The original documents are located in Box 36, folder "Office of Management and Budget - Legislation (6)" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: June 30 Time: 910am

FOR ACTION: NSC/S
Max Friedersdorf
Ken Lazarus
Robert Hartmann
Phil Buchen

cc (for information): Bill Seidman
Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 30 Time: 1100am

SUBJECT:

H.R. 13680 - International Security Assistance and Arms Export Control Act of 1976

ACTION REQUESTED:

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

REMARKS:

please return to Judy Johnston, Ground Floor West Wing

Earlier today I sent down changes on page 4 of the signing statement to Mr. Linder. Otherwise, I concur.

P.W.B.

Philip W. Buchen
Counsel to the President

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

James M. Cannon
For the Pr...

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

JUN 29 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13680 - International Security Assistance and Arms Export Control Act of 1976
Sponsors - Rep. Morgan (D) Pennsylvania and 12 others

Last Day for Action

July 10, 1976.

Purpose

This bill replaces the security assistance authorization bill (S. 2662) that you vetoed on May 7, 1976, and includes authorizations of appropriations for fiscal year 1977. It: (a) authorizes appropriations for security assistance and certain other programs of $3,979.9 million for fiscal year 1976 and the transition quarter and $2,983.5 million for fiscal year 1977, placing individual country limitations on the use of certain funds; (b) provides authority to stockpile defense articles for foreign military forces and drawdown Defense stocks to meet emergency requests; (c) terminates the general authority for grant military assistance and military assistance advisory groups after fiscal year 1977; (d) expands the congressional role in the foreign military sales program; and (e) contains other significant policy revisions.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval (Signing Statement attached)
Department of Defense	Approval (Informally)
National Security Council	Approval (Informally)

Agency for International Development	Approval
Department of the Treasury	
Arms Control and Disarmament Agency	No objection
Department of Commerce	No objection
Department of Justice	Defers to other agencies (Informally)

Relation to Vetoed Legislation

This bill addresses the objections that you expressed in your veto message as follows:

(1) Congressional veto by concurrent resolution has been deleted in five areas -- human rights, export licenses, termination of security assistance on eligibility grounds, termination for countries affording sanctuary to international terrorists, and third country transfers -- thus overcoming the constitutional objections you raised. The new bill provides for Congress to adopt joint resolutions in three of those areas -- human rights, export licenses, and termination of assistance on eligibility grounds -- and requires Presidential reports to Congress in the remaining two areas. The provision in existing law for congressional veto by concurrent resolution of foreign military sales of $25 million or more has been retained and extended to cover sales of major defense articles of $7 million or more.

(2) The provision for lifting the embargo on trade with Vietnam for a limited period has been deleted.

(3) The $9.0 billion annual ceiling on government-to-government (FMS) and commercial arm sales was removed. The new bill expresses the sense of Congress that the President be invited to make recommendations on the feasibility of enacting the ceiling within one year.

(4) The requirement in the earlier bill for automatic termination of assistance to countries engaging in discrimination against U.S. nationals

has been changed to a requirement that the President investigate and report to Congress specific aspects of any case of discrimination which keeps U.S. persons from performing assistance or licensed functions.

(5) The new bill retains the provision mandating the termination of grant military assistance programs (MAP) and military assistance advisory groups (MAAGs) after fiscal year 1977 unless specifically authorized.

Discussion

Amounts Authorized to be Appropriated

The tables attached to this memorandum summarize the amounts authorized for fiscal year 1976, the transition quarter, and fiscal year 1977.

Authorizations of appropriations for the 15-month period ending September 30, 1976 total $3,979.9 million. Of this amount, $1,875.0 million is for Israel, and repayment will be forgiven on one-half. Authorizations for all accounts for fiscal year 1976 and the transition quarter exceed the Administration's request by $389.2 million. The grant MAP and security supporting assistance reductions in 1976 are more than offset by the large increases in FMS credits and security supporting assistance in the transition quarter. These increases result from the provision in the bill which authorizes transition quarter appropriations of one-fourth the 1976 rate.

For fiscal year 1977, the bill authorizes appropriations of $2,983.5 million of which $1 billion is for Israel with similar forgiveness provisions. The authorization for 1977 is $131.2 million less than the Administration requested. Funds were cut in the areas of grant MAP, foreign military credit sales, and security supporting assistance.

Special Authorities

The bill contains permanent authority for the

President to determine that there is an emergency requirement for military assistance and to order the use of Department of Defense stocks or services of value up to $67.5 million in any fiscal year to meet such an emergency. Obligations incurred are authorized to be liquidated by future grant MAP appropriations, but the entire authority is contingent on the inclusion of language in annual appropriation acts making the authority effective in the same amount.

The bill permits reinstitution of the stockpiling program, suspended in December, 1974, under which defense articles funded by the military departments are held in U.S. inventories as war reserves for foreign nations. The value of additions to such stockpiles is limited to $93.75 million in 1976 and the transition quarter and $125 million in 1977.

Termination of Grant MAP and MAAGs

Beginning with fiscal year 1978, the general authority for grant MAP is terminated. Each country program thereafter must be authorized separately. Authority is provided until the end of fiscal year 1980 for wind up costs of programs existing before September 30, 1977.

During fiscal year 1977, the number of MAAGs and similar military groups is limited to 34, a reduction of 10 from current levels. In fiscal year 1978, no MAAG or similar mission may continue unless specifically authorized by Congress. However, the President would be permitted to assign no more than three military personnel to the chief of a diplomatic mission to perform MAAG functions. Military attaches are specifically prohibited from performing such functions.

International Military Education and Training

As requested by the Administration, the bill establishes the military training program as a program separate from grant MAP. No termination date is established for this program.

Expanded Congressional Role in Foreign Military Sales

A. Restriction on commercial sales. The bill requires that all sales of major defense equipment of $25 million or more must be on a government-to-government (FMS) basis except for sales to NATO countries which can continue through commercial channels. Major defense equipment is defined as any item of significant combat equipment having a non-recurring research and development cost of more than $50 million or a total estimated production cost of more than $200 million.

B. Congressional review and veto by concurrent resolution. Under current law, all proposed government-to-government (FMS) sales of defense articles and services valued over $25 million must be submitted to the Congress and the Congress may forbid such sales by passage of a concurrent resolution within 20 days. As noted above, this bill extends the existing reporting requirement and congressional veto to cover all proposed government-to-government sales (FMS) of "major defense equipment" of $7 million or more, and also extends the waiting period for congressional action to 30 calendar days. The President may exempt a sale from congressional veto by certifying to Congress that an "emergency exists which requires such sale in the national security interests of the United States."

C. Arms sales policy. The bill requires the President to conduct a comprehensive study of arms sales policy "in order to determine whether such policies and practices should be changed." A report to Congress is due in one year. In addition, the bill expresses the sense of Congress that the aggregate value of all foreign military sales, FMS and commercial, should not exceed current levels.

D. Sales affecting U.S. combat readiness. The President is required to report to the Congress any sale if in his judgment such sale "could have a significant adverse effect on combat readiness of the Armed Forces of the United States." The report would have to contain a "certification that

such sale is important to the security of the United States."

E. Repayment period. The maximum repayment period for foreign military credit sales is extended from 10 years to 12 years except in the case of Israel where a repayment period of "not less than twenty years following a grace period of ten years on repayment of principal" is mandated for fiscal years 1976 and 1977.

F. Deferred payment on cash sales from stock. Current law permits the President to defer payment on cash sales from Department of Defense stocks by up to 120 days after delivery without interest charge. This bill requires that interest be charged on any net amount due on such sales not paid within 60 days of delivery unless the President determines that "the emergency requirements of the purchaser exceed the ready availability to the purchaser of funds," in which case he may defer payment for a total of 120 days.

G. Agent Fees. The bill mandates reports to the Congress by the Secretary of State on political contributions, gifts, commissions, and fees in connection with foreign military sales or commercial sales licensed or approved under the Act. It also requires the Secretary of State to establish recordkeeping and reporting requirements for such fees, authorizes the President to establish regulations prohibiting or limiting fees, and provides criminal penalties for private individuals not complying with these regulations.

H. Reporting. (1) The bill requires the President to transmit an annual report to Congress estimating sales, credits, and guarantees including an arms control impact statement for each purchasing country. This statement is required to address the impact of sales on our arms control efforts with that country and on the stability of the region in which the country is located.

B. International narcotics control. The bill prohibits U.S. personnel from engaging or participating in direct police arrest actions in any foreign country in connection with narcotics control efforts. In addition, the President is required to transmit to Congress by April 30, 1977, a study concerning the possible use of international or regional organizations for U.S. narcotics control programs in foreign countries.

C. Extortion and illegal payments. The President is required to transmit to Congress a report on illegal payments or extortion concerning officials of a foreign country receiving U.S. security assistance. The report should include the President's recommendation on the continuation of a security assistance program for that country.

Specific Country or Regional Provisions

A. Angola. The concern of Congress is expressed with respect to Soviet and Cuban intervention in Angola. Additionally, all military assistance to Angola is prohibited unless the President certifies to Congress that furnishing assistance is important to U.S. national security interests.

B. Chile. All military assistance and commercial arms sales are prohibited after the bill is enacted, with the exception of pipeline deliveries. Economic assistance for Chile in the transition quarter and fiscal year 1977 is limited to $27.5 million (approximately $47 million was requested). The President may double this amount of economic assistance if he certifies to Congress that the government of Chile is not engaged in gross violations of human rights, has allowed international organizations to investigate allegations of violations, and is informing families of prisoners of the prisoners' conditions and the charges against them.

C. Turkey. The bill authorizes $31 million in grant MAP for Turkey in fiscal year 1976 (as compared with the budget request of $75 million),

(2) The bill requires the President to transmit a detailed quarterly report concerning all letters of offer and commercial sales of major defense equipment of $1 million or more. Additionally, on letters of offer for major defense equipment of $7 million or more and on all letters of offer for $25 million or more, the report must include a description of any reciprocal sales agreement involved and a domestic economic impact statement regarding such agreement.

(3) The Secretary of State is required to transmit within one year the results of a comprehensive study on the effect of the sales provisions of this bill in the area of U.S. foreign policy, international trade and balance of payments, U.S. unemployment and Defense weapons procurement.

(4) The bill requires the President to submit in early 1977 a report concerning sales of excess defense articles.

Other Policy Provisions:

A. Nuclear transfers. The bill prohibits economic, military and supporting assistance to any country which delivers or receives reprocessing or enrichment equipment, materials, or technology unless the parties have agreed to place all items under multilateral auspices and management when available and the recipient country has entered into an agreement with the International Atomic Energy Agency (IAEA) to place all such items and all nuclear fuel and facilities in such country under IAEA safeguards. The President may waive this prohibition if he determines that it would have a serious adverse effect on vital U.S. interests and if he has "received reliable assurances that the country involved will not acquire or develop nuclear weapons or assist other nations in doing so." The bill provides that following this determination, Congress may still terminate or restrict assistance by joint resolution.

and $50 million in fiscal year 1977, as requested, but continues the prohibitions of existing law with respect to such assistance. Thus, grant assistance cannot be provided unless the President certifies as to substantial progress toward a Cyprus agreement and Turkish compliance with U.S. law and implementing agreements. On the other hand, the legislation permits the sale of $125 million in defense articles and services to Turkey during the balance of fiscal year 1976 and the transition quarter and $125 million during fiscal year 1977, a softening of the present total prohibition on grants or sales.

D. Portugal. There is a sense of Congress statement that the President should take action to alleviate food shortages in Portugal using existing statutes.

E. Military forces in the Indian Ocean. The bill expresses the sense of Congress that the President should initiate negotiations with the Soviet Union regarding control of military forces in the Indian Ocean and report to the Congress not later than December 1, 1976.

F. U.S. citizens imprisoned in Mexico. The bill declares the intent of Congress that efforts to secure stringent international drug enforcement be combined with efforts to secure fair and humane treatment for citizens of foreign countries who are imprisoned. The provision requests the President to communicate directly to the President of Mexico the continuing concern of the United States over the treatment of United States citizens arrested in Mexico. The Secretary of State is required to submit quarterly reports to Congress on progress achieved toward full respect for the human and legal rights of all United States citizens detained in Mexico.

G. Lebanon. The bill expresses the sense of the Congress that the situation in Lebanon poses a serious danger to Middle East peace and contains a request that the President use his good offices to bring about peace.

H. Middle East policy. The bill declares the sense of Congress that the United States will continue to determine Middle East policy as circumstances may require. It further declares the authority contained in the joint resolution approving the early warning system in Sinai shall not be construed as constituting congressional approval, acceptance, or endorsement of any commitment other than the United States Proposal for the Early Warning System in Sinai.

I. Korea. The bill requires the President to report 90 days after enactment and annually for the next five years on: (1) progress made by the Republic of Korea in modernizing its armed forces so as to achieve military self-sufficiency; (2) the role of the United States in mutual security efforts in Korea; and (3) prospects for phased reduction of United States armed forces assigned to Korea. In addition, the President is requested to communicate "in forceful terms" to the Government of Korea within 60 days after enactment the concern of Congress regarding the erosion of important civil liberties in Korea.

J. Base agreements with Spain, Greece, and Turkey. The bill authorizes for 1977 the appropriation of the amounts designated in the treaty and base agreements as soon as separate approving legislation has been enacted for the treaty and agreements.

Conclusions

The enrolled bill represents a major improvement over the bill you vetoed in May. While it retains several of the basic features of the earlier bill and adds some new provisions, almost all of the objectionable provisions you cited in your veto message have been acceptably modified or eliminated entirely. State's letter reflects a similar assessment of the enrolled bill and further notes that "the extensive new requirements contained therein would create no insurmountable difficulties while permitting the continuation of security assistance as a significant tool of United States foreign policy."

Congressional action in response to your constitutional objections to use of the concurrent resolution override device is particularly significant. As noted above, only one such provision, which reflects a refinement of existing law rather than a totally new requirement, remains. Informally, Justice has noted its constitutional objections to this provision but defers to other agencies more concerned with the bill as to whether there are overriding policy considerations which warrant approval of H.R. 13680.

State's enrolled bill letter states:

> "We regard the action by the Congress on the concurrent resolution issue to be of major constitutional and historical importance, and we believe that this importance would be enhanced if underscored by the President. Accordingly, we have prepared the enclosed signing statement which we strongly recommend that the President use if he decides to sign H.R. 13680."

We support State's recommendation for a signing statement and concur with the statement the Department has proposed.

James M. Frey

Assistant Director for
Legislative Reference

Enclosure

FISCAL YEAR 1976

	(appropriations in millions of dollars) Authorization Request	Enrolled Bill	Difference
Grant Military Assistance	394.5	228.7	165.8
Foreign Military Training	30.0	27.0	-3.0
Foreign Military Credit Sales	1,065.0	1,039.0	-26.0
(Program)	(2,374.7)	(2,374.7)	(---)
(Authority to forgive Israeli repayments)	(750.0)	(750.0)	(---)
Security Supporting Assistance	1,873.3[1/]	1,766.2	-107.1
Middle East Special Requirements Fund	50.0	50.0	---
Narcotics Control	42.5	40.0	-2.5
Contingency Fund	10.0	5.0	-5.0
Disaster Relief for Italy 2/	---	25.0	+25.0
International Atomic Energy Agency	---	1.0[3/]	+1.0
Total	3,465.3	3,181.9	-283.4

1/ Of the total request, $25.0 million was for Cyprus relief. For 1976, $30 million has been authorized in a separate account under development assistance.

2/ The Administration sought and received a $25 million 1976 supplemental appropriation for Italy specifically without authorizing legislation because of the need to provide timely aid to Italy.

3/ In addition to a voluntary contribution of $3.5 million authorized in the development assistance bill; earmarked for safeguards activities.

TRANSITION QUARTER (JULY 1, 1976 - SEPTEMBER 30, 1976)

	(appropriations in millions of dollars) Authorization Request	Enrolled Bill	Difference
Grant Military Assistance	27.2	57.2	+30.0
Foreign Military Training	7.0	6.8	-.2
Foreign Military Credit Sales	30.0	259.8	+229.8
(Program)	(55.5)	(593.7)	(+538.2)
(Authority to forgive Israeli repayments)	(---)	(187.5)	(+187.5)
Security Supporting Assistance	33.2[1]/	441.6	+408.4
Middle East Special Requirement Fund	10.0	12.5	+2.5
Narcotics Control	13.0	10.0	-3.0
Contingency Fund	5.0	1.2	-3.8
Disaster Relief for Italy	---	6.2	+6.2
Aid to Cypriot Refugees	---	2.5[2]/	+2.5
International Atomic Energy Agency	---	.2	+.2
Total	125.4	798.0	+672.6

1/ Of the total request, $5.0 million was for Cyprus relief. This amount has been authorized in a separate account, Aid to Cypriot Refugees.

2/ In addition to $5.0 million authorized in the development assistance bill.

FISCAL YEAR 1977

	(appropriation in millions of dollars) Authorization Request 1/	Enrolled Bill 2/	Difference
Grant Military Assistance	279.0	247.3	-31.7
Foreign Military Training	30.2	30.2	---
Foreign Military Credit Sales	840.0	740.0	-100.0
(Program)	(2,059.6)	(2,022.1)	(-37.5)
(Authority to forgive Israeli repayments)	(500.0)	(500.0)	(---)
Security Supporting Assistance	1,886.5	1,860.0	-26.5
Middle East Special Requirements Fund	35.0	35.0	---
Aid to Cypriot Refugees	---	10.0	+10.0
Narcotics Control	34.0	34.0	---
Contingency Fund	10.0	5.0	-5.0
International Atomic Energy Agency	---	2.0	+2.0
Disaster Relief for Lebanon 3/	---	20.0	+20.0
Total	3,114.7	2,983.5	-131.2

1/ Request excludes funds for Spanish base agreement requested in separate authorization.

2/ Such additional amounts are authorized to be appropriated as may be necessary to carry out base agreements with Spain, Greece or Turkey subject to enactment of legislation approving each arrangement.

3/ Authorization (in addition to $30 million previously authorized in the case of Cyprus) is not tied to specific fiscal year; carried on this table because funds have not been provided in 1976 or TQ appropriations.

STATEMENT BY THE PRESIDENT

ON SIGNING H.R. 13680 INTO LAW

Today I am signing into law H.R. 13680, the International Security Assistance and Arms Export Control Act of 1976. This measure authorizes appropriations to carry out security assistance and other programs in the fiscal years 1976 and 1977, and makes extensive changes in the methods, organization, and procedures through which those programs are carried out.

On May 7, 1976, I returned to the Congress without my approval S.2662, the predecessor of the bill which I am signing today. I did so because that bill contained numerous provisions which would have seriously undermined the constitutional responsibility of the President for the conduct of the foreign affairs of the United States. That bill embodied a variety of restrictions that would have seriously inhibited my ability to implement a coherent and consistent foreign policy, and some which raised fundamental constitutional difficulties as well.

The present bill, H.R. 13680, imposes new requirements, restrictions and limitations on the implementation of security assistance programs.

Many of these new requirements are based on congressional desires to increase the flow of information regarding the scope and direction of security assistance programs worldwide. Others impose new substantive restrictions reflecting new policies, or policies not heretofore expressed in law.

Most of the unacceptable features of the earlier bill have either been dropped from H.R. 13680 or have been modified into an acceptable form. I am pleased to note, for example, that this bill does not attempt to impose an arbitrary and unwieldy annual ceiling on the aggregate value of government and commercial arms sales, a ceiling which would have served to hinder, rather than foster, our efforts to seek multilateral restraints on the proliferation of conventional weaponry, and which could have prevented us from meeting the legitimate security needs of our allies and other friendly countries. In addition, the provisions on discrimination and on human rights in this bill go far toward recognizing that diplomatic efforts, rather than absolute statutory sanctions, are the most effective way in which this country can seek further progress abroad in these areas of deep concern to all Americans, and that the Executive Branch must have adequate flexibility to make these efforts bear fruit.

I am especially pleased to note that with one exception the constitutionally objectionable features of S.2662, whereby authority conferred on the President by law could be rescinded by the adoption of a concurrent resolution by the Congress, have all been deleted from H.R. 13680. The manifest incompatibility of such provisions with the express requirements of the Constitution that legislative measures having the force and effect of law be presented to the President for approval and, if disapproved, be passed by the requisite two-thirds majority of both Houses was perhaps the single most serious defect of the previous bill, and one which went well beyond security assistance and foreign affairs in its implications. Moreover, such provisions would have purported to involve the Congress in the performance of day-to-day Executive functions in derogation of the principle of separation of powers, resulting in the erosion of the fundamental constitutional distinction between the role of the Congress in enacting legislation and the role of the Executive in carrying it out.

The one exception to this laudable action is the retention in H.R. 13680 of the "legislative veto" provision regarding major governmental sales of

military equipment and services. This is not a new provision, but has been in the law since 1974. To date no concurrent resolution of disapproval under section 36(b) has been adopted, and the constitutional question has not been raised directly. Accordingly, I feel that I am able to accept the retention of this provision, while reserving my position on its constitutionality.

In my message of May 7 I expressed my serious concern that the termination of military assistance and military assistance advisory groups after fiscal year 1977 would result in a serious impact upon our relations with other nations whose security is important to our own security and who are not yet able to bear the entire burden of their defense requirements. That concern remains. H.R. 13680 retains language recognizing that it may be necessary and desirable to maintain military assistance programs and military assistance advisory groups in specific countries even after September 30, 1977. Accordingly, this bill will not deter the Executive Branch from seeking at the appropriate time the necessary authority for the continuation of such programs as the national interest of the United States may require.

H.R. 13680 will require that many changes be made in present practices and policies regarding the implementation of security assistance programs. Some of these new requirements I welcome as distinct improvements over existing law. There are others for which the desirability and need is less clear. Nevertheless, I shall endeavor to carry out the provisions of this bill in a manner which will give effect to the intent of the Congress in enacting them. As time goes by and experience is gained, both the Executive and the Congress will come to know which of the provisions of this bill will be effective and workable, and which others require modification or repeal.

This bill recognizes that security assistance has been and remains a most important instrument of United States foreign policy. My approval of H.R. 13680 will enable us to go forward with important programs in the Middle East, in Africa, and elsewhere in the world aimed at achieving our goal of international peace and stability.

DEPARTMENT OF STATE

Washington, D.C. 20520

JUN 28 1976

Dear Mr. Lynn:

Reference is made to your request for the views and recommendations of the Department of State with respect to H.R. 13680, an enrolled bill.

The enrolled bill, the International Security Assistance and Arms Export Control Act of 1976, contains authorizations of appropriations to carry out security assistance and certain other programs in FY 1976, the transition quarter, and FY 1977, and makes major changes in the basic legislation governing the organization, management and procedures for carrying out these programs.

This bill authorizes a total of $3,191,900,000 in new appropriations in FY 1976 and $2,973,500,000 in FY 1977 for the purpose of carrying out security assistance and certain other programs in those years. Within these aggregate totals, appropriations of $196,700,000 in FY 1976 and $177,300,000 in FY 1977 are authorized for military assistance materiel programs, $1,039,000,000 in FY 1976 and $740,000,000 in FY 1977 for foreign military sales credits and guaranty programs, and $1,766,000,000 in FY 1976 and $1,860,000,000 in FY 1977 for security supporting assistance programs worldwide. In addition, appropriations for the transition quarter are authorized in an amount not exceeding one-fourth of each FY 1976 authorization contained in the bill.

The bill is patterned on S. 2662, the bill which the President vetoed in May. It retains the basic features of the earlier bill with little or no change, while eliminating or significantly improving most of the objectionable provisions referred to by the President in the message accompanying his veto of S. 2662. Among the retained features of the previous bill are provisions for the termination of military materiel assistance programs and military assistance advisory groups after FY 1977 except as may be specifically authorized by law, separate authorization for grant military education and training

The Honorable
James T. Lynn, Director,
Office of Management and Budget.

programs, extensive reporting requirements regarding foreign military sales and the export of commercially-sold defense articles and services, new requirements and procedures governing third-party transfers of defense articles and services and ineligibility for military assistance and foreign military sales, relaxation of the restrictions of section 620(x) of the Foreign Assistance Act of 1961 on security assistance to Turkey, and new requirements regarding reporting and recordkeeping with respect to fees of military sales agents and other payments.

H.R. 13680 also contains some provisions not found in the earlier bill. Of these, the most significant is Section 305, which would prohibit economic and security assistance to countries delivering or receiving nuclear reprocessing or enrichment equipment or technology unless the delivering and receiving countries agree to place such items under multilateral auspices when available and unless the recipient has placed all such equipment and technology, as well as all its nuclear fuel and facilities, under International Atomic Energy Agency safeguards. The President may nonetheless furnish assistance by Executive order effective not less than 30 days from promulgation if he determines and certifies to the Congress that termination of assistance would have a "serious adverse effect on vital United States interests" and that he has received "reliable assurances" that the country in question will not acquire or develop nuclear weapons or assist others in so doing. The Congress may nevertheless terminate such assistance by joint resolution.

Another feature not present in S. 2662 is the authorization of additional security supporting assistance programs for African countries, specifically Zambia and Zaire, with the proviso that no such funds may be used for "military, guerilla, or paramilitary activities in either such country or in any other country".

The most significant distinction between this bill and S. 2662 is that almost all of the provisions of the vetoed bill that were cited by the President in his veto message have, in this bill, either been eliminated in their entirety or so modified as to remove the source of the President's objections. The $9,000,000,000 annual ceiling on government and commercial arms sales in S. 2662 has been replaced by a sense-of-the-Congress provision that the aggregate value of such sales in any fiscal year "should not exceed current levels". The provision suspending the President's authority to control certain trade with North and South Vietnam has been eliminated from this bill.

The provisions of this bill with respect to human rights and discrimination are likewise greatly improved over the provisions on the same subject in S. 2662. That no security assistance be furnished to governments engaging in a consistent pattern of gross violations of internationally recognized human rights is made a strong statement of policy rather than an outright legal prohibition, and the constitutionally-objectionable concurrent resolution "legislative veto" feature of the earlier bill has been replaced by a joint resolution provision. The discrimination provision has been modified so that it no longer retains the objectionable mandatory and automatic sanctions of the earlier bill. While this provision does retain some potential for causing difficulty, it should present no unmanageable problems.

Perhaps the most noteworthy feature of H.R. 13680 is that it no longer contains the several concurrent resolution "legislative veto" provisions that were a principal focus of the President's veto of S. 2662. In certain instances, such as third-party transfers of defense articles and services, the concurrent resolution veto has been removed entirely. In other instances, such as human rights, it has been replaced by provisions permitting action to be taken by constitutionally adequate joint resolution. In only one respect, namely section 36(b) of the Foreign Military Sales Act purporting to empower the Congress to disapprove FMS cases valued at $25 million or more, has the concurrent resolution feature been preserved, and this reflects a refinement of existing law rather than representing a new requirement.

We regard the action by the Congress on the concurrent resolution issue to be of major constitutional and historical importance, and we believe that this importance would be enhanced if underscored by the President. Accordingly, we have prepared the enclosed signing statement which we strongly recommend that the President use if he decides to sign H.R. 13680.

On balance, the Department of State believes that H.R. 13680 represents a major improvement over the bill vetoed by the President in May, and that the extensive new requirements contained therein would create no insurmountable difficulties while permitting the continuation of security

assistance as a significant tool of United States foreign policy. We accordingly recommend that the President sign H.R. 13680, utilizing the enclosed signing statement.

Sincerely yours,

Robert J. McCloskey
Assistant Secretary for
Congressional Relations

K4-5/75.1

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

JUN 22 1976

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

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning the Conference Report on H. R. 13680, entitled

"To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes,"

to be cited as the "International Security Assistance and Arms Export Control Act of 1976".

The Department of Commerce would have no objection to approval by the President of H. R. 13680.

Enactment of this legislation is not expected to involve any increase in the budgetary requirements of this Department.

Sincerely,

J. V. Smith

General Counsel

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY
WASHINGTON, D.C. 20451

June 29, 1976

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

Dear Mr. Frey:

By Enrolled Bill Request dated June 28, 1976, you requested the views and recommendations of this Agency on enrolled bill H.R. 13680, the "International Security Assistance and Arms Export Control Act of 1976".

Confirming the information we provided to Mr. George Gilbert of your office by telephone on June 28, 1976, the U.S. Arms Control and Disarmament Agency interposes no objection to H.R. 13680 and recommends that the President approve the enrolled bill.

Sincerely,

James L. Malone

James L. Malone
General Counsel

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

JUN 29 1976

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

Dear Mr. Frey:

This letter replies to your request for comments from the Agency for International Development on the Enrolled Bill, H.R. 13680, the International Security Assistance and Arms Control Act of 1976.

The bill contains a number of features which are of direct interest to the Agency, the most important of which are as follows:

- An authorization of appropriation for Security Supporting Assistance of $1,766,200,000 for FY 1976 and $1,860,000,000 for FY 1977, levels which would permit nearly full funding of the President's request for the Middle Eastern countries as well as others such as Portugal, Zaire, Zambia and Greece.

- Authorization of appropriations for the Middle East Special Requirements Fund at the level of the President's request for FY 1976 and FY 1977, $50,000,000 and $35,000,000 respectively, and for the President's Contingency Fund at $5,000,000 for each year ($5,000,000 less than requested in each year).

- Authorization for the continued availability of Indochina Postwar Reconstruction funds to meet termination costs and authority to settle certain claims arising from the termination of the program.

- Authority to compensate experts and consultants in amounts equal to the government-wide ceiling of $145 per day. A recent GAO ruling had reduced the Agency's ceiling to $100 per day.

Several restrictive provisions contained in the bill could impact on the Agency's programs. Section 301 relating to human rights requires the termination, inter alia, of Security Supporting Assistance programs to countries whose governments engage in a consistent pattern of gross violations of internationally recognized human rights. While earlier versions of this provision permitted Congress to terminate or otherwise circumscribe assistance programs by concurrent resolution, the provision as finally passed provided for termination by a joint resolution considered pursuant to an expedited procedure in the Senate. We believe that the provision as enacted is acceptable. We further believe that it is unlikely that any of the present programs of Security Supporting Assistance would be targets of such a procedure.

A second restriction which we find troublesome is contained in section 304 of the bill. The section, in essence, prohibits furnishing any assistance under the Foreign Assistance Act to a country "which aids or abets, by granting sanctuary from prosecution to, any individual which has committed an act of international terrorism". Although we have had some success through the legislative process in narrowing the definition of the offensive governmental conduct, we remain concerned that this prohibition could potentially impact on our economic assistance programs. The danger is particularly high in the Middle East and in southern Africa. We are protected to some extent, however, by a Presidential "national security" waiver authority. While this section previously provided for a Congressional override of such a waiver by concurrent resolution, the concurrent resolution procedure has been eliminated so that it would appear that the dangers implicit in this provision are manageable.

Another restrictive provision which merits comment is section 305 which amends Chapter 3 of the FAA to prohibit assistance, military credits or guarantys, to countries which deliver or receive nuclear reprocessing or enrichment equipment, materials or technology unless such items are subject to an agreement placing them under multilateral auspices and management when available and where the recipient country has agreed to place

all such items under the safeguards of the International Atomic Energy Agency. The section permits a Presidential determination allowing continuation of assistance if termination would have "a serious adverse effect on vital U. S. interests" and where the President certifies that he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so. This provision could impact on A.I.D. programs in Pakistan.

Finally, a restriction was enacted on economic assistance to the Government of Chile limiting assistance to that country to $27.5 million in the transition quarter and FY 1977, permitting provision of an additional $27.5 million in assistance during that period if the President certifies to substantial progress in the area of human rights. It is clear from the legislative history that the provision as enacted applies only to concessional assistance programs and not to ordinary commercial-type credits of the Export-Import Bank and Commodity Credit Corporation or to insurance issued by the Overseas Private Investment Corporation. We consider the exemption of commercial-type programs from provisions requiring termination of "assistance" to be a valuable precedent for similar restrictive provisions affecting other countries which will surely arise in the future.

On balance we believe that none of the provisions contained in the bill are, in the short term, likely to impede our implementation of economic activities. The bill does contain authorities which will facilitate the Agency's administration of economic assistance programs, and includes authorizations of appropriations for economic assistance for the Middle East and for other assistance programs which we believe are of great importance to the foreign policy of the United States.

We would therefore recommend that the President sign the bill into law. We do, however, support the request of the Department of State for a Presidential signing statement calling attention to the deletion of several concurrent resolution veto provisions from the bill leaving only one which is carried over from existing law.

Sincerely yours,

Charles L. Gladson
General Counsel

THE WHITE HOUSE

WASHINGTON

June 30, 1976

Walked down to Mr. Linder

To: Mr. Linder

From: Eva Daughtrey Eva

Mr. Buchen asked that page 4 of the signing statement be changed as he has indicated (see attached).

(H. R. 13680)
International Security Assistance and Arms Control Act of 1976.

6/29/76
7:00 pm

Bob Linder
said Ken
said you
needed this.

They just
received this
about 5 pm

will need
comments
tomorrow

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

JUN 29 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 13680 - International Security Assistance and Arms Export Control Act of 1976
Sponsors - Rep. Morgan (D) Pennsylvania and 12 others

Last Day for Action

Purpose

This bill replaces the security assistance authorization bill (S. 2662) that you vetoed on May 7, 1976, and includes authorizations of appropriations for fiscal year 1977. It: (a) authorizes appropriations for security assistance and certain other programs of $3,979.9 million for fiscal year 1976 and the transition quarter and $2,983.5 million for fiscal year 1977, placing individual country limitations on the use of certain funds; (b) provides authority to stockpile defense articles for foreign military forces and drawdown Defense stocks to meet emergency requests; (c) terminates the general authority for grant military assistance and military assistance advisory groups after fiscal year 1977; (d) expands the congressional role in the foreign military sales program; and (e) contains other significant policy revisions.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval (Signing Statement attached)
Department of Defense	Approval (Informally)
National Security Council	Approval (Informally)

Agency for International Development	Approval
Department of the Treasury	
Arms Control and Disarmament Agency	No objection
Department of Commerce	No objection
Department of Justice	Defers to other agencies (Informally)

Relation to Vetoed Legislation

This bill addresses the objections that you expressed in your veto message as follows:

(1) Congressional veto by concurrent resolution has been deleted in five areas -- human rights, export licenses, termination of security assistance on eligibility grounds, termination for countries affording sanctuary to international terrorists, and third country transfers -- thus overcoming the constitutional objections you raised. The new bill provides for Congress to adopt joint resolutions in three of those areas -- human rights, export licenses, and termination of assistance on eligibility grounds -- and requires Presidential reports to Congress in the remaining two areas. The provision in existing law for congressional veto by concurrent resolution of foreign military sales of $25 million or more has been retained and extended to cover sales of major defense articles of $7 million or more.

(2) The provision for lifting the embargo on trade with Vietnam for a limited period has been deleted.

(3) The $9.0 billion annual ceiling on government-to-government (FMS) and commercial arm sales was removed. The new bill expresses the sense of Congress that the President be invited to make recommendations on the feasibility of enacting the ceiling within one year.

(4) The requirement in the earlier bill for automatic termination of assistance to countries engaging in discrimination against U.S. nationals

has been changed to a requirement that the President investigate and report to Congress specific aspects of any case of discrimination which keeps U.S. persons from performing assistance or licensed functions.

(5) The new bill retains the provision mandating the termination of grant military assistance programs (MAP) and military assistance advisory groups (MAAGs) after fiscal year 1977 unless specifically authorized.

Discussion

Amounts Authorized to be Appropriated

The tables attached to this memorandum summarize the amounts authorized for fiscal year 1976, the transition quarter, and fiscal year 1977.

Authorizations of appropriations for the 15-month period ending September 30, 1976 total $3,979.9 million. Of this amount, $1,875.0 million is for Israel, and repayment will be forgiven on one-half. Authorizations for all accounts for fiscal year 1976 and the transition quarter exceed the Administration's request by $389.2 million. The grant MAP and security supporting assistance reductions in 1976 are more than offset by the large increases in FMS credits and security supporting assistance in the transition quarter. These increases result from the provision in the bill which authorizes transition quarter appropriations of one-fourth the 1976 rate.

For fiscal year 1977, the bill authorizes appropriations of $2,983.5 million of which $1 billion is for Israel with similar forgiveness provisions. The authorization for 1977 is $131.2 million less than the Administration requested. Funds were cut in the areas of grant MAP, foreign military credit sales, and security supporting assistance.

Special Authorities

The bill contains permanent authority for the

President to determine that there is an emergency requirement for military assistance and to order the use of Department of Defense stocks or services of value up to $67.5 million in any fiscal year to meet such an emergency. Obligations incurred are authorized to be liquidated by future grant MAP appropriations, but the entire authority is contingent on the inclusion of language in annual appropriation acts making the authority effective in the same amount.

The bill permits reinstitution of the stockpiling program, suspended in December, 1974, under which defense articles funded by the military departments are held in U.S. inventories as war reserves for foreign nations. The value of additions to such stockpiles is limited to $93.75 million in 1976 and the transition quarter and $125 million in 1977.

Termination of Grant MAP and MAAGs

Beginning with fiscal year 1978, the general authority for grant MAP is terminated. Each country program thereafter must be authorized separately. Authority is provided until the end of fiscal year 1980 for wind up costs of programs existing before September 30, 1977.

During fiscal year 1977, the number of MAAGs and similar military groups is limited to 34, a reduction of 10 from current levels. In fiscal year 1978, no MAAG or similar mission may continue unless specifically authorized by Congress. However, the President would be permitted to assign no more than three military personnel to the chief of a diplomatic mission to perform MAAG functions. Military attaches are specifically prohibited from performing such functions.

International Military Education and Training

As requested by the Administration, the bill establishes the military training program as a program separate from grant MAP. No termination date is established for this program.

Expanded Congressional Role in Foreign Military Sales

A. Restriction on commercial sales. The bill requires that all sales of major defense equipment of $25 million or more must be on a government-to-government (FMS) basis except for sales to NATO countries which can continue through commercial channels. Major defense equipment is defined as any item of significant combat equipment having a non-recurring research and development cost of more than $50 million or a total estimated production cost of more than $200 million.

B. Congressional review and veto by concurrent resolution. Under current law, all proposed government-to-government (FMS) sales of defense articles and services valued over $25 million must be submitted to the Congress and the Congress may forbid such sales by passage of a concurrent resolution within 20 days. As noted above, this bill extends the existing reporting requirement and congressional veto to cover all proposed government-to-government sales (FMS) of "major defense equipment" of $7 million or more, and also extends the waiting period for congressional action to 30 calendar days. The President may exempt a sale from congressional veto by certifying to Congress that an "emergency exists which requires such sale in the national security interests of the United States."

C. Arms sales policy. The bill requires the President to conduct a comprehensive study of arms sales policy "in order to determine whether such policies and practices should be changed." A report to Congress is due in one year. In addition, the bill expresses the sense of Congress that the aggregate value of all foreign military sales, FMS and commercial, should not exceed current levels.

D. Sales affecting U.S. combat readiness. The President is required to report to the Congress any sale if in his judgment such sale "could have a significant adverse effect on combat readiness of the Armed Forces of the United States." The report would have to contain a "certification that

Expanded Congressional Role in Foreign Military Sales

A. Restriction on commercial sales. The bill requires that all sales of major defense equipment of $25 million or more must be on a government-to-government (FMS) basis except for sales to NATO countries which can continue through commercial channels. Major defense equipment is defined as any item of significant combat equipment having a non-recurring research and development cost of more than $50 million or a total estimated production cost of more than $200 million.

B. Congressional review and veto by concurrent resolution. Under current law, all proposed government-to-government (FMS) sales of defense articles and services valued over $25 million must be submitted to the Congress and the Congress may forbid such sales by passage of a concurrent resolution within 20 days. As noted above, this bill extends the existing reporting requirement and congressional veto to cover all proposed government-to-government sales (FMS) of "major defense equipment" of $7 million or more, and also extends the waiting period for congressional action to 30 calendar days. The President may exempt a sale from congressional veto by certifying to Congress that an "emergency exists which requires such sale in the national security interests of the United States."

C. Arms sales policy. The bill requires the President to conduct a comprehensive study of arms sales policy "in order to determine whether such policies and practices should be changed." A report to Congress is due in one year. In addition, the bill expresses the sense of Congress that the aggregate value of all foreign military sales, FMS and commercial, should not exceed current levels.

D. Sales affecting U.S. combat readiness. The President is required to report to the Congress any sale if in his judgment such sale "could have a significant adverse effect on combat readiness of the Armed Forces of the United States." The report would have to contain a "certification that

such sale is important to the security of the United States."

E. Repayment period. The maximum repayment period for foreign military credit sales is extended from 10 years to 12 years except in the case of Israel where a repayment period of "not less than twenty years following a grace period of ten years on repayment of principal" is mandated for fiscal years 1976 and 1977.

F. Deferred payment on cash sales from stock. Current law permits the President to defer payment on cash sales from Department of Defense stocks by up to 120 days after delivery without interest charge. This bill requires that interest be charged on any net amount due on such sales not paid within 60 days of delivery unless the President determines that "the emergency requirements of the purchaser exceed the ready availability to the purchaser of funds," in which case he may defer payment for a total of 120 days.

G. Agent Fees. The bill mandates reports to the Congress by the Secretary of State on political contributions, gifts, commissions, and fees in connection with foreign military sales or commercial sales licensed or approved under the Act. It also requires the Secretary of State to establish recordkeeping and reporting requirements for such fees, authorizes the President to establish regulations prohibiting or limiting fees, and provides criminal penalties for private individuals not complying with these regulations.

H. Reporting. (1) The bill requires the President to transmit an annual report to Congress estimating sales, credits, and guarantees including an arms control impact statement for each purchasing country. This statement is required to address the impact of sales on our arms control efforts with that country and on the stability of the region in which the country is located.

(2) The bill requires the President to transmit a detailed quarterly report concerning all letters of offer and commercial sales of major defense equipment of $1 million or more. Additionally, on letters of offer for major defense equipment of $7 million or more and on all letters of offer for $25 million or more, the report must include a description of any reciprocal sales agreement involved and a domestic economic impact statement regarding such agreement.

(3) The Secretary of State is required to transmit within one year the results of a comprehensive study on the effect of the sales provisions of this bill in the area of U.S. foreign policy, international trade and balance of payments, U.S. unemployment and Defense weapons procurement.

(4) The bill requires the President to submit in early 1977 a report concerning sales of excess defense articles.

Other Policy Provisions:

A. Nuclear transfers. The bill prohibits economic, military and supporting assistance to any country which delivers or receives reprocessing or enrichment equipment, materials, or technology unless the parties have agreed to place all items under multilateral auspices and management when available and the recipient country has entered into an agreement with the International Atomic Energy Agency (IAEA) to place all such items and all nuclear fuel and facilities in such country under IAEA safeguards. The President may waive this prohibition if he determines that it would have a serious adverse effect on vital U.S. interests and if he has "received reliable assurances that the country involved will not acquire or develop nuclear weapons or assist other nations in doing so." The bill provides that following this determination, Congress may still terminate or restrict assistance by joint resolution.

B. International narcotics control. The bill prohibits U.S. personnel from engaging or participating in direct police arrest actions in any foreign country in connection with narcotics control efforts. In addition, the President is required to transmit to Congress by April 30, 1977, a study concerning the possible use of international or regional organizations for U.S. narcotics control programs in foreign countries.

C. Extortion and illegal payments. The President is required to transmit to Congress a report on illegal payments or extortion concerning officials of a foreign country receiving U.S. security assistance. The report should include the President's recommendation on the continuation of a security assistance program for that country.

Specific Country or Regional Provisions

A. Angola. The concern of Congress is expressed with respect to Soviet and Cuban intervention in Angola. Additionally, all military assistance to Angola is prohibited unless the President certifies to Congress that furnishing assistance is important to U.S. national security interests.

B. Chile. All military assistance and commercial arms sales are prohibited after the bill is enacted, with the exception of pipeline deliveries. Economic assistance for Chile in the transition quarter and fiscal year 1977 is limited to $27.5 million (approximately $47 million was requested). The President may double this amount of economic assistance if he certifies to Congress that the government of Chile is not engaged in gross violations of human rights, has allowed international organizations to investigate allegations of violations, and is informing families of prisoners of the prisoners' conditions and the charges against them.

C. Turkey. The bill authorizes $31 million in grant MAP for Turkey in fiscal year 1976 (as compared with the budget request of $75 million),

and $50 million in fiscal year 1977, as requested, but continues the prohibitions of existing law with respect to such assistance. Thus, grant assistance cannot be provided unless the President certifies as to substantial progress toward a Cyprus agreement and Turkish compliance with U.S. law and implementing agreements. On the other hand, the legislation permits the sale of $125 million in defense articles and services to Turkey during the balance of fiscal year 1976 and the transition quarter and $125 million during fiscal year 1977, a softening of the present total prohibition on grants or sales.

D. Portugal. There is a sense of Congress statement that the President should take action to alleviate food shortages in Portugal using existing statutes.

E. Military forces in the Indian Ocean. The bill expresses the sense of Congress that the President should initiate negotiations with the Soviet Union regarding control of military forces in the Indian Ocean and report to the Congress not later than December 1, 1976.

F. U.S. citizens imprisoned in Mexico. The bill declares the intent of Congress that efforts to secure stringent international drug enforcement be combined with efforts to secure fair and humane treatment for citizens of foreign countries who are imprisoned. The provision requests the President to communicate directly to the President of Mexico the continuing concern of the United States over the treatment of United States citizens arrested in Mexico. The Secretary of State is required to submit quarterly reports to Congress on progress achieved toward full respect for the human and legal rights of all United States citizens detained in Mexico.

G. Lebanon. The bill expresses the sense of the Congress that the situation in Lebanon poses a serious danger to Middle East peace and contains a request that the President use his good offices to bring about peace.

H. Middle East policy. The bill declares the sense of Congress that the United States will continue to determine Middle East policy as circumstances may require. It further declares the authority contained in the joint resolution approving the early warning system in Sinai shall not be construed as constituting congressional approval, acceptance, or endorsement of any commitment other than the United States Proposal for the Early Warning System in Sinai.

I. Korea. The bill requires the President to report 90 days after enactment and annually for the next five years on: (1) progress made by the Republic of Korea in modernizing its armed forces so as to achieve military self-sufficiency; (2) the role of the United States in mutual security efforts in Korea; and (3) prospects for phased reduction of United States armed forces assigned to Korea. In addition, the President is requested to communicate "in forceful terms" to the Government of Korea within 60 days after enactment the concern of Congress regarding the erosion of important civil liberties in Korea.

J. Base agreements with Spain, Greece, and Turkey. The bill authorizes for 1977 the appropriation of the amounts designated in the treaty and base agreements as soon as separate approving legislation has been enacted for the treaty and agreements.

Conclusions

The enrolled bill represents a major improvement over the bill you vetoed in May. While it retains several of the basic features of the earlier bill and adds some new provisions, almost all of the objectionable provisions you cited in your veto message have been acceptably modified or eliminated entirely. State's letter reflects a similar assessment of the enrolled bill and further notes that "the extensive new requirements contained therein would create no insurmountable difficulties while permitting the continuation of security assistance as a significant tool of United States foreign policy."

Congressional action in response to your constitutional objections to use of the concurrent resolution override device is particularly significant. As noted above, only one such provision, which reflects a refinement of existing law rather than a totally new requirement, remains. Informally, Justice has noted its constitutional objections to this provision but defers to other agencies more concerned with the bill as to whether there are overriding policy considerations which warrant approval of H.R. 13680.

State's enrolled bill letter states:

> "We regard the action by the Congress on the concurrent resolution issue to be of major constitutional and historical importance, and we believe that this importance would be enhanced if underscored by the President. Accordingly, we have prepared the enclosed signing statement which we strongly recommend that the President use if he decides to sign H.R. 13680."

We support State's recommendation for a signing statement and concur with the statement the Department has proposed.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosure

FISCAL YEAR 1976

	(appropriations in millions of dollars) Authorization Request	Enrolled Bill	Difference
Grant Military Assistance	394.5	228.7	165.8
Foreign Military Training	30.0	27.0	-3.0
Foreign Military Credit Sales	1,065.0	1,039.0	-26.0
(Program)	(2,374.7)	(2,374.7)	(---)
(Authority to forgive Israeli repayments)	(750.0)	(750.0)	(---)
Security Supporting Assistance	1,873.3 1/	1,766.2	-107.1
Middle East Special Requirements Fund	50.0	50.0	---
Narcotics Control	42.5	40.0	-2.5
Contingency Fund	10.0	5.0	-5.0
Disaster Relief for Italy 2/	---	25.0	+25.0
International Atomic Energy Agency	---	1.0 3/	+1.0
Total	3,465.3	3,181.9	-283.4

1/ Of the total request, $25.0 million was for Cyprus relief. For 1976, $30 million has been authorized in a separate account under development assistance.

2/ The Administration sought and received a $25 million 1976 supplemental appropriation for Italy specifically without authorizing legislation because of the need to provide timely aid to Italy.

3/ In addition to a voluntary contribution of $3.5 million authorized in the development assistance bill; earmarked for safeguards activities.

TRANSITION QUARTER (JULY 1, 1976 - SEPTEMBER 30, 1976)

	(appropriations in millions of dollars) Authorization Request	Enrolled Bill	Difference
Grant Military Assistance	27.2	57.2	+30.0
Foreign Military Training	7.0	6.8	-.2
Foreign Military Credit Sales	30.0	259.8	+229.8
(Program)	(55.5)	(593.7)	(+538.2)
(Authority to forgive Israeli repayments)	(---)	(187.5)	(+187.5)
Security Supporting Assistance	33.2 1/	441.6	+408.4
Middle East Special Requirement Fund	10.0	12.5	+2.5
Narcotics Control	13.0	10.0	-3.0
Contingency Fund	5.0	1.2	-3.8
Disaster Relief for Italy	---	6.2	+6.2
Aid to Cypriot Refugees	---	2.5 2/	+2.5
International Atomic Energy Agency	---	.2	+.2
Total	125.4	798.0	+672.6

1/ Of the total request, $5.0 million was for Cyprus relief. This amount has been authorized in a separate account, Aid to Cypriot Refugees.

2/ In addition to $5.0 million authorized in the development assistance bill.

FISCAL YEAR 1977

	(appropriation in millions of dollars) Authorization Request 1/	Enrolled Bill 2/	Difference
Grant Military Assistance	279.0	247.3	-31.7
Foreign Military Training	30.2	30.2	---
Foreign Military Credit Sales	840.0	740.0	-100.0
(Program)	(2,059.6)	(2,022.1)	(-37.5)
(Authority to forgive Israeli repayments)	(500.0)	(500.0)	(---)
Security Supporting Assistance	1,886.5	1,860.0	-26.5
Middle East Special Requirements Fund	35.0	35.0	---
Aid to Cypriot Refugees	---	10.0	+10.0
Narcotics Control	34.0	34.0	---
Contingency Fund	10.0	5.0	-5.0
International Atomic Energy Agency	---	2.0	+2.0
Disaster Relief for Lebanon 3/	---	20.0	+20.0
Total	3,114.7	2,983.5	-131.2

1/ Request excludes funds for Spanish base agreement requested in separate authorization.

2/ Such additional amounts are authorized to be appropriated as may be necessary to carry out base agreements with Spain, Greece or Turkey subject to enactment of legislation approving each arrangement.

3/ Authorization (in addition to $30 million previously authorized in the case of Cyprus) is not tied to specific fiscal year; carried on this table because funds have not been provided in 1976 or TQ appropriations.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

WASHINGTON, D.C. 20451

June 29, 1976

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

Dear Mr. Frey:

By Enrolled Bill Request dated June 28, 1976, you requested the views and recommendations of this Agency on enrolled bill H.R. 13680, the "International Security Assistance and Arms Export Control Act of 1976".

Confirming the information we provided to Mr. George Gilbert of your office by telephone on June 28, 1976, the U.S. Arms Control and Disarmament Agency interposes no objection to H.R. 13680 and recommends that the President approve the enrolled bill.

Sincerely,

James L. Malone

James L. Malone
General Counsel

UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

JUN 22 1976

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

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning the Conference Report on H. R. 13680, entitled

"To amend the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, and for other purposes,"

to be cited as the "International Security Assistance and Arms Export Control Act of 1976".

The Department of Commerce would have no objection to approval by the President of H. R. 13680.

Enactment of this legislation is not expected to involve any increase in the budgetary requirements of this Department.

Sincerely,

General Counsel

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

JUN 29 1976

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

Dear Mr. Frey:

This letter replies to your request for comments from the Agency for International Development on the Enrolled Bill, H.R. 13680, the International Security Assistance and Arms Control Act of 1976.

The bill contains a number of features which are of direct interest to the Agency, the most important of which are as follows:

- An authorization of appropriation for Security Supporting Assistance of $1,766,200,000 for FY 1976 and $1,860,000,000 for FY 1977, levels which would permit nearly full funding of the President's request for the Middle Eastern countries as well as others such as Portugal, Zaire, Zambia and Greece.

- Authorization of appropriations for the Middle East Special Requirements Fund at the level of the President's request for FY 1976 and FY 1977, $50,000,000 and $35,000,000 respectively, and for the President's Contingency Fund at $5,000,000 for each year ($5,000,000 less than requested in each year).

- Authorization for the continued availability of Indochina Postwar Reconstruction funds to meet termination costs and authority to settle certain claims arising from the termination of the program.

- Authority to compensate experts and consultants in amounts equal to the government-wide ceiling of $145 per day. A recent GAO ruling had reduced the Agency's ceiling to $100 per day.

Several restrictive provisions contained in the bill could impact on the Agency's programs. Section 301 relating to human rights requires the termination, inter alia, of Security Supporting Assistance programs to countries whose governments engage in a consistent pattern of gross violations of internationally recognized human rights. While earlier versions of this provision permitted Congress to terminate or otherwise circumscribe assistance programs by concurrent resolution, the provision as finally passed provided for termination by a joint resolution considered pursuant to an expedited procedure in the Senate. We believe that the provision as enacted is acceptable. We further believe that it is unlikely that any of the present programs of Security Supporting Assistance would be targets of such a procedure.

A second restriction which we find troublesome is contained in section 304 of the bill. The section, in essence, prohibits furnishing any assistance under the Foreign Assistance Act to a country "which aids or abets, by granting sanctuary from prosecution to, any individual which has committed an act of international terrorism". Although we have had some success through the legislative process in narrowing the definition of the offensive governmental conduct, we remain concerned that this prohibition could potentially impact on our economic assistance programs. The danger is particularly high in the Middle East and in southern Africa. We are protected to some extent, however, by a Presidential "national security" waiver authority. While this section previously provided for a Congressional override of such a waiver by concurrent resolution, the concurrent resolution procedure has been eliminated so that it would appear that the dangers implicit in this provision are manageable.

Another restrictive provision which merits comment is section 305 which amends Chapter 3 of the FAA to prohibit assistance, military credits or guarantys, to countries which deliver or receive nuclear reprocessing or enrichment equipment, materials or technology unless such items are subject to an agreement placing them under multilateral auspices and management when available and where the recipient country has agreed to place

all such items under the safeguards of the International Atomic Energy Agency. The section permits a Presidential determination allowing continuation of assistance if termination would have "a serious adverse effect on vital U. S. interests" and where the President certifies that he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so. This provision could impact on A.I.D. programs in Pakistan.

Finally, a restriction was enacted on economic assistance to the Government of Chile limiting assistance to that country to $27.5 million in the transition quarter and FY 1977, permitting provision of an additional $27.5 million in assistance during that period if the President certifies to substantial progress in the area of human rights. It is clear from the legislative history that the provision as enacted applies only to concessional assistance programs and not to ordinary commercial-type credits of the Export-Import Bank and Commodity Credit Corporation or to insurance issued by the Overseas Private Investment Corporation. We consider the exemption of commercial-type programs from provisions requiring termination of "assistance" to be a valuable precedent for similar restrictive provisions affecting other countries which will surely arise in the future.

On balance we believe that none of the provisions contained in the bill are, in the short term, likely to impede our implementation of economic activities. The bill does contain authorities which will facilitate the Agency's administration of economic assistance programs, and includes authorizations of appropriations for economic assistance for the Middle East and for other assistance programs which we believe are of great importance to the foreign policy of the United States.

We would therefore recommend that the President sign the bill into law. We do, however, support the request of the Department of State for a Presidential signing statement calling attention to the deletion of several concurrent resolution veto provisions from the bill leaving only one which is carried over from existing law.

Sincerely yours,

Charles L. Gladson
General Counsel

DEPARTMENT OF STATE

Washington, D.C. 20520

JUN 28 1976

Dear Mr. Lynn:

Reference is made to your request for the views and recommendations of the Department of State with respect to H.R. 13680, an enrolled bill.

The enrolled bill, the International Security Assistance and Arms Export Control Act of 1976, contains authorizations of appropriations to carry out security assistance and certain other programs in FY 1976, the transition quarter, and FY 1977, and makes major changes in the basic legislation governing the organization, management and procedures for carrying out these programs.

This bill authorizes a total of $3,191,900,000 in new appropriations in FY 1976 and $2,973,500,000 in FY 1977 for the purpose of carrying out security assistance and certain other programs in those years. Within these aggregate totals, appropriations of $196,700,000 in FY 1976 and $177,300,000 in FY 1977 are authorized for military assistance materiel programs, $1,039,000,000 in FY 1976 and $740,000,000 in FY 1977 for foreign military sales credits and guaranty programs, and $1,766,000,000 in FY 1976 and $1,860,000,000 in FY 1977 for security supporting assistance programs worldwide. In addition, appropriations for the transition quarter are authorized in an amount not exceeding one-fourth of each FY 1976 authorization contained in the bill.

The bill is patterned on S. 2662, the bill which the President vetoed in May. It retains the basic features of the earlier bill with little or no change, while eliminating or significantly improving most of the objectionable provisions referred to by the President in the message accompanying his veto of S. 2662. Among the retained features of the previous bill are provisions for the termination of military materiel assistance programs and military assistance advisory groups after FY 1977 except as may be specifically authorized by law, separate authorization for grant military education and training

The Honorable
James T. Lynn, Director,
Office of Management and Budget.

programs, extensive reporting requirements regarding foreign military sales and the export of commercially-sold defense articles and services, new requirements and procedures governing third-party transfers of defense articles and services and ineligibility for military assistance and foreign military sales, relaxation of the restrictions of section 620(x) of the Foreign Assistance Act of 1961 on security assistance to Turkey, and new requirements regarding reporting and recordkeeping with respect to fees of military sales agents and other payments.

H.R. 13680 also contains some provisions not found in the earlier bill. Of these, the most significant is Section 305, which would prohibit economic and security assistance to countries delivering or receiving nuclear reprocessing or enrichment equipment or technology unless the delivering and receiving countries agree to place such items under multilateral auspices when available and unless the recipient has placed all such equipment and technology, as well as all its nuclear fuel and facilities, under International Atomic Energy Agency safeguards. The President may nonetheless furnish assistance by Executive order effective not less than 30 days from promulgation if he determines and certifies to the Congress that termination of assistance would have a "serious adverse effect on vital United States interests" and that he has received "reliable assurances" that the country in question will not acquire or develop nuclear weapons or assist others in so doing. The Congress may nevertheless terminate such assistance by joint resolution.

Another feature not present in S. 2662 is the authorization of additional security supporting assistance programs for African countries, specifically Zambia and Zaire, with the proviso that no such funds may be used for "military, guerilla, or paramilitary activities in either such country or in any other country".

The most significant distinction between this bill and S. 2662 is that almost all of the provisions of the vetoed bill that were cited by the President in his veto message have, in this bill, either been eliminated in their entirety or so modified as to remove the source of the President's objections. The $9,000,000,000 annual ceiling on government and commercial arms sales in S. 2662 has been replaced by a sense-of-the-Congress provision that the aggregate value of such sales in any fiscal year "should not exceed current levels". The provision suspending the President's authority to control certain trade with North and South Vietnam has been eliminated from this bill.

The provisions of this bill with respect to human rights and discrimination are likewise greatly improved over the provisions on the same subject in S. 2662. That no security assistance be furnished to governments engaging in a consistent pattern of gross violations of internationally recognized human rights is made a strong statement of policy rather than an outright legal prohibition, and the constitutionally-objectionable concurrent resolution "legislative veto" feature of the earlier bill has been replaced by a joint resolution provision. The discrimination provision has been modified so that it no longer retains the objectionable mandatory and automatic sanctions of the earlier bill. While this provision does retain some potential for causing difficulty, it should present no unmanageable problems.

Perhaps the most noteworthy feature of H.R. 13680 is that it no longer contains the several concurrent resolution "legislative veto" provisions that were a principal focus of the President's veto of S. 2662. In certain instances, such as third-party transfers of defense articles and services, the concurrent resolution veto has been removed entirely. In other instances, such as human rights, it has been replaced by provisions permitting action to be taken by constitutionally adequate joint resolution. In only one respect, namely section 36(b) of the Foreign Military Sales Act purporting to empower the Congress to disapprove FMS cases valued at $25 million or more, has the concurrent resolution feature been preserved, and this reflects a refinement of existing law rather than representing a new requirement.

We regard the action by the Congress on the concurrent resolution issue to be of major constitutional and historical importance, and we believe that this importance would be enhanced if underscored by the President. Accordingly, we have prepared the enclosed signing statement which we strongly recommend that the President use if he decides to sign H.R. 13680.

On balance, the Department of State believes that H.R. 13680 represents a major improvement over the bill vetoed by the President in May, and that the extensive new requirements contained therein would create no insurmountable difficulties while permitting the continuation of security

assistance as a significant tool of United States foreign policy. We accordingly recommend that the President sign H.R. 13680, utilizing the enclosed signing statement.

Sincerely yours,

Robert J. McCloskey
Assistant Secretary for
Congressional Relations

STATEMENT BY THE PRESIDENT

ON SIGNING H.R. 13680 INTO LAW

Today I am signing into law H.R. 13680, the International Security Assistance and Arms Export Control Act of 1976. This measure authorizes appropriations to carry out security assistance and other programs in the fiscal years 1976 and 1977, and makes extensive changes in the methods, organization, and procedures through which those programs are carried out.

On May 7, 1976, I returned to the Congress without my approval S.2662, the predecessor of the bill which I am signing today. I did so because that bill contained numerous provisions which would have seriously undermined the constitutional responsibility of the President for the conduct of the foreign affairs of the United States. That bill embodied a variety of restrictions that would have seriously inhibited my ability to implement a coherent and consistent foreign policy, and some which raised fundamental constitutional difficulties as well.

The present bill, H.R. 13680, imposes new requirements, restrictions and limitations on the implementation of security assistance programs.

Many of these new requirements are based on congressional desires to increase the flow of information regarding the scope and direction of security assistance programs worldwide. Others impose new substantive restrictions reflecting new policies, or policies not heretofore expressed in law.

Most of the unacceptable features of the earlier bill have either been dropped from H.R. 13680 or have been modified into an acceptable form. I am pleased to note, for example, that this bill does not attempt to impose an arbitrary and unwieldy annual ceiling on the aggregate value of government and commercial arms sales, a ceiling which would have served to hinder, rather than foster, our efforts to seek multilateral restraints on the proliferation of conventional weaponry, and which could have prevented us from meeting the legitimate security needs of our allies and other friendly countries. In addition, the provisions on discrimination and on human rights in this bill go far toward recognizing that diplomatic efforts, rather than absolute statutory sanctions, are the most effective way in which this country can seek further progress abroad in these areas of deep concern to all Americans, and that the Executive Branch must have adequate flexibility to make these efforts bear fruit.

I am especially pleased to note that with one exception the constitutionally objectionable features of S.2662, whereby authority conferred on the President by law could be rescinded by the adoption of a concurrent resolution by the Congress, have all been deleted from H.R. 13680. The manifest incompatibility of such provisions with the express requirements of the Constitution that legislative measures having the force and effect of law be presented to the President for approval and, if disapproved, be passed by the requisite two-thirds majority of both Houses was perhaps the single most serious defect of the previous bill, and one which went well beyond security assistance and foreign affairs in its implications. Moreover, such provisions would have purported to involve the Congress in the performance of day-to-day Executive functions in derogation of the principle of separation of powers, resulting in the erosion of the fundamental constitutional distinction between the role of the Congress in enacting legislation and the role of the Executive in carrying it out.

The one exception to this laudable action is the retention in H.R. 13680 of the "legislative veto" provision regarding major governmental sales of

military equipment and services. This is not a new provision, but has been in the law since 1974. To date no concurrent resolution of disapproval under section 36(b) has been adopted, and the constitutional question has not been raised directly. ~~Accordingly, I feel that I am able to accept the retention of this provision, while reserving~~ Although I am accepting H.R. 13680 with this provision included, I reserve my position on its constitutionality if the provision should ever become operative.

In my message of May 7 I expressed my serious concern that the termination of military assistance and military assistance advisory groups after fiscal year 1977 would result in a serious impact upon our relations with other nations whose security is important to our own security and who are not yet able to bear the entire burden of their defense requirements. That concern remains. H.R. 13680 retains language recognizing that it may be necessary and desirable to maintain military assistance programs and military assistance advisory groups in specific countries even after September 30, 1977. Accordingly, this bill will not deter the Executive Branch from seeking at the appropriate time the necessary authority for the continuation of such programs as the national interest of the United States may require.

H.R. 13680 will require that many changes be made in present practices and policies regarding the implementation of security assistance programs. Some of these new requirements I welcome as distinct improvements over existing law. There are others for which the desirability and need is less clear. Nevertheless, I shall endeavor to carry out the provisions of this bill in a manner which will give effect to the intent of the Congress in enacting them. As time goes by and experience is gained, both the Executive and the Congress will come to know which of the provisions of this bill will be effective and workable, and which others require modification or repeal.

This bill recognizes that security assistance has been and remains a most important instrument of United States foreign policy. My approval of H.R. 13680 will enable us to go forward with important programs in the Middle East, in Africa, and elsewhere in the world aimed at achieving our goal of international peace and stability.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: June 30 Time: 1030am

FOR ACTION: NSC/S
David Lissy
Max Friedersdorf
Robert Hartmann
Phil Buchen

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 30 Time: 1100am

SUBJECT:

H.R. 12203 - Foreign Assistance and related programs Appropriation Act, 1976

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

-x- For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

The attached bill will be submitted to the President with H.R. 12384 which you have received earlier.

O.K. P.W.B.

Philip W. Buchen
Counsel to the President

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

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

JUN 29 1976

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. Lynn

SUBJECT: Enrolled Bill H.R. 12203 - Foreign Assistance and Related Programs Appropriation Act, 1976

Last Day for Action

July 10, 1976--It is important that you sign this bill as soon as possible before July 1 so that the agencies concerned will have time to obligate the remainder of the program including the $650 million loan for Israel for which repayment will be forgiven.

Agency Recommendation

Office of Management and Budget	Approval (signing statement attached)
Affected Agencies	Approval (informally)

Discussion

This bill provides appropriations of $5,455 million for fiscal year 1976, $674 million less than requested. For the transition quarter $764 million is appropriated, an increase of $274 million. Tables showing congressional action by account are attached to this memorandum. In outlay terms, the effect of congressional action will be a decrease of about $164 million over the 15-month period. However, because of the delays in passage of this bill, some $900 million in outlays originally scheduled for fiscal year 1976 will occur in the transition quarter and fiscal year 1977. The net outlays impact of congressional action in fiscal year 1977 will be an increase of $6 million.

Constitutional Problem

The bill contains the following provision:

> "None of the funds made available under this act for ... [a list of 19 foreign aid accounts] shall be available for obligations for activities, programs, projects, type of material assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committee ... without the express approval of the Appropriations Committees of both Houses of the Congress."

The Executive Branch has for several years accepted language requiring "notification" of the Appropriations Committee prior to making program changes. However, the concept of "approval" has been resisted as an unconstitutional encroachment. Most recently you objected to this procedure in the signing statement concerning the Defense Procurement Authorization which contained a similar provision. We propose that you take the same position with respect to this language.

International Security Assistance

Grant military assistance for 1976 was reduced by $170 million, requiring cuts in most country programs. As partial compensation, you transmitted a transition quarter supplemental request for $34 million in the military assistance account on May 21, 1976. Moreover, you agreed to a compromise including additional amounts of foreign military sales credits and security supporting assistance for the Middle East recipients in the transition quarter. As a result, security assistance appropriations for the 15-month period (excluding the pending supplemental which is not expected to be approved) will total $3,781 million, 98% of the request.

International Development Assistance

The bill reduces the funds requested for development assistance by $249 million in 1976 and $125 million in the transition quarter. Of the total reduction, $130 million is from requested contributions to International Financial Institutions (IDA, the Asian Development Bank and the Inter-American Development Bank), $38 million from voluntary contributions to the United Nations, the Organization of American States and the Indus Basin Development Fund, and a net of $207 million from bilateral assistance programs. In addition, the bill establishes an appropriation account for AID operations expenses, whereas the request included operating funds in several program accounts.

Soviet Refugee Aid

The Congress has again initiated a special appropriation to assist refugees from the Soviet Union, but stipulated that 80% of the appropriation should aid refugees going to Israel.

Recommendation

That you sign the enrolled bill and accompanying statement.

Attachment

1976
Foreign Assistance and Related Programs
Appropriation Act
(in millions of dollars)

	Appropriation Request	Appropriation	Difference
International Security Assistance			
Grant Military Assistance	394.5	225.0	-169.5
Appropriations to Liquidate Contract Authority	323.9[1/]	275.0	-48.9
Military Training Grants	30.0	23.0	-7.0
Foreign Military Credit Sales	1,065.0	1,065.0	---
Supporting Assistance	1,873.3	1,689.9	-183.4
Middle East Special Requirements Fund	50.0	50.0	---
International Development Assistance			
Multilateral Assistance			
International Development Association	375.0	320.0	-55.0
Inter-American Development Bank	275.0	225.0	-50.0
Asian Development Bank	170.6	145.6	-25.0
International Organization and Programs	189.5	175.2	-14.3
U.N. Environmental Fund	7.5	7.5	---
Indus Basin Fund	32.5	19.0	-13.5
Bilateral Assistance			
AID Functional Development Programs	1,007.0	691.2	-315.8
African Development Fund	---	5.0	+5.0
Retirement Fund Payments	16.7	16.7	---
Disaster Relief	45.0	70.0	+25.0
American Schools and Hospitals	20.0	19.8	-.2
Operating Expenses	[2/]	194.6	+194.6
Contingency Fund	10.0	5.0	-5.0
Other Appropriations			
Peace Corps	80.8	80.8	---
Cuban Refugee Aid	85.0	85.0	---
Soviet Refugee Aid	---	15.0	+15.0
Migration and Refugee Assistance	10.1	9.0	-1.1
Emergency Migration and Refugee Fund	25.0	5.0[3/]	-20.0
International Narcotics Control	42.5	37.5	-5.0
TOTALS	6,128.9	5,454.8	-674.1

1/ Amount is needed to repay obligations incurred to supply military equipment to Cambodia during fiscal years 1974 and 1975 per Section 506, Foreign Assistance Act and Presidential determinations. A fiscal year 1977 budget amendment was sent to the Congress on May 13, 1976, to cover the amount cut by the Congress.
2/ Included in request for program accounts.
3/ In addition to $10 million enacted in Second Supplemental Appropriation Act, 1976.

1976 Transition Quarter
Foreign Assistance and Related Programs
Appropriation Act
(in millions of dollars)

	Appropriation Request[1/]	Appropriation	Difference
International Security Assistance			
Grant Military Assistance	27.2[2/]	27.2	---
Military Training Grants	7.0	5.8	-1.2
Foreign Military Credit Sales	30.0	140.0	+110.0
Supporting Assistance	30.2	269.7	+239.5
Middle East Special Requirements Fund	10.0	10.0	---
International Development Assistance			
Multilateral Assistance			
International Organization and Programs	19.2	16.3	-2.9
Indus Basin Fund	4.5	2.2	-2.3
Bilateral Assistance			
AID Functional Development Programs	286.3	165.8	-120.5
Disaster Relief	10.0	15.0	+5.0
American Schools & Hospitals	2.5	2.4	-.1
Operating Expenses	[2/]	55.5	+55.5
Contingency Fund	5.0	1.2	-3.8
Other Appropriations			
Peace Corps	25.7	24.0	-1.7
Cuban Refugee Aid	19.0	19.0	---
Migration and Refugee Assistance	.8	.7	-.1
International Narcotics Control	13.0	9.4	-3.6
TOTALS	490.4	764.2	+273.8

1/ Excludes amount in budget amendment requested for the Treaty with Spain which was deferred without prejudice pending Congressional approval of the basic agreement.
2/ Does not include pending $34.7 million supplemental.
3/ Included in request for program accounts.

STATEMENT BY THE PRESIDENT

I have signed H.R. 12203, the Foreign Assistance and Related Programs Appropriation Act, 1976, and the period ending September 30, 1976. The bill appropriates funds for a variety of programs in support of U.S. foreign policy objectives, most importantly our pursuit of a peaceful solution to the problems of the Middle East.

Nevertheless, I have serious reservations regarding one element of the bill, and believe it is necessary to comment on why I have signed the bill notwithstanding my objections to it.

Title I of the bill contains a provision which conditions the availability of appropriated funds, in certain instances, upon the acquiescence of the Appropriations Committees of each House of Congress. This requirement violates the fundamental constitutional doctrine of separation of powers. While similar provisions have been included in congressional enactments, and have been found objectionable on these grounds, this particular requirement is especially onerous in that it intrudes upon the execution of programs in nineteen different appropriation categories.

Since I view this provision as severable from what is an otherwise valid exercise of legislative authority, and because it is presented for my signature in the last week of the fiscal year, I am not withholding my approval. We shall continue to work with the Appropriations Committees, as with all Committees of the Congress, in a spirit of cooperation. We shall continue to keep the Congress fully informed on a current basis on the execution of the laws. However, we shall not concur in a delegation of the powers of appropriation to two Committees of Congress.

Proposed Signing Statement
FY 1977 Defense Authorization Bill

General Messages

[July 1976?]

O.K. - maypt.
OK EG

Today I have signed into law legislation authorizing Fiscal Year 1977 appropriations of $32.5 billion for Procurement and for Research and Development programs for the Department of Defense. While this authorization provides for many Defense activities essential for our national security, the bill still has a number of deficiencies.

It is noteworthy that this is the first Defense authorization bill in many years to be passed by the Congress in time to become law before the start of the fiscal year. I commend the Congress for their expeditious action which, by helping us to maintain the continuity of Defense management activities, assists us in our efforts to improve Defense management practices.

My FY 1977 total budget request for national defense is $115 billion -- as it must be, given the adverse trends which have developed as a result of Congressional cuts in U.S. military expenditures. The Congress must cooperate if we are to be able to successfully arrest these trends in order to assure our own security and, in a real sense, peace and stability in the world.

In important respects, however, Congress has not faced up to the challenge. First, Congress has not approved a number of essential Defense programs. Second, Congress has added funds to the FY 1977 Budget for programs which are not needed in FY 1977. Finally, Congress has not yet acted upon certain of my legislative proposals which are necessary to permit the Defense Department to restrain manpower cost growth, reduce waste and inefficiency and to achieve economies. These three areas require remedial action by the Congress.

Programs Not Approved

Shipbuilding. Congress has failed to authorize $1.7 billion requested for new ship programs that are needed to strengthen our maritime capabilities and assure freedom of the seas. In particular, they have denied funds for the lead ships for two essential production programs -- the nuclear strikecruiser and the conventionally-powered AEGIS destroyer -- and for four modern frigates. The FY 1977 program was proposed as the first step of a sustained effort to assure that the United States, along with its allies, can maintain maritime defense, deterrence, and freedom of the seas. I plan to resubmit budget requests for FY 1977 to cover these essential shipbuilding programs.

Other Programs. Congress has also failed to authorize nearly $900 million requested for other Defense procurement and research and development programs. As with the shipbuilding program, I will resubmit the requests needed to meet our minimum national security requirements.

Programs Not Needed in FY 1977

At the same time that the Congress disapproved several programs which are vital for our national security, they added over $1 billion to the original budget request for items for which I did not request funds in FY 1977. For example, Congress added:

- A fourth attack submarine ($357 million) for which funds cannot be used in FY 1977 owing to shipyard capacity limitations.

- Conversion of the cruiser LONG BEECH ($371 million) which can be readily postponed.

- Six Navy A-6E attack aircraft ($66 million), which are not a high priority, particularly at the uneconomical production rate of six per year proposed by the Congress.

° Repair and modernization of the cruiser BELKNAP ($213 million) damaged in a collision, for which funds should have been authorized prior to FY 1977.

I propose that Congress delete the funds for these programs in FY 1977, and authorize funds for repair of the BELKNAP in the current Transition Quarter. If the Congress does not act favorably on this request, then funds have to be added on top of the FY 1977 Defense budget, in order to avoid forcing out essential Defense activities.

Defense Management Economies

Finally, Congress has not enacted certain legislative proposals necessary to permit the Department of Defense to restrain manpower cost growth and to achieve other essential economies.

As estimated last January, the potential savings in Defense made possible by my proposals total over $3 billion in FY 1977 and $23 billion over the five-year period FY 1977-1981. About half of these savings can be achieved through administrative action by the President, and are being implemented. The remaining initiatives, however, require action by the Congress.

When submitting the budget request last January, I explained that if the Congress did not pass the needed legislation, it would be necessary to increase the budget request later in the year. I am pleased that some of the manpower initiatives falling within the jurisdiction of the two Armed Services Committees -- which produced this authorization bill -- were well received. The Post Office and Civil Service Committees, however, have been reluctant to act on the critical legislation needed to save over $400 million in FY 1977 and over $6 billion over the five-year period FY 1977-1981. Specific proposals within their jurisdiction include:

(1) reform of the Wage Board System which, through its current system for calculating pay raises, now overpays blue collar civilian employees; (2) elimination of the excessive 1% kicker in retired pay adjustments for civilians; and (3) elimination of dual compensation for reservists who are also Federal employees.

Furthermore, the Armed Services Committees have yet to enact legislation permitting the sale in FY 1977 of nearly $750 million worth of commodities no longer needed in the strategic stockpile; the receipts from thse sales would be an offset in the National Defense Budget, and without them the budget ceiling for Defense expenditures must be increased accordingly.

There has been a lot of talk about cutting waste in Defense spending. Without action by the Congress these economies cannot be achieved. Here is the opportunity to act.

These remaining actions to provide for greater efficiencies in the Defense budget should be approved. Because Congress apparently is indifferent to them, however, I have decided reluctantly to forward budget requests to cover the needed amounts. Failure by Congress either to enact legislation permitting the economy measures, or to provide the additional funds necessary would mean a severely unbalanced Defense program, which would be unacceptable.

I am determined that the U.S. National Security be fully adequate. It is up to the Congress to act promptly to provide the necessary funds.

July 14, 1976

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: OMB

Date: September 1, 1976 Time:

FOR ACTION: cc (for information):

Phil Buchen Dave Gergen Alan Greenspan
Jim Cannon Jack Marsh
Max Friedersdorf Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Friday, September 3 Time: 3 P.M.

SUBJECT:

James T. Lynn memo 8/31/76
re Public Works Appropriations Bill

ACTION REQUESTED:

____ For Necessary Action ___X_ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

X
____ For Your Comments ____ Draft Remarks

REMARKS:

We concur with OMB.

P.W.B.

Philip W. Buchen

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

Jim Connor
For the President