly and expeditiously consider an overt program of assistance to facilitate this objective. The conferees have taken action to encourage such a debate in the future.

It is the intent of the conferees that any funds which may be authorized by the conference report shall be in addition to any funds provided by the fiscal year 1991 Foreign Operations, Export Financing, and Related Programs Appropriations Act.

Finally, the conferees agree that no assistance shall be provided under this provision to any Cambodian resistance organization that the President determines is engaged in tactical or strategic cooperative activities with the Khmer Rouge in their military operations.

ANGOLA

The House amendment provided that any lethal assistance to UNITA which may have been authorized could be provided until the President certified that the Government of Angola expresses its willingness to accept a ceasefire and a political settlement to the conflict in Angola, proposes a reasonable timetable for free and fair

multiparty national elections in which UNITA was free to participate, and was not receiving military assistance from the Soviet Union. If the President so certified, or a joint resolution having the same effect were enacted, no funds which might have been authorized could be used to provide lethal assistance to UNITA, and the delivery of any lethal assistance which might have been acquired previously would be suspended.

The House amendment further provided that the prohibitions against furnishing lethal aid to UNITA could be removed at any time if the President certified that the Government of Angola had launched, or was about to launch, a military offensive which would threaten the survival of UNITA. The prohibitions could also be lifted within their three month term if the President certified that the Government of Angola was no longer willing to accept a ceasefire and political settlement, and a reasonable timetable for national elections. Finally, the prohibitions could be removed after the expiration of their three month term if the President certified that:

(1) the Government of Angola was not willing to participate in good faith negotiations for the kind of political settlement that the original certification had envisioned;

(2) the Soviet Union was continuing to make available to Angola significant amounts of military equipment or the Government of Angola was continuing to receive such equipment from other outside sources, or the agreed upon schedule for the withdrawal of Cuban troops was not being met; and

(3) UNITA was willing to negotiate in good faith for a political settlement, and that UNITA was not receiving significant amounts of military equipment.

The Senate bill did not contain a comparable provision, but restricted the use of funds being authorized pending a clarification of the political framework for which such assistance would be provided.

The conferees concluded that, because the provision in the Conference Report on this issue is so inextricably connected with classified information, it is not prudent or possible to retain in public law the modified version of section 701 of the House amendment. Therefore, the full text of the provision is contained in the Classified Annex to this Joint Explanatory Statement. The Classified Annex may be read by Members of Congress in the offices of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

The conferees further agree that half of any lethal assistance to UNITA which may be authorized shall be placed in a restricted account and its release subject to the approval of the intelligence committees.

The conferees further agree that any lethal assistance to UNITA shall be suspended if the President certifies: that the Government of Angola has expressed a willingness to accept a reasonable ceasefire and political settlement and proposes a reasonable and specific timetable for internationally supervised free and fair multiparty elections in which UNITA would be free to participate; that the Soviet Union has indicated it has ceased providing lethal assistance and has withdrawn those advisors, trainers, and technical assistants involved in assisting the Angolan government in the planning or execution of military actions in Angola, and that intelligence

has indicated that such cessation and withdrawal has occurred; that intelligence has indicated that other outside sources are not supplying such materiel or advice to the Government of Angola; and that the Government of Angola has not begun a significant offensive against UNITA. If any of the conditions which produced the original certification cease to be true, or there is credible evidence that a significant offensive against UNITA is imminent, the President may issue a second certification, in which case any lethal assistance which may have been authorized by the Act and which may have been suspended, could be resumed.

If the President has not certified by March 31, 1991 that the conditions required for suspension of lethal aid to UNITA have been met, he shall submit to the intelligence committees a report setting forth the reason or reasons why he has been unable to make such certification and shall specify the additional measures that would be required for him to make such certification.

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From the Committee on Armed Services, for the consideration of Department of Defense Tactical Intelligence and related activities and Section 504 of the House Bill):

LES ASPIN,
IKE SKELTON,

Managers on the Part of the House.

DAVID L. BOREN,
BILL COHEN,
SAM NUNN,
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J. JAMES EXON,
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Managers on the Part of the Senate.

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