

Sent: 15 JUL 2003 11:11:13
From: Lauren C. Lobrano (CN=Lauren C. Lobrano/OU=OMB/O=EOP [OMB])
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Cc: Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange@EOP [WHO])
Subject: : Foreign Relations SAP - this should be final for POTUS review
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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR:Lauren C. Lobrano (CN=Lauren C. Lobrano/OU=OMB/O=EOP [OMB])

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SUBJECT:: Foreign Relations SAP - this should be final for POTUS review

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@Exchange [WHO])

READ:UNKNOWN

TO:Karin B. Torgerson (CN=Karin B. Torgerson/OU=WHO/O=EOP@Exchange [WHO])

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TO:Barbara A. Barclay (CN=Barbara A. Barclay/OU=WHO/O=EOP@Exchange [WHO])

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TO:Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP@Exchange [WHO])

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TO:Carolyn E. Cleveland (CN=Carolyn E. Cleveland/OU=WHO/O=EOP@Exchange [WHO])

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CC:Eric C. Pelletier (CN=Eric C. Pelletier/OU=WHO/O=EOP@Exchange@EOP [WHO])

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ATT CREATION TIME/DATE: 0 00:00:00.00

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H.R. 1950 - Foreign Relations Authorization Act, Fiscal Years 2004 and 2005
(Hyde (R) IL and 2 cosponsors)

The Administration strongly opposes H.R. 1950, as reported. This bill authorizes appropriations for FYs 2004 and 2005 primarily for the State Department and the Broadcasting Board of Governors (BBG), and contains other foreign relations provisions. Many of the bill's provisions are consistent with and support the Administration's request. However, there are a significant number of provisions that restrict the President's flexibility to conduct foreign affairs, authorize appropriations that exceed the President's FY 2004 budget request, or raise managerial, constitutional, or other concerns, which are outlined below. The Administration looks forward to working with the Congress to address these and other concerns.

The Administration strongly opposes section 116(e), which would earmark \$50 million for unrequested funding for the United Nations Population Fund (UNFPA) in each of FYs 2004 and 2005. This section includes a certification that could imply that UNFPA funds may be used for indirect financial or material support to programs supporting coercive abortion. It is inconsistent with the Administration's family planning policy, and the President will veto the bill if it is presented to him with such a provision.

Title XVII, the Israeli-Palestinian Peace Enhancement Act of 2003, would condition assistance to a Palestinian state on achievement of certain benchmarks in contravention of the balanced Roadmap approach. This title contains troubling provisions that would impose conditions that go beyond the Roadmap and would unnecessarily require either frequent Presidential certifications or a national security waiver.

The Administration supports strengthening measures against missile proliferation and is currently engaged in a review of all nonproliferation sanctions to improve their usefulness. However, the Administration strongly opposes Title XIV, Missile Threat Reduction Act, which includes provisions that could unacceptably reduce the President's ability to use sanctions as an effective nonproliferation tool and would affect U.S. missile nonproliferation and security efforts.

The Administration strongly opposes sections 1103(b) and 1107(d) of the bill, which constitute excessive intrusion into the implementation by the executive branch of laws relating to the export of defense goods and services. The aspects of these provisions dealing with internal executive branch procedures are better handled as specified by the

President. The aspects of these provisions dealing with executive-legislative relations are better handled as a matter of comity between the executive and legislative branches.

Several other security assistance provisions would limit the President's authority to make changes regarding export licensing and would micro-manage State Department(?) licensing procedures. Of particular concern are: section 1204, regarding licensing for commercial defense exports to the United Kingdom and Australia; and section 1206, regarding "co-locating" munitions license functions.

A number of appropriation authorizations are in excess of the President's request and others establish unfunded benefits that would place undue pressure on the FY 2004 Budget. These include: section 307 (additional post differentials and allowances); section 229 (establishing refugee response teams), and section 506 (prohibiting elimination of certain foreign language broadcasts).

Provisions raising Constitutional concerns include: section 221, relating to Jerusalem, which would infringe upon the President's constitutional authority to conduct the Nation's foreign affairs and supervise the unitary executive branch, and which is not conducive to a constructive diplomatic outcome in a particularly sensitive and difficult negotiating environment; sections 113(d), 433, 434, 435(a), 438(d), 604, 733(a), and 1412, which purport to direct the Executive branch officials to take certain positions in international bodies, or in communications with foreign countries; section 223(b), which requires a report that could disclose information contained in sensitive and confidential diplomatic communications; and section 1814, establishing a "security policy" for Afghanistan, which would require the President to take certain actions that would impermissibly hinder his Commander-in-Chief powers.

Other provisions of concern include: section 229, which would reduce the Administration's flexibility in developing and implementing the refugee resettlement program; section 504, which would direct the content of international broadcasting for the purpose of promoting travel and tourism in the United States; section 1808 relating to Afghanistan; and various reporting requirements, particularly section 710 relating to Pakistan. The Administration is studying section 1109, regarding concurrent jurisdiction of the Federal Bureau of Investigation with the Department of Homeland Security's Customs Bureaus, to determine whether this provision is necessary.

The Administration is disappointed that H.R. 1950 does not include authorization of the Complex Foreign Contingency Account. With respect to section 227, which concerns the capital cost sharing initiative for the construction of secure embassies overseas, which is currently under development within the Administration, we look forward to working with the Congress on the Administration's proposal.

The Administration understands that an amendment authorizing the creation of the MCA may be offered by Chairman Hyde and Representative Lantos. The Administration strongly supports House passage of this amendment. The Administration supports legislation consistent with the principles outlined in the President's February 5, 2003,

transmittal to Congress establishing a Millennium Challenge Corporation that would administer a new assistance program using innovative strategies with an emphasis on economic growth, country ownership and responsibility, and accountability for results. Only an autonomous corporation, guided by the U.S. foreign policy leadership, will have the flexibility and focus necessary to achieve these goals. We look forward to working with Congress to implement the President's vision on this important initiative.

* * * * *

(Do Not Distribute Outside the Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Rooney) in consultation with IAD (Kulikowski), State (Terry), NSC (Andricos/Tucker/Miller), Defense (Smith/Handelman), Treasury (Levy), Commerce (Dalmut), Justice (Silas), DHS (Murphy), USAID (Cook), BBG (Andros), CIA b(3)50 USC 3507, ONDCP (Fasana), and EPA (Meni).

As of the LRD clearance deadline, the following issues were unresolved. WH/LA objects to the senior advisers veto threat on Sections 1103 and 1107. State has been informed of the content of the objections to section 1103 and 1107 but prefers to cast the issue in terms of the "political holds." Justice wants to delete the concern expressed with section 1109, and DHS wants to strongly oppose the provision.

OMB/LA Clearance: OVP (Leventhal), COS (Card), COMM (), OMB (), NEC (Allgood), Counsel (Bumatay/defers to NSC), OLA (Pelletier/w/ comments), CEA (Swagel), DepCOS(Miers/Kaplan/w. comment), NSC (Wisecup), Adviser (Rove), DPC (Lefkowitz).

H.R. 1950 was ordered reported by the House International Relations Committee (HIRC) on May 16, 2003, by a vote of 42-3. The Armed Service Committee reported its version of the bill by voice vote on June 26, 2003. The Energy and Commerce Committee reported its version by voice vote on July 9th after striking the bill's provisions calling for the United States to renew its efforts to conclude and sign a new "Kyoto Treaty" on global warming. The Judiciary Committee did not act on the measure.

Administration Position To Date

This is the first position the Administration is taking on H.R. 1950.

Provisions of H.R. 1950

H.R. 1950 is an omnibus bill that authorizes appropriations for the Department of State and international broadcasting for fiscal years 2004 and 2005. The bill includes a number

of provisions that improve State Department operations and administrative authorities. H.R. 1950 also makes other policy, programmatic, and technical changes to laws affecting U.S. foreign relations, some of which micro-manage Executive authority. It also includes provisions relating to security assistance.

Pay-As-You-Go Scoring

According to IAD (Pipan), H.R. 1950 would affect receipts and direct spending; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. IAD estimates are under development.

LEGISLATIVE REFERENCE DIVISION