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THE WHITE HOUSE

WASHINGTON

May 12, 1997

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ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE EXECUTIVE CLERK

FROM: SAMUEL BERGER (10) for
JOHN HILLEY John Hilley

SUBJECT: Six Month Report to Congress on Iran

Purpose

To fulfill Congressional reporting requirements concerning the Iranian emergency declared in Executive Order No. 12170 on November 14, 1979, as required by the International Emergency Economic Powers Act (IEEPA).

Background

Under the IEEPA, you are required to submit a report to the Congress every six months regarding the Iranian Emergency declared in Executive Order No. 12170 on November 14, 1979. The Treasury Department, with the concurrence of the Department of State, has prepared the required report.

RECOMMENDATION

That you sign the Report to Congress attached at Tab A.

Attachments
Tab A Report to Congress
Tab B Incoming correspondence

needs to be signed 5/13

cc: Vice President
Chief of Staff

TO THE CONGRESS OF THE UNITED STATES:

I hereby report to the Congress on developments since the last Presidential report of November 14, 1996, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA"). This report covers events through March 31, 1997. My last report, dated November 14, 1996, covered events through September 16, 1996.

1. The Iranian Assets Control Regulations, 31 CFR Part 535 (the "IACR"), were amended on October 21, 1996 (61 *Fed. Reg.* 54936, October 23, 1996), to implement section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by adjusting for inflation the amount of the civil monetary penalties that may be assessed under the Regulations. The amendment increases the maximum civil monetary penalty provided in the Regulations from $10,000 to $11,000 per violation.

The amended Regulations also reflect an amendment to 18 U.S.C. 1001 contained in section 330016(1)(L) of Public Law 103-322, September 13, 1994, 108 Stat. 2147. Finally, the amendment notes the availability of higher criminal fines for violations of IEEPA pursuant to the formulas set forth in 18 U.S.C. 3571. A copy of the amendment is attached.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered eight awards. This brings the total number of awards rendered to 579, the majority of which have been in favor of U.S. claimants. As of March 24, 1997, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was $2,424,959,689.37.

Since my last report, Iran has failed to replenish the Security Account established by the Algiers Accords to ensure payment of awards to successful U.S. claimants. Thus, since November 5, 1992, the Security Account has continuously remained below the $500 million balance required by the Algiers Accords. As of March 24, 1997, the total amount in the Security Account was $183,818,133.20, and the total amount in the Interest Account was $12,053,880.39. Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligation under the Algiers Accords to replenish the Security Account. Iran filed its Rejoinder on April 8, 1997.

The United States also continues to pursue Case A/29 to require Iran to meets its obligation of timely payment of its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. The United States filed its Reply to the Iranian Statement of Defense on October 11, 1996.

Also since my last report, the United States appointed

Richard Mosk as one of the three U.S. arbitrators on the Tribunal. Judge Mosk, who has previously served on the Tribunal and will be joining the Tribunal officially in May of this year, will replace Judge Richard Allison, who has served on the Tribunal since 1988.

3. The Department of State continues to pursue other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

On December 3, 1996, the Tribunal issued its Award in Case B/36, the United States claim for amounts due from Iran under two World War Two military surplus property sales agreements. While the Tribunal dismissed the U.S. claim as to one of the agreements on jurisdictional grounds, it found Iran liable for breach of the second (and larger) agreement and ordered Iran to pay the United States principal and interest in the amount of $43,843,826.89. Following payment of the Award, Iran requested the Tribunal to reconsider both the merits of the case and the calculation of interest; Iran's request was denied by the Tribunal on March 17, 1997.

Under the February 22, 1996 agreement that settled the Iran Air case before the International Court of Justice and Iran's bank-related claims against the United States before the Tribunal (reported in my report of May 17, 1996), the United States agreed to make *ex gratia* payments to the families of Iranian victims of the 1988 Iran Air 655 shootdown and a fund was established to pay

Iranian bank debt owed to U.S. nationals. As of March 17, 1997, payments were authorized to be made to surviving family members of 125 Iranian victims of the aerial incident, totaling $29,100,000.00. In addition, payment of twenty-eight claims by U.S. nationals against Iranian banks, totaling $9,002,738.45 was authorized.

On December 12, 1996, the Department filed the U.S. Hearing Memorial and Evidence on Liability in Case No. A/11. In this case, Iran alleges that the United States failed to perform its obligations under Paragraphs 12-14 of the Algiers Accords, relating to the return to Iran of assets of the late Shah and his close relatives. A hearing date has yet to be scheduled.

On October 9, 1996, the Tribunal dismissed Case No. B/58, Iran's claim for damages arising out of the United States' operation of Iran's southern railways during the Second World War. The Tribunal held that it lacked jurisdiction over the claim under Article II, paragraph two, of the Claims Settlement Declaration.

4. Since my last report, the Tribunal conducted two hearings and issued awards in six private claims. On February 24-25, 1997, Chamber One held a hearing in a dual national claim, G.E. Davidson v. The Islamic Republic of Iran, Claim No. 457. The claimant is requesting compensation for real property that he claims was expropriated by the Government of Iran. On October 24, 1996, Chamber Two held a hearing in Case No. 274, Monemi v. The Islamic Republic of Iran, also concerning the claim of a dual national.

On December 2, 1996, Chamber Three issued a decision in Johangir & Jila Mohtadi v. The Islamic Republic of Iran (AWD 573-271-3), awarding the claimants $510,000 plus interest for Iran's interference with the claimants' property rights in real property in Velenjak. The claimants also were awarded $15,000 in costs. On December 10, 1996, Chamber Three issued a decision in Reza Nemazee v. The Islamic Republic of Iran (AWD 575-4-3), dismissing the expropriation claim for lack of proof. On February 25, 1997, Chamber Three issued a decision in Dadras Int'l v. The Islamic Republic of Iran (AWD 578-214-3), dismissing the claim against Kan Residential Corp for failure to prove that it is an "agency, instrumentality, or entity controlled by the Government of Iran" and dismissing the claim against Iran for failure to prove expropriation or other measures affecting property rights. Dadras had previously received a substantial recovery pursuant to a partial award. On March 26, 1997, Chamber Two issued a final award in Case No. 389, Westinghouse Electric Corp. v. The Islamic Republic of Iran Air Force (AWD 579-389-2), awarding Westinghouse $2,553,930.25 plus interest in damages arising from the Iranian Air Force's breach of contract with Westinghouse.

Finally, there were two settlements of claims of dual nationals which resulted in awards on agreed terms. They are Dora Elghanayan. et al. v. The Islamic Republic of Iran (AAT 576-800/801/802/803/804-3), in which Iran agreed to pay the claimants $3,150,000, and Lilly Mythra Fallah Lawrence v The Islamic Republic of Iran (AAT 577-390/391-1), in which Iran agreed to pay the claimant $1,000,000.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

William J. Clinton

The White House
May , 1997

3121

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

May 5, 1997

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Under the International Emergency Economic Powers Act, you are required every six months to submit a report to the Congress concerning the Iranian emergency declared in Executive Order No. 12170 on November 14, 1979.

Enclosed is a proposed report covering events under the 1979 Iranian emergency declaration and assets blocking for the most recent six-month period. A reference copy of the previous report is also enclosed. The proposed report indicates in its initial paragraph that it is not a report on all activities regarding Iran but only those actions with respect to Iran taken pursuant to the exercise of authorities under the 1979 declaration of national emergency and amendments to the Iranian Assets Control Regulations which are relevant to activities of the Iran-United States Claims Tribunal. The current report is due to Congress on May 13, 1997.

I recommend that you sign and transmit the proposed report to the Congress. The report has been reviewed and approved by the Department of State.

Sincerely,

Robert E. Rubin

Enclosures

TO THE CONGRESS OF THE UNITED STATES:

I hereby report to the Congress on developments since the last Presidential report of November 14, 1996, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA"). This report covers events through March 31, 1997. My last report, dated November 14, 1996, covered events through September 16, 1996.

1. The Iranian Assets Control Regulations, 31 CFR Part 535 (the "IACR"), were amended on October 21, 1996 (61 *Fed. Reg.* 54936, October 23, 1996), to implement section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by adjusting for inflation the amount of the civil monetary penalties that may be assessed under the Regulations. The amendment increases the maximum civil monetary penalty provided in the Regulations from $10,000 to $11,000 per violation.

The amended Regulations also reflect an amendment to 18 U.S.C. 1001 contained in section 330016(1)(L) of Public Law 103-322, September 13, 1994, 108 Stat. 2147. Finally, the amendment notes the availability of higher criminal fines for violations of IEEPA pursuant to the formulas set forth in 18 U.S.C. 3571. A copy of the amendment is attached.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered eight awards. This brings the total number of awards rendered to 579, the majority of which have been in favor of U.S. claimants. As of March 24, 1997, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was $2,424,959,689.37.

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Iranian bank debt owed to U.S. nationals. As of March 17, 1997, payments were authorized to be made to surviving family members of 125 Iranian victims of the aerial incident, totaling $29,100,000.00. In addition, payment of twenty-eight claims by U.S. nationals against Iranian banks, totaling $9,002,738.45 was authorized.

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William J. Clinton

The White House

May __, 1997

Office of Foreign Assets Control

31 CFR Parts 500, 515, 535, 550, 560, 575, 585, 590 and 595

Foreign Assets Control Regulations, Cuban Assets Control Regulations, Iranian Assets Control Regulations, Libyan Sanctions Regulations, Iranian Transactions Regulations, Iraqi Sanctions Regulations; Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, UNITA (Angola) Sanctions Regulations, Terrorism Sanctions Regulations; Implementation of Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended by the Debt Collection Improvement Act of 1996

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This final rule amends the Foreign Assets Control Regulations, Cuban Assets Control Regulations, Iranian Assets Control Regulations, Libyan Sanctions Regulations, Iranian Transactions Regulations, Iraqi Sanctions Regulations, Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, UNITA (Angola) Sanctions Regulations, and Terrorism Sanctions Regulations (collectively, the "Regulations") to implement section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by adjusting for inflation the amount of the civil monetary penalties that may be assessed under the Regulations. The rule also amends the penalty provisions of the Regulations to reflect a 1994 amendment to 18 U.S.C. 1001. Certain of the Regulations are also amended to note the availability of higher criminal fines under 18 U.S.C. 3571.

EFFECTIVE DATE: October 21, 1996.

FOR FURTHER INFORMATION CONTACT: Mrs B.S. Scott, Chief, Civil Penalties Program (tel.: 202/622–6140); or William B. Hoffman, Chief Counsel (tel. 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the Federal Register. By modem, dial 202/512–1387 and type "/GO FAC," or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in WordPerfect 5.1, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Business, Trade and Labor Mall" of the FedWorld bulletin board. By modem, dial 703/321–3339, and select the appropriate self-expanding file in TEL. For Internet access, use one of the following protocols: Telnet=fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.ustreas.gov/treasury/services/fac/fac.html, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622–0077 using a fax machine, fax modem, or touch tone telephone.

Background

Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (Pub.L. 104–134, sec. 31001(s)(1), Apr. 26, 1996, 110 Stat. 1321–373—the "DCIA") (jointly, the "FCPIA"), requires each Federal agency with statutory authority to assess civil monetary penalties ("CMPs") to adjust CMPs for inflation according to a formula described in section 5 of the FCPIA. The purpose of the FCPIA is to maintain the deterrent effect of CMPs through periodic cost-of-living based adjustments. The first inflation adjustment is required by October 23, 1996—180 days after the enactment of the DCIA. Thereafter, agencies are to make inflation adjustments at least once every four years. Adjustments of CMPs are to be made by regulation published in the Federal Register. Any increase in a CMP made pursuant to the FCPIA applies only to violations that occur after the date the increase takes effect.

Section 5 of the FCPIA requires that each CMP having a specified or maximum monetary amount provided for by Federal law be increased by the percentage by which the Consumer Price Index for all urban consumers (the "CPI") for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of the CMP was last set or adjusted pursuant to law. Section 5 also provides a formula for rounding the final CMP amount. Finally, section 31001(s)(2) of the DCIA mandates that the first inflation adjustment of a CMP may not exceed 10 percent of the penalty prior to adjustment.

The Office of Foreign Assets Control currently imposes CMPs pursuant to three statutes: the Trading with the Enemy Act (50 U.S.C. App. 16—"TWEA"), the International Emergency Economic Powers Act (50 U.S.C. 1705—"IEEPA"), and section 580E of the Iraq Sanctions Act of 1990 (Pub.L. 101–513, 104 Stat. 2049, 50 U.S.C. 1701 note—"ISA"). The CMP amount of $50,000 under TWEA was set in 1992. Thus, pursuant to the FCPIA, the TWEA statutory CMP must be increased by the difference between the CPI for 1995 and the CPI for 1992, or 8.8%, which, after rounding, equals $5,000. Thus, this final rule amends the maximum TWEA-based CMP per violation to be the inflation-adjusted amount of $55,000.

The CMP amount of $10,000 under IEEPA was set in 1977. Applying the CPI inflator of the FCPIA would increase the CMP under IEEPA by 151.2%, exceeding the DCIA's 10% cap. The adjustment is limited to $1,000. Thus, this rule fixes the maximum IEEPA-based CMP per violation at $11,000.

The CMP amount of $250,000 under the ISA was set in 1990. The CPI inflator under the FCPIA (17.4%) again exceeds the DCIA 10% cap of $25,000. Thus, this rule amends the maximum ISA-based CMP per violation to be $275,000.

This rule also amends the penalty provisions of the Regulations to reflect an amendment to 18 U.S.C. 1001 contained in section 330016(1)(L) of Public Law 103–322, Sept. 13, 1994, 108 Stat. 2147. The amendment strikes the $10,000 cap on fines imposed for fraudulent dealing with Federal agencies. Finally, this rule amends the Regulations to note the availability of higher criminal fines pursuant to the formulas set forth in 18 U.S.C. 3571.

Since the Regulations involve a foreign affairs function, Executive Order 12886 and the provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

This rule contains no collection of information.

List of Subjects

31 CFR Part 500

Administrative practice and procedure, Banks, banking, Blocking of assets, Cambodia, Exports, Finance, Foreign claims, Foreign investment in the United States, Foreign trade, Imports, Information and informational materials, International organizations, North Korea, Penalties, Publications, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Terrorism, Travel restrictions, Trusts and estates, Vietnam.

31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Blocking of assets, Cuba, Currency, Estates, Exports, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Penalties, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Specially designated nationals, Terrorism, Travel restrictions, Trusts and trustees, Vessels.

31 CFR Part 535

Administrative practice and procedure, Banks, banking, Blocking of assets, Currency, Foreign investment in the United States, Iran, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

31 CFR Part 550

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign investment, Foreign trade, Government of Libya, Imports, Libya, Loans, Penalties, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Terrorism, Travel restrictions.

31 CFR Part 560

Administrative practice and procedure, Agriculture commodities, Banking and finance, Exports, Foreign trade, Imports, Information, Investments, Iran, Loans, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Terrorism, Transportation.

31 CFR Part 575

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Terrorism, Travel restrictions.

31 CFR Part 585

Administrative practice and procedure, Banking and finance, Blocking of assets, Exports, Federal Republic of Yugoslavia (Serbia and Montenegro), Foreign trade, Imports, Intellectual property, Loans, Penalties, Reporting and recordkeeping requirements, Securities, Services, Shipping, Telecommunications, Transfer of assets, Vessels.

31 CFR Part 590

Administrative practice and procedure, Angola, Exports, Foreign trade, National Union for the Total Independence of Angola, Penalties, Reporting and recordkeeping requirements, Shipping, UNITA, Vessels.

31 CFR Part 595

Administrative practice and procedure, Banking and finance, Blocking of assets, Penalties, Reporting and recordkeeping requirements, Specially designated terrorists, Terrorism, Transfer of Assets.

For the reasons set forth in the preamble, 31 CFR chapter V is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 is revised to read as follows:

Authority: 50 U.S.C. App. 1044; Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–48 Comp., p. 748.

Subpart G—Penalties

2. Section 500.701 is amended by removing paragraph (a)(6), redesignating existing paragraphs (b) and (c) as paragraphs (c) and (d), respectively, adding a new paragraph (b), and revising introductory paragraph (a), paragraph (a)(3), and redesignated paragraph (c) to read as follows:

§ 500.701 Penalties.

(a) Attention is directed to section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16), as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), which provides that:

(1) * * *

(2) * * *

(3) The Secretary of the Treasury may impose a civil penalty of not more than $55,000 per violation on any person who violates any license, order, or regulation issued under that act;

(4) * * *

(5) * * *

(b) The criminal penalties provided in the Trading with the Enemy Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 is revised to read as follows:

Authority: 50 U.S.C. App. 1–44; 22 U.S.C. 6001–6010; 22 U.S.C. 2370(a); Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Proc. 3447 27 FR 1085, 3 CFR 1959–1963 Comp., p. 157; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943–48 Comp., p. 748; E.O. 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614.

Subpart G—Penalties

2. Section 515.701 is amended by removing paragraph (a)(5), redesignating paragraphs (b), (c), (d) and (e) as paragraphs (c), (d), (e) and (f), respectively, adding a new paragraph (b), and revising introductory paragraph (a), paragraph (a)(3), and redesignated paragraph (d) to read as follows:

§ 515.701 Penalties.

(a) Attention is directed to section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16), as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), which provides that:

(1) * * *

(2) * * *

(3) The Secretary of the Treasury may impose a civil penalty of not more than $55,000 per violation on any person who violates any license, order, or regulation issued under that act;

(4) * * *

(b) The criminal penalties provided in the Trading with the Enemy Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) * * *

(d) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 535 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12170, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12281, 46 FR 7923, 3 CFR, 1981 Comp., p. 110; E.O. 12282, 46 FR 7925, 3 CFR, 1981 Comp., p. 113; E.O. 12283, 46 FR 7927, 3 CFR, 1981 Comp., p.114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

Subpart G—Penalties

2. Section 535.701 is amended by redesignating existing paragraphs (b) and (c) as paragraphs (c) and (d), respectively, adding a new paragraph (b), and revising paragraph (a) and redesignated paragraph (c) to read as follows:

§ 535.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 22 U.S.C. 2349aa–8 and 2349aa–9; Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); 3 U.S.C. 301; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12543, 51 FR 875, 3 CFR, 1986 Comp., p. 181; E.O. 12544, 51 FR 1235, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319, 3 CFR, 1992 Comp., p. 294.

Subpart G—Penalties

2. Section 550.701 is amended by redesignating existing paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e), respectively, adding a new paragraph (b), and revising paragraph (a) and redesignated paragraph (c) to read as follows:

§ 550.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 560—IRANIAN TRANSACTIONS REGULATIONS

1. The authority citation for part 560 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–16512; 22 U.S.C. 2349aa–9; Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 3 U.S.C. 301; E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR 1995 Comp., p. 356.

Subpart G—Penalties

2. Section 560.701 is amended by redesignating existing paragraphs (b), (c) and (e) as paragraphs (c), (e) and (d), respectively, adding a new paragraph (b), and revising paragraph (a) and redesignated paragraph (c) to read as follows:

§ 560.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agenc of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code or imprisoned not more than five years, or both.

* * * * *

PART 575—IRAQI SANCTIONS REGULATIONS

1. The authority citation for part 575 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 3 U.S.C. 301; E.O. 12722, 55 FR 31803 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1992 Comp., p. 317.

Subpart G—Penalties

2. Section 575.701 is amended by redesignating existing paragraphs (b), (c), (d) and (e) as paragraphs (c), (d), (e) and (f), respectively, adding a new paragraph (b), adding a new final sentence to redesignated paragraph (c), and revising introductory paragraph (a) paragraph (a)(1), and redesignated paragraph (d) to read as follows:

§ 575.701 Penalties.

(a) Section 580E of the Iraq Sanctions Act of 1990 (Public Law 101–513, 104 Stat. 2049), as amended by the Federal Civil Penalties Inflation Adjustment Ac of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), provides that, notwithstanding section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) and sectio 5(b) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(b)):

(1) A civil penalty of not to exceed $275,000 per violation may be imposed on any person who, after the enactment of this Act, violates or evades or attempts to violate or evade Executive Order Number 12722, 12723, 12724, or 12725, or any license, order, or regulation issued under any such Executive Order;

(2) * * *

(3) * * *

(b) The criminal penalties provided i the Iraq Sanctions Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) * * * The criminal penalties provided in the United Nations

Participation Act are subject to increase pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 585—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) AND THE BOSNIAN SERB-CONTROLLED AREAS OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA SANCTIONS REGULATIONS

1. The authority citation for part 585 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; 49 U.S.C. App. 1514; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 3 U.S.C. 301; E.O. 12808, 57 FR 23299; E.O. 12810, 57 FR 24347; E.O. 12831, 58 FR 5253.

Subpart G—Penalties

2. Section 585.701 is amended by redesignating existing paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively, adding a new paragraph (b), adding a new final sentence to redesignated paragraph (c), and revising paragraph (a) and redesignated paragraph (d) to read as follows:

§ 585.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) * * * The criminal penalties provided in the United Nations Participation Act are subject to increase pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 590—UNITA (ANGOLA) SANCTIONS REGULATIONS

1. The authority citation for part 590 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 3 U.S.C. 301; E.O. 12865, 58 FR 51005.

Subpart G—Penalties

2. Section 590.701 is amended by redesignating existing paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e), respectively, adding a new paragraph (b), adding a new final sentence to redesignated paragraph (c), and revising paragraph (a) and redesignated paragraph (d) to read as follows:

§ 590.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) * * * The criminal penalties provided in the United Nations Participation Act are subject to increase pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

PART 595—TERRORISM SANCTIONS REGULATIONS

1. The authority citation for part 595 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 3 U.S.C. 301; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12947, 60 FR 5079.

Subpart G—Penalties

2. Section 595.701 is amended by redesignating existing paragraph (b) as paragraph (c), adding a new paragraph (b), and revising paragraph (a) and redesignated paragraph (c) to read as follows:

§ 595.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed $11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

* * * * *

Dated: October 17, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 18, 1996.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 96–27285 Filed 10–21–96; 11:00 am]

BILLING CODE 4810–25–W

Letter to Congressional Leaders on Iran

November 14, 1996

Dear Mr. Speaker: (Dear Mr. President:)

I hereby report to the Congress on developments since the last Presidential report of May 16, 1996, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c). This report covers events through September 16, 1996. My last report, dated May 16, 1996, covered events through March 1, 1996.

1. The Iranian Assets Control Regulations, 31 CFR Part 535 (IACR), were amended on August 22, 1996, to add the Anti-terrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1214–1319 (the "Antiterrorism Act") as an authority for the Regulations (61 Fed. Reg. 43460, August 23, 1996). On April 24, 1996, I signed into law the Antiterrorism Act. Section 321 of the Antiterrorism Act (18 U.S.C. 2332d) makes it a criminal offense for United States persons, except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State, to engage in a financial transaction with the governments of countries designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as supporting international terrorism. United States persons who engage in such transactions shall be fined under title 18, United States Code, or imprisoned for up to 10 years, or both. Because the IACR already prohibited such transactions with minor exceptions found to be in the public interest, no substantive change to the prohibitions of the IACR was necessary. A copy of the amendment is attached.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered additional awards, in which the claims of dual nationals were dismissed for lack of jurisdiction. This brings the total number of awards rendered to 571, the majority of which have been in favor of U.S. claimants. As of September 16, 1996, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was $2,376,010,041.91.

On July 24, 1996, Iran directed the transfer of $37,700,000 to the Security Account, established by the Algiers Accords to ensure payment of awards to successful U.S. claimants, from the Interest Account. However, the Security Account has remained continuously below the $500 million balance required by the Algiers Accords since November 12, 1992. As of September 23, 1996, the total amount in the Security Account was $233,070,127.71, and the total amount in the Interest Account was $5,494,387.30.

Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Algiers Accords to replenish the Security Account. Iran filed its Statement of Defense in that case on August 30, 1995, and the United States filed a Reply on December 4, 1995. Iran is scheduled to file its Rejoinder on December 4, 1996.

The United States also continues to pursue Case A/29, filed in July 1994, to require Iran to meet its obligations under the Algiers Accords to pay its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. Iran filed its Statement of Defense on July 5, 1996. The United States filed its Reply on October 11, 1996.

3. The Department of State continues to present other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

In May 1996, the United States filed comments in response to a Tribunal inquiry whether experts meetings could facilitate the resolution of the United States Request to Dismiss Certain Claims from Case B/61, filed in August 1995 as part of the United States consolidated submission on the merits of that case. The United States stated that experts meetings were inadvisable. Case B/61 involves a claim by Iran for compensation with respect to primarily military equipment that Iran had sought to purchase or have repaired under commercial contracts with more than 50 private American companies, but that Iran alleges it did not receive. Iran alleges that it suffered direct losses and consequential damages in excess of $2 billion because of the United States Government refusal to allow the export of the equipment after January 19, 1981, in alleged contravention of the Algiers Accords. Iran's rebuttal of the United States consolidated submission in Case B/61 is due December 9, 1996.

On May 6, 1996, in connection with Cases A/4, A/7, and A/15 (I: F and III), Iran requested that the Tribunal order the United States to terminate its leases of two former diplomatic properties of Iran to its current tenants. The United States responded by submitting comments to the Tribunal on May 31, 1996. The Tribunal has not yet issued a decision on Iran's request. A hearing of these cases has remained postponed by the parties' mutual agreement and under Tribunal order since October 11, 1994.

On May 10, 1996, Iran made a request for interim measures in Cases A/15(IV) and A/24, brought against the United States for its alleged failure to terminate litigation in U.S. courts in violation of the Algiers Accords. Iran requested that the Tribunal order the United States to stay the McKesson-OPIC litigation against Iran in U.S. district court. On June 20, 1996, after briefing by both parties, the Tribunal denied Iran's request for interim measures. The parties await the Tribunal's award on the merits of the cases, which were heard more than a year ago before the Full Tribunal.

On June 27, 1996, in connection with Case B/1, the United States renewed a request for a Tribunal order directing Iran to produce seized United States Government documents and suspending the proceedings until Iran complies with the order. In this renewal of the pending request, the United States identified nine exhibits recently submitted to the Tribunal by Iran that appeared to have been seized from U.S. facilities in Iran.

The United States pointed out to the Tribunal that Iran had previously informed the Tribunal on several occasions that the Iranian government does not possess any of the documents that were once stored in the U.S. facilities in Iran. Iran submitted a response to the Tribunal on September 5, 1995, asserting that the documents were handed over to Iranian representatives in the normal course of the Foreign Military sales program operations.

In August 1996, Iran filed a Statement of Claim in a new case, number A/30, alleging that the United States has violated paragraphs 1 and 10 of the General Declaration of the Algiers Accords. Iran bases its claim, *inter alia*, on press statements about an alleged covert action program aimed at Iran and U.S. economic sanctions, including the Iran-Libya Sanctions Act of 1996. The United States is currently preparing its Statement of Defense in response to Iran's claim.

In Case A/11, Iran alleges that the United States violated the Algiers Accords by failing to assist Iran in obtaining the return of the Shah's assets. The Department of State is currently in the process of preparing the United States Hearing Memorial, which is due to be filed on December 13, 1996.

Under the procedures established by the settlement reached February 22, 1996, on which I reported previously, the United States has begun to pay *ex gratia* amounts to the survivors of Iranian victims of the July 3, 1988, shootdown of Iran Air 655. As of the closing day for this report, 34 beneficiaries representing 12 of the deceased passengers had received payments totaling $2,850,000.00. Under the terms of the settlement, no money will be paid to the Government of Iran.

4. Since my last report, the Tribunal conducted hearings in two cases involving U.S. nationals, considered dual U.S.-Iranian nationals by the Tribunal. On May 16, 1996, Chamber Three held a one-day hearing in Claim No. 266, *Aryeh v. The Islamic Republic of Iran*, which involves the alleged expropriation by Iran of claimant's property in Iran. On June 12–14, 1996, Chamber Two held a hearing in Claim No. 953, *Hakim v. The Islamic Republic of Iran*, another claim for the expropriation of property in Iran.

In August 1996, the United States submitted a brief on behalf of private dual national claimants in a proceeding before Chamber One of the Tribunal. The United States argued that the Tribunal erred in a previous decision when it denied a dual national's claim on the ground that the claimant had acquired his property in his capacity as an Iranian national. The brief takes issue with the rationale of the Tribunal's decision and urges the Tribunal not to extend this approach to the other pending dual national cases.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,

William J. Clinton

NOTE: Identical letters were sent to Newt Gingrich, Speaker of the House of Representatives, and Albert Gore, Jr., President of the Senate. This item was released by the Office of the Press Secretary on November 15.

218843

THE WHITE HOUSE
WASHINGTON

5-20-97

May 19, 1997

MR. PRESIDENT:

Attached is a proposed Executive Order to impose sanctions against Burma, pursuant to the decision you made in April. As you will recall, the Cohen-Feinstein amendment to last year's Foreign Ops Appropriations bill required the U.S. to suspend "new investment" in Burma if you determined that Burma had committed large scale repression of the opposition. In the proposed Order, you make the finding of large scale repression, and accordingly prohibit U.S. persons from making new investments or facilitating foreign transactions that would constitute new investment if engaged in by a U.S. person. You also determine that the actions of the Burmese Government constitute an extraordinary threat to the U.S. and therefore declare a national emergency under the International Emergency Economic Powers Act.

"New investments" generally cover future contracts that involve economic development in Burma; they do not include most trade in goods, services or technology. Nor do they cover non-profit educational, health or humanitarian activities.

Assuming you approve, please sign the attached Order.

Todd Stern

Secret background
Material —

C.

EXECUTIVE ORDER

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PROHIBITING NEW INVESTMENT IN BURMA

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208) (the "Act"), the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code;

I, WILLIAM J. CLINTON, President of the United States of America, hereby determine and certify that, for purposes of section 570(b) of the Act, the Government of Burma has committed large-scale repression of the democratic opposition in Burma after September 30, 1996, and further determine that the actions and policies of the Government of Burma constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and declare a national emergency to deal with that threat.

Section 1. Except to the extent provided in regulations, orders, directives, or licenses that may be issued in conformity with section 570 of the Act and pursuant to this order, I hereby prohibit new investment in Burma by United States persons.

Sec. 2. The following are also prohibited, except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) or in regulations, orders, directives, or licenses that may be issued pursuant to this order:

(a) any approval or other facilitation by a United States person, wherever located, of a transaction by a foreign person where the transaction would constitute new investment in Burma prohibited by this order if engaged in by a United States person or within the United States; and

(b) any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. Nothing in this order shall be construed to prohibit the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology, except:

(a) where the entry into such contract on or after the effective date of this order is for the general supervision and guarantee of another person's performance of a contract for the economic development of resources located in Burma; or

(b) where such contract provides for payment, in whole or in part, in:

(i) shares of ownership, including an equity interest, in the economic development of resources located in Burma; or

(ii) participation in royalties, earnings, or profits in the economic development of resources located in Burma.

Sec. 4. For the purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) the term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States;

(d) the term "new investment" means any of the following activities, if such an activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after the effective date of this order:

(i) the entry into a contract that includes the economic development of resources located in Burma;

(ii) the entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(iii) the purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(iv) the entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation;

(e) the term "resources located in Burma" means any resources, including natural, agricultural, commercial, financial, industrial, and human resources, located within the territory of Burma, including the territorial sea, or located within the exclusive economic zone or continental shelf of Burma;

(f) the term "economic development of resources located in Burma" shall not be construed to include not-for-profit educational, health, or other humanitarian programs or activities.

Sec. 5. I hereby delegate to the Secretary of State the functions vested in me under section 570(c) and (d) of the Act, to be exercised in consultation with the heads of other departments and agencies as appropriate.

Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by section 570(b) of the Act and by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate the authority set forth in this order to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 7. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 8. (a) This order shall take effect at 12:01 a.m., eastern daylight time, May 21, 1997.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

THE WHITE HOUSE,

216964

XO

5-16-97

THE WHITE HOUSE

WASHINGTON

May 16, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN TDS

SUBJECT: Religious Expression in the Federal Workplace

In the attached memo, Chuck Ruff recommends that you approve issuance of a Presidential Memorandum and accompanying guidelines on religious expression in the workplace. DPC strongly concurs, while DOJ and OPM object.

The idea for guidelines and an initial draft came from the Christian Legal Society, American Jewish Congress, and People for the American Way. Our Counsel's Office then proposed White House participation, if the guidelines were limited to the federal workplace. **The basic principle of the guidelines is that religious expression in the federal workplace should receive the same level of protection as non-religious expression, with only limited exceptions, where, for example, the speech would violate the Establishment Clause as an official endorsement of religion, or constitute harassment or coercion.**

OPM and DOJ object on policy, not legal grounds. Both doubt the need for guidelines, saying that accommodating workplace religious expression hasn't been a significant problem. OPM also worries that the illustrations included in the guidelines -- such as religious proselytizing or pro-life advocacy -- may be seen by employees as a needless invitation to divisive conduct. Chuck answers by saying that problems involving religious expression in the workplace are likely to become more common, and defends the illustrations as necessary to demonstrate the principle that speech shouldn't be proscribed just because some find it offensive.

DPC concurs strongly with Counsel and sees the guidelines as especially useful since (1) the Religious Freedom Restoration Act may be overruled this spring by the Supreme Court, and (2) Republicans on the Hill have offered a religious liberty amendment that we will not be able to support. John Podesta concurs with Counsel, but questions the wisdom of including the pro-life illustration.

Approve memo/guidelines___ Disapprove___ Discuss____

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'97 MAY 1 PM5:24

THE WHITE HOUSE

WASHINGTON

May 1, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES F.C. RUFF
Counsel to the President

SUBJECT: RELIGIOUS EXPRESSION IN THE FEDERAL WORKPLACE

We are preparing to put into final form a Presidential Memorandum and accompanying Guidelines addressing the issue of religious expression in the federal workplace. These documents reflect the principles that led to your issuance of guidelines on religious expression in the public schools two years ago. Before the documents are presented to you for approval, however, we wanted to solicit your reactions on the substance of the proposal and the process we have followed.

BACKGROUND

For the past year the Counsel's Office, in conjunction with representatives from the Christian Legal Society, People for the American Way, the American Jewish Congress and the Department of Justice, has worked on developing guidelines governing religious expression in the federal workplace. Representatives from the National Catholic Conference, the National Council of Churches, the Baptist Joint Committee on Public Affairs, the Union of American Hebrew Congregations, the National Association of Evangelicals, the Equal Opportunity Commission, and the Office of Personnel Management have also, from time to time, been involved in these discussions.

The idea for this project originated with the Steve MacFarlane of the Christian Legal Society, Marc Stern of the American Jewish Congress, and Eliot Mincberg of People for the American Way in response to the 1995 proposed EEOC guidelines addressing harassment in the workplace. The sections of the proposed EEOC guidelines addressing religious harassment were controversial and generated wide-ranging opposition from religious groups who believed that the EEOC guidelines might be construed by employers as prohibiting all religious activity in the workplace. MacFarlane, Stern, and Mincberg believed that a set of guidelines dealing with religious expression in the workplace could be drafted which would be acceptable to most, if not all, religious organizations.

Accordingly, MacFarlane, Stern, and Mincberg drafted a set of proposed guidelines which they circulated to various religious groups in the hopes that these guidelines could be issued as the product of a broad alliance of religious organizations. The Counsel's Office, however, suggested that it might be possible to issue the guidelines as a joint project of the White House and the religious groups if the guidelines were modified to meet certain objections and if they were narrowed to apply only to the federal workplace. The religious groups agreed and a draft entitled "Guidelines on Religious Exercise and Religious Expression in the Federal Workplace" was completed earlier this month. In its final form, the draft sets forth general principles and offers hypothetical examples illustrating the appropriate application of the principle involved.

The federal agencies that have been involved in the process, the Department of Justice, the Office of Personnel Management and the Equal Employment Opportunity Commission have signed off as to the basic propriety of issuing of the Guidelines. DOJ has also signed off on the constitutionality and legal validity of the principles and hypotheticals set forth in the Guidelines. DOJ and OPM, however, have raised policy objections to the Guidelines. These objections are discussed in Section V. below.

RELIGIOUS EXPRESSION IN THE WORKPLACE - GENERAL PRINCIPLES

The basic principle underlying the guidelines is that religious expression in the federal workplace should be entitled to the same level of protection accorded non-religious expression. For example, if a federal employee is allowed to display a poster with a non-religious message in her office, she should be allowed to display a poster with a religious message. Similarly, if employees are allowed to use space for non-religious meetings they should be allowed to use the same space for religious meetings.

The Guidelines also reflect that special restriction upon religious speech may be required in some circumstances. This would occur when an employee's private speech is perceived as an official endorsement of religion, thus violating Establishment Clause prescriptions, or when the religious speech in question constitutes religious harassment or is coercive. The Guidelines also make clear that religious speech, like non-religious speech, can be restricted when it unduly interferes with workplace efficiency.

RESOLUTION OF ISSUES ARISING UNDER THE GUIDELINES

The Guidelines state that they are not intended to create any new right, benefit, or responsibility enforceable by any party against the United States, it agencies, its officers, or any person. Rather persons with questions regarding interpretations of the Guidelines are directed to bring those questions to the Office of the General Counsel in their department or agency. There are no other enforcement provisions.

PROPOSED ISSUANCE OF THE GUIDELINES

The Guidelines would be distributed by OPM as an attachment to a Presidential Memorandum announcing your support for the principles contained in the Guidelines and directing the heads of all agencies to comply with its provisions. The religious groups envision an announcement ceremony similar to the one surrounding the issuance of guidelines addressing religious expression in the public schools.

AGENCY OBJECTIONS

As noted previously, DOJ and OPM have raised policy objections to the Guidelines. Specifically, both agencies have questioned the need for the issuance of the Guidelines on grounds that accommodating religious expression has not been a significant problem in the federal workplace and issuing the Guidelines, accordingly may raise more problems than it solves. OPM is additionally concerned with the potential impact of some of the hypotheticals contained in the document. Of particular concern to OPM is the Guidelines' use of controversial and potentially divisive examples of expression, such as religious proselytization or the advocacy of pro-life positions, as illustrations of what is legally permissible. The agency argues that these illustrations may be read by federal personnel, including supervisors, as an active invitation to engage in the potentially divisive conduct (rather than as a mere illustration of their rights to engage in that conduct) with the result being a dramatic increase in divisive expression in the federal workplace and a subsequent harm to federal workplace morale. For similar reasons, OPM also objects to the hypothetical which indicates that an applicant for federal employment can not be compelled to take a religiously objectionable oath as a condition of employment. OPM asserts that this example may actively encourage persons to avoid the oath requirement.

There are, however, strong counter arguments to DOJ's and OPM's positions. First, while it may be true that accommodation of religious expression in the federal workplace has not yet been a significant problem, these issues will likely become more common as religious organizations direct their attention to workplace issues. As noted in Section I, guidelines on religious expression in the workplace would have been issued and disseminated by religious organizations with, or without, our participation. The process leading to the development of these Guidelines thus has arguably only allowed us to get out front on a difficult issue.

Second, OPM's objection to the use of hypotheticals involving controversial religious expression may be descriptively accurate but it misses the fundamental point that examples involving controversial expression are absolutely necessary to illustrate the first amendment principle at stake. The principle that is at the heart of the Guidelines is that speech may not proscribed simply because it might be found offensive. This principle, by definition, can not be demonstrated by examples using non-controversial speech. OPM is correct that offensive speech or proselytization by supervisors raises a special set of concerns, particularly when the activity approaches coercion or harassment, but the Guidelines recognize the specific problems associated with the speech of supervisors and address them directly.

Finally, OPM's objection to the loyalty oath hypothetical may be addressed on a number of counts. First, the conclusion that this hypothetical will encourage persons to avoid the oath requirement seems unlikely as a practical matter. Second, the right to forego loyalty oaths on religious grounds is protected under the Religious Freedom Restoration Act if not the constitution and the argument as to why people should not be informed of their rights is not readily apparent. Third, the religious groups have made clear that any changes in the existing document could easily lead to an unraveling of the agreement as a whole.

RECOMMENDATIONS

Given your support for the policies and principles contained in the Presidential Memorandum and Guidelines, we recommend that we finalize the documents and prepare them for your execution. Draft copies of the documents are attached for your reference.

_____ Prepare Presidential Memorandum and Guidelines for Execution

_____ Explore agency objections further

_____ Discuss

(May 1 Draft)

MEMORANDUM FOR ALL HEADS OF AGENCIES

SUBJECT: Religious Exercise and Religious Expression in the Federal Workplace

Religious freedom is central to the American system of liberty. Our nation's founders erected the twin pillars of this freedom, guaranteeing the free exercise of religion and prohibiting the establishment of religion by the state, in the very First Amendment to the Constitution. Throughout our history, men and women have come to this nation to escape religious persecution and secure this precious freedom. They and others have built a nation in which religious practices and religious institutions have thrived -- exactly because each individual has been able to choose for himself or herself whether and, if so, how to worship.

In the four years I have served as President, nothing has given me greater joy than the efforts of this Administration, in tandem with a broad coalition of individuals and organizations, to support freedom of religion. In 1993, I was proud to reaffirm the rightful and historic place of religion throughout our society when I signed the Religious Freedom Restoration Act, which protects the exercise of religion from being inappropriately burdened. In 1995, I was similarly proud to protect appropriate religious expression in the public schools when I directed the Secretary of Education to issue guidance to public school districts on the extent of permissible prayer and other speech of a religious character.

Today I focus on the federal workplace, directing all heads of federal agencies to comply with Guidelines on Religious Exercise and Religious Expression in the Federal Workplace to be distributed today by the Office of Personnel Management. All civilian executive branch agencies, officials, and employees must follow these Guidelines carefully. Strict adherence to these Guidelines will ensure that federal employers will respect the rights of those who engage in religious practices or espouse religious beliefs, as well as those who reject religion altogether. In particular, it establishes the following principles:

First, federal employers shall permit employees to engage in personal religious expression (as they must permit other constitutionally valued expression) to the greatest extent possible, consistent with interests in workplace efficiency and requirements of law. Of course, work is for work, and an agency may restrict any speech that truly interferes with its ability to perform public services. In addition, the agency may have a legal obligation to restrict certain forms of speech that intrude unduly on the legitimate rights of others. But when an agency allows non-religious speech, because that speech does not impinge on these interests, the government also usually must allow otherwise similar speech of a religious nature. The one exception to this principle of neutrality -- an exception mandated by the Establishment Clause -- is when religious speech would lead a reasonable observer to conclude that the government is endorsing religion. Subject to this exception, an agency may not typically subject religious speech to greater restrictions than other speech entitled to full constitutional protection, and therefore shall allow much of this speech to go forward.

Second, federal employers may not discriminate in employment on the basis of religion. This means that an agency may not hire or refuse to hire, promote or refuse to promote, or otherwise favor or disfavor a potential, current, or former employee because of his or her religion or religious beliefs. It means that an agency, or any supervisor within the agency, may not coerce an employee to participate in religious activities (or to refrain from participating in otherwise permissible religious activities) by offering better (or threatening worse) employment conditions. And it means that an agency shall prevent any supervisor or any employee from engaging in religious harassment or creating, through the use of intimidation or pervasive or severe ridicule or insult, a religiously hostile environment.

Third, an agency must reasonably accommodate employees' religious practices. The need for accommodation arises in many circumstances -- for example, when work schedules interfere with Sabbath or other religious holiday observances or when work rules prevent an employee from wearing religiously compelled dress. Once again, governmental interests in workplace efficiency may be at stake in such cases. But an agency, as specified in greater detail in the Guidelines, must always accommodate an employee's religious practice in the absence of non-speculative costs and may need to accommodate even when doing so will impose some hardship.

All of these principles are related. All are but variants or applications of a single rule of neutrality and fairness -- that federal employers shall treat employees with the same respect and consideration, regardless of their religious beliefs. Whether by allowing religious speech, preventing religious coercion or harassment, or making accommodations to religious practice, the government must act to ensure that the federal workplace is generous to followers of all religions, as well as to followers of none. The Guidelines will advance this goal. Although they doubtless will leave unresolved many difficult questions, arising from specific factual contexts and circumstances, they will clarify the obligations and appropriate commitments of the government, acting as an employer, to protect and enhance religious freedoms.

William Jefferson Clinton

(May 1 Draft)

Guidelines on Religious Exercise and Religious Expression in the Federal Workplace

The following Guidelines, addressing religious exercise and religious expression, shall apply to all civilian executive branch agencies, officials, and employees in the federal workplace.

These Guidelines principally address employees' religious exercise and religious expression when the employees are acting in their personal capacity within the federal workplace and the public does not have regular exposure to the workplace. The Guidelines do not comprehensively address whether and when the government and its employees may engage in religious speech directed at the public. They also do not address religious exercise and religious expression by uniformed military personnel, or the conduct of business by chaplains employed by the federal government. Nor do the Guidelines define the rights and responsibilities of non-governmental employers—including religious employers—and their employees. Although these Guidelines, including the examples cited in them, should answer the most frequently encountered questions in the federal workplace, actual cases sometimes will be complicated by additional facts and circumstances that may require a different result from the one the Guidelines indicate.

Section 1. Guidelines for Religious Exercise and Religious Expression in the Federal Workplace. Federal employers shall permit personal religious expression by Federal employees to the greatest extent possible, consistent with requirements of law and interests in workplace efficiency as described in this set of Guidelines. Federal employers shall not discriminate against employees on the basis of religion, require religious participation or non-participation as a condition of employment, or permit religious harassment. And federal employers shall accommodate employees' exercise of their religion in the circumstances specified in these Guidelines. These requirements are but applications of the general principle that federal employers shall treat all employees with the same respect and consideration, regardless of their religion (or lack thereof).

A. Religious Expression. As a matter of law, federal employers shall not restrict personal religious expression by employees in the federal workplace except where the employee's interest in the expression is outweighed by the government's interest in the efficient provision of public services or where the expression intrudes upon the legitimate rights of other employees or creates the appearance, to a reasonable observer, of an official endorsement of religion. The examples cited in these Guidelines as permissible forms of religious expression will rarely, if ever, fall within these exceptions.

As a general rule, agencies may not regulate employees' personal religious expression on the basis of its content or viewpoint. In other words, agencies generally may not suppress employees' private religious speech in the workplace while leaving unregulated other private employee speech that has a comparable effect on the efficiency of the workplace—including ideological speech on politics and other topics—because to do so would be to engage in presumptively unlawful content or viewpoint discrimination. Agencies, however, may, in their discretion, reasonably regulate the time, place and manner of all employee speech, provided such regulations do not discriminate on the basis of content or viewpoint.

The federal government generally has the authority to regulate an employee's private speech, including religious speech, where the employee's interest in that speech is outweighed by the government's interest in promoting the efficiency of the public services it performs. Agencies should exercise this authority evenhandedly and with restraint, and with regard for the fact that Americans are used to expressions of disagreement on controversial subjects, including religious ones. Agencies are not required, however, to permit employees to use work time to pursue religious or ideological agendas. Federal employees are paid to perform official work, not to engage in personal religious or ideological campaigns during work hours.

(1) Expression in Private Work Areas. Employees should be permitted to engage in private religious expression in personal work areas not regularly open to the public to the same extent that they may engage in nonreligious private expression, subject to reasonable content- and viewpoint- neutral standards and restrictions: Such religious expression must be permitted so long as it does not interfere with the agency's carrying out of its official responsibilities.

Examples

(a) An employee may keep a Bible or Koran on her private desk and read it during breaks.

(b) An agency may restrict all posters, or posters of a certain size, in private work areas, or require that such posters be displayed facing the employee, and not on common walls; but the employer typically cannot single out religious or anti-religious posters for harsher or preferential treatment.

(2) Expression Among Fellow Employees. Employees should be permitted to engage in religious expression with fellow employees, to the same extent that they may engage in comparable nonreligious private expression, subject to reasonable and content-neutral standards and restrictions: such expression should not be restricted so long as it does not interfere with workplace efficiency. Though agencies are entitled to regulate such employee speech based on reasonable predictions of disruption, they should not restrict speech based on merely hypothetical concerns, having little basis in fact, that the speech will have a deleterious effect on workplace efficiency.

Examples

(a) In informal settings, such as cafeterias and hallways, employees are entitled to discuss their religious views with one another, subject only to the same rules of order as apply to other employee expression. If an agency permits unrestricted nonreligious expression of a controversial nature, it must likewise permit equally controversial religious expression.

(b) Employees are entitled to display religious messages on items of clothing to the same extent that they are permitted to display other comparable messages. So long as they do not convey any governmental endorsement of religion, religious messages may not typically be singled out for suppression.

(c) Employees generally may wear religious medallions over their clothes or so that they are otherwise visible. Typically, this alone will not affect workplace efficiency, and therefore is protected.

(3) Expression Directed at Fellow Employees. Employees are permitted to engage in religious expression directed at fellow employees, and may even attempt to persuade fellow employees of the correctness of their religious views, to the same extent as those employees may engage in comparable speech not involving religion. Some religions encourage adherents to spread the faith at every opportunity, a duty that can encompass the adherent's workplace. As a general matter, proselytizing is as entitled to constitutional protection as any other form of speech -- as long as a reasonable observer would not interpret the expression as government endorsement of religion. Employees may urge a colleague to participate or not to participate in religious activities to the same extent that, consistent with concerns of workplace efficiency, they may urge their colleagues to engage in or refrain from other personal endeavors. But employees must refrain from such expression when a fellow employee asks that it stop or otherwise demonstrates that it is unwelcome. (Such expression by supervisors is subject to special consideration as discussed in Section B.2 of these guidelines.)

Examples

(a) During a coffee break, one employee engages another in a polite discussion of why his faith should be embraced. The other employee disagrees with the first employee's religious exhortations, but does not ask that the conversation stop. Under these circumstances, agencies should not restrict or interfere with such speech.

(b) One employee invites another employee to attend worship services at her church, though she knows that the invitee is a devout adherent of another faith. The invitee is shocked, and asks that the invitation not be repeated. The original invitation is protected, but the employee should honor the request that no further invitations be issued.

(c) In a parking lot, a non-supervisory employee hands another employee a religious tract urging that she convert to another religion lest she be condemned to eternal damnation. The proselytizing employee says nothing further and does not inquire of his colleague whether she followed the pamphlet's urging. This speech typically should not be restricted.

Though personal religious expression such as that described in these examples, standing alone, is protected in the same way, and to the same extent, as other constitutionally valued speech in the federal workplace, such expression should not be permitted if it is part of a larger pattern of verbal attacks on fellow employees (or a specific employee) not sharing the faith of the speaker. Such speech, by virtue of its excessive or harassing nature, may constitute religious harassment or create a hostile work environment, as described in Part B(3) of these Guidelines, and an agency should not tolerate it.

(4) Expression in Areas Accessible to the Public. Where the public has access to the federal workplace, all federal employers must be sensitive to the Establishment Clause's requirement that expression not create the reasonable impression that the government is sponsoring, endorsing, or inhibiting religion generally, or favoring or disfavoring a particular religion. This is particularly important in agencies with adjudicatory functions.

However, even in workplaces open to the public, not all private employee religious expression is forbidden. For example, federal employees may wear personal religious jewelry absent special circumstances (such as safety concerns) that might require a ban on all similar nonreligious jewelry. Employees may also display religious art and literature in their personal work areas to the same extent that they may display other art and literature, so long as the viewing public would reasonably understand the religious expression to be that of the employee acting in her personal capacity, and not that of the government itself. Similarly, in their private time employees may discuss religion with willing coworkers in public spaces to the same extent as they may discuss other subjects, so long as the public would reasonably understand the religious expression to be that of the employees acting in their personal capacities.

B. Religious Discrimination. Federal agencies may not discriminate against employees on the basis of their religion, religious beliefs, or views concerning religion.

(1) Discrimination in Terms and Conditions. No agency within the executive branch may promote, refuse to promote, hire, refuse to hire, or otherwise favor or disfavor, an employee or potential employee because of his or her religion, religious beliefs, or views concerning religion.

Examples

(a) A federal agency may not refuse to hire Buddhists, or impose more onerous requirements on applicants for employment who are Buddhists.

(b) An agency may not impose, explicitly or implicitly, stricter promotion requirements for Christians, or impose stricter discipline on Jews than on other employees, based on their religion. Nor may federal agencies give advantages to Christians in promotions, or impose lesser discipline on Jews than on other employees, based on their religion.

(c) A supervisor may not impose more onerous work requirements on an employee who is an atheist because that employee does not share the supervisor's religious beliefs.

(2) Coercion of Employee's Participation or Nonparticipation in Religious Activities. A person holding supervisory authority over an employee may not, explicitly or implicitly, insist that the employee participate in religious activities as a condition of continued employment, promotion, salary increases, preferred job assignments, or any other incidents of employment. Nor may a supervisor insist that an employee refrain from participating in religious activities outside the workplace except pursuant to otherwise legal, neutral restrictions that apply to employees' off-duty conduct and expression in general (e.g., restrictions on political activities prohibited by the Hatch Act.) .

This prohibition leaves supervisors free to engage in some kinds of speech about religion. Where a supervisor's religious expression is not coercive and is understood as his or her personal view, that expression is protected in the federal workplace in the same way and to the same extent as other constitutionally valued speech. For example, if surrounding circumstances indicate that the expression is merely the personal view of the supervisor and that employees are free to reject or ignore the supervisor's point of view or invitation without any harm to their careers or professional lives, such expression is so protected.

Because supervisors have the power to hire, fire, or promote, employees may reasonably perceive their supervisors' religious expression as coercive, even if it was not intended as such. Therefore, supervisors should be careful to ensure that their statements and actions are such that employees do not perceive any coercion of religious or non-religious behavior (or respond as if such coercion is occurring), and should, where necessary, take appropriate steps to dispel such misperceptions.

Examples

(a) A supervisor may invite co-workers to a son's confirmation in a church, a daughter's bat mitzvah in a synagogue, or to his own wedding at a temple.

<u>but</u>—A supervisor should not say to an employee: "I didn't see you in church this week. I expect to see you there this Sunday.

(b) On a bulletin board on which personal notices unrelated to work regularly are permitted, a supervisor may post a flyer announcing an Easter musical service at her church, with a handwritten notice inviting co-workers to attend.

<u>but</u>—A supervisor should not circulate a memo announcing that he will be leading a lunch-hour Talmud class that employees should attend in order to participate in a discussion of career advancement that will convene at the conclusion of the class.

(c) During a wide-ranging discussion in the cafeteria about various non-work-related matters, a supervisor states to an employee her belief that religion is important in one's life. Without more, this is not coercive, and the statement is protected in the federal workplace in the same way, and to the same extent, as other constitutionally valued speech.

(d) A supervisor who is an atheist has made it known that he thinks that anyone who attends church regularly should not be trusted with the public weal. Over a period of years, the supervisor regularly awards merit increases to employees who do not attend church routinely, but not to employees of equal merit who do attend church. This course of conduct would reasonably be perceived as coercive and should be prohibited.

(e) At a lunch-table discussion about abortion, during which a wide range of views are vigorously expressed, a supervisor shares with those he supervises his belief that God demands full respect for unborn life, and that he believes it is appropriate for all persons to pray for the unborn. Another supervisor expresses the view that abortion should be kept legal because God teaches that women must have control over their own bodies. Without more, neither of these comments coerces employees' religious conformity or conduct. Therefore, unless the supervisors take further steps to coerce agreement with their view or act in ways that could reasonably be perceived as coercive, their expressions are protected in the federal workplace in the same way and to the same extent as other constitutionally valued speech.

(3) Hostile Work Environment and Harassment. The law against workplace discrimination protects federal employees from being subjected to a hostile environment, or religious harassment, in the form of religiously discriminatory intimidation, or pervasive or severe religious ridicule or insult, whether by supervisors or fellow workers. Whether particular conduct gives rise to a hostile environment, or constitutes impermissible religious harassment, will usually depend upon its frequency or repetitiveness, as well as its severity. The use of derogatory language in an assaultive manner can constitute statutory religious harassment if it is severe or invoked repeatedly. A single incident, if sufficiently abusive, might also constitute statutory harassment. However, although employees should always be guided by general principles of civility and workplace efficiency, a hostile environment is not created by the bare expression of speech with which some employees might disagree. In a country where freedom of speech and religion are guaranteed, citizens should expect to be exposed to ideas with which they disagree.

The examples below are intended to provide guidance on when conduct or words constitute religious harassment that should not be tolerated in the federal workplace. In a particular case, the question of employer liability would require consideration of additional factors, including the extent to which the agency was aware of the harassment and the actions the agency took to address it.

Examples

(a) An employee repeatedly makes derogatory remarks to other employees with whom she is assigned to work about their faith or lack of faith. This typically will constitute religious harassment. An agency should not tolerate such conduct.

(b) A group of employees subjects a fellow employee to a barrage of comments about his sex life, knowing that the targeted employee would be discomforted and offended by such comments because of his religious beliefs. This typically will constitute harassment, and an agency should not tolerate it.

(c) A group of employees that share a common faith decides that they want to work exclusively with people who share their views. They engage in a pattern of verbal attacks on other employees who do not share their views, calling them heathens, sinners, and the like. This conduct should not be tolerated.

(d) Two employees have an angry exchange of words. In the heat of the moment, one makes a derogatory comment about the other's religion. When tempers cool, no more is said. Unless the words are sufficiently severe or pervasive to alter the conditions of the insulted employee's employment or create an abusive working environment, this is not statutory religious harassment.

(e) Employees wear religious jewelry and medallions over their clothes or so that they are otherwise visible. Others wear buttons with a generalized religious or anti-religious message. Typically, these expressions are personal and do not alone constitute religious harassment.

(f) In her private work area, a federal worker keeps a Bible or Koran on her private desk and reads it during breaks. Another employee displays a picture of Jesus and the text of the Lord's Prayer in her private work area. This conduct, without more, is not religious harassment, and does not create an impermissible hostile environment with respect to employees who do not share those religious views, even if they are upset or offended by the conduct.

(g) During lunch, certain employees gather on their own time for prayer and Bible study in an empty conference room that employees are generally free to use on a first-come, first-served basis. Such a gathering does not constitute religious harassment even if other employees with different views on how to pray might feel excluded or ask that the group be disbanded.

C. Accommodation of Religious Exercise. Federal law requires an agency to accommodate employees' exercise of their religion unless such accommodation would impose an undue hardship on the conduct of the agency's operations. Though an agency need not make an accommodation that will result in more than a *de minimis* cost to the agency, that cost or hardship nevertheless must be real rather than speculative or hypothetical: the accommodation should be made unless it would cause an actual cost to the agency or to other employees or an actual disruption of work, or unless it is otherwise barred by law.

In addition, religious accommodation cannot be disfavored vis-a-vis other, nonreligious accommodations. Therefore, a religious accommodation cannot be denied if the agency regularly permits similar accommodations for nonreligious purposes.

Examples

(a) An agency must adjust work schedules to accommodate an employee's religious observance—for example, Sabbath or religious holiday observance—if an adequate substitute is available, or if the employee's absence would not otherwise impose an undue burden on the agency.

(b) An employee must be permitted to wear religious garb, such as a crucifix, a yarmulke, a head scarf, or hijab, if wearing such attire during the work day is part of the employee's religious practice or expression, so long as the wearing of such garb does not unduly interfere with the functioning of the workplace.

(c) An employee should be excused from a particular assignment if performance of that assignment would contravene the employee's religious beliefs and the agency would not suffer undue hardship in reassigning the employee to another detail.

(d) During lunch, certain employees gather on their own time for prayer and Bible study in an empty conference room that employees are generally free to use on a first-come, first-served basis. Such a gathering may not be subject to discriminatory restrictions because of its religious content.

In those cases where an agency's work rule imposes a substantial burden on a particular employee's exercise of religion, the agency must go further: an agency should grant the employee an exemption from that rule, unless the agency has a compelling interest in denying the exemption and there is no less restrictive means of furthering that interest.

Examples

(a) A corrections officer whose religion compels him or her to wear long hair should be granted an exemption from an otherwise generally applicable hair-length policy unless denial of an exemption is the least restrictive means of preserving safety, security, discipline or other compelling interests.

(b) An applicant for employment in a governmental agency who is a Jehovah's Witness should not be compelled, contrary to her religious beliefs, to take a loyalty oath whose form is religiously objectionable.

D. Establishment of Religion. Supervisors and employees must not engage in activities or expression that a reasonable observer would interpret as government endorsement or denigration of religion or a particular religion. Activities of employees need not be officially sanctioned in order to violate this principle; if, in all the circumstances, the activities would leave a reasonable observer with the impression that government was endorsing, sponsoring, or inhibiting religion generally or favoring or disfavoring a particular religion, they are not permissible. Diverse factors, such as the context of the expression or whether official channels of communication are used, are relevant to what a reasonable observer would conclude.

Examples

(a) At the conclusion of each weekly staff meeting and before anyone leaves the room, an employee leads a prayer in which nearly all employees participate. All employees are required to attend the weekly meeting. The supervisor neither explicitly recognizes the prayer as an official function nor explicitly states that no one need participate in the prayer. This course of conduct is not permitted unless under all the circumstances a reasonable observer would conclude that the prayer was not officially endorsed.

(b) At Christmas time, a supervisor places a wreath over the entrance to the office's main reception area. This course of conduct is permitted.

Section 2. Guiding Legal Principles. In applying the guidance set forth in section 1 of this order, executive branch departments and agencies should consider the following legal principles.

A. Religious Expression. It is well-established that the Free Speech Clause of the First Amendment protects government employees in the workplace. This right encompasses a right to speak about religious subjects. The Free Speech Clause also prohibits the government from singling out religious expression for disfavored treatment: "[P]rivate religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression," Capitol Sq. Review Bd. v. Pinette, 115 S.Ct. 2448 (1995). Accordingly, in the government workplace, employee religious expression cannot be regulated because of its religious character, and such religious speech typically cannot be singled out for harsher treatment than other comparable expression.

Many religions strongly encourage their adherents to spread the faith by persuasion and example at every opportunity, a duty that can extend to the adherents' workplace. As a general matter, proselytizing is as entitled to the same constitutional protection as any other form of speech. Therefore, in the governmental workplace, proselytizing should not be singled out because of its content for harsher treatment than nonreligious expression.

However, it is also well-established that the government in its role as employer has broader discretion to regulate its employees' speech in the workplace than it does to regulate speech among the public at large. Employees' expression on matters of public concern can be regulated if the employee's interest in the speech is outweighed by the interest of the government, as an employer, in promoting the efficiency of the public services it performs through its employees. Governmental employers also possess substantial discretion to impose content-neutral and viewpoint-neutral time, place and manner rules regulating private employee expression in the workplace (though they may not structure or administer such rules to discriminate against particular viewpoints). Furthermore, employee speech can be regulated or discouraged if it impairs discipline by superiors, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise, or demonstrates that the employee holds views that could lead his employer or the public reasonably to question whether he can perform his duties adequately.

Consistent with its fully protected character, employee religious speech should be treated, within the federal workplace, like other expression on issues of public concern: in a particular case, an employer can discipline an employee for engaging in speech if the value of the speech is outweighed by the employer's interest in promoting the efficiency of the public services it performs through its employee. Typically, however, the religious speech cited as permissible in the various examples included in these Guidelines will not unduly impede these interests and should not be regulated. And rules regulating employee speech, like other rules regulating speech, must be carefully drawn to avoid any unnecessary limiting or chilling of protected speech.

B. Discrimination in Terms and Conditions. Title VII of the Civil Rights Act of 1964 makes it unlawful for employers, both private and public, to "fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's ... religion." 42 U.S.C. § 2000e-2(a)(1). The federal government also is bound by the equal protection component of the Due Process Clause of the Fifth Amendment, which bars intentional discrimination on the basis of religion. Moreover, the prohibition on religious discrimination in employment applies with particular force to the federal government, for Article VI, clause 3 of the Constitution bars the government from enforcing any religious test as a requirement for qualification to any Office. In addition, if a government law, regulation or practice facially discriminates against employees' private exercise of religion or is intended to infringe upon or restrict private religious exercise, then that law, regulation or practice implicates the Free Exercise Clause of the First Amendment. Last, under the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1, governmental action that substantially burdens a private party's exercise of religion can be enforced only if it is justified by a compelling interest and is narrowly tailored to advance that interest.

C. Coercion of Employee's Participation or Nonparticipation in Religious Activities. The ban on religious discrimination is broader than simply guaranteeing nondiscriminatory treatment in formal employment decisions such as hiring and promotion. It applies to all terms and conditions of employment. It follows that the federal government may not require or coerce its employees to engage in religious activities or to refrain from engaging in religious activity. For example, a supervisor may not demand attendance at (or a refusal to attend) religious services as a condition of continued employment or promotion, or as a criterion affecting assignment of job duties. Quid pro quo discrimination of this sort is illegal. Indeed, wholly apart from the legal prohibitions against coercion, supervisors may not insist upon employees' conformity to religious behavior in their private lives any more than they can insist on conformity to any other private conduct unrelated to employees' ability to carry out their duties.

D. Hostile Work Environment and Harassment. Employers violate Title VII's ban on discrimination by creating or tolerating a "hostile environment" in which an employee is subject to discriminatory intimidation, ridicule, or insult sufficiently severe or pervasive to alter the conditions of the victim's employment. This statutory standard can be triggered (at the very least) when an employee, because of her or his religion or lack thereof, is exposed to intimidation, ridicule, and insult. The hostile conduct—which may take the form of speech—need not come from supervisors or from the employer. Fellow employees can create a hostile environment through their own words and actions.

The existence of some offensive workplace conduct does not necessarily constitute harassment under Title VII. Occasional and isolated utterances of an epithet that engenders offensive feelings in an employee typically would not affect conditions of employment, and therefore would not in and of itself constitute harassment. A hostile environment, for Title VII purposes, is not created by the bare expression of speech with which one disagrees. For religious harassment to be illegal under Title VII, it must be sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment. Whether conduct can be the predicate for a finding of religious harassment under Title VII depends on the totality of the circumstances, such as the nature of the verbal or physical conduct at issue and the context in which the alleged incidents occurred. As the Supreme Court has said in an analogous context:

> [W]hether an environment is "hostile" or "abusive" can be determined only by looking at all the circumstances. These may include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. The effect on the employee's psychological well-being is, of course, relevant to determining whether the plaintiff actually found the environment abusive.

The use of derogatory language directed at an employee can rise to the level of religious harassment if it is severe or invoked repeatedly. In particular, repeated religious slurs and negative religious stereotypes, or continued disparagement of an employee's religion or ritual practices, or lack thereof, can constitute harassment. It is not necessary that the harassment be explicitly religious in character or that the slurs reference religion: it is sufficient that the harassment is directed at an employee because of the employee's religion or lack thereof. That is to say, Title VII can be violated by employer tolerance of repeated slurs, insults and/or abuse not explicitly religious in nature if that conduct would not have occurred but for the targeted employee's religious belief or lack of religious belief. Finally, although proselytization directed at fellow employees is generally permissible (subject to the special considerations relating to supervisor expression discussed elsewhere in these Guidelines) such activity must stop if the listener asks that it stops or otherwise demonstrates that it is unwelcome.

E. Accommodation of Religious Exercise. Title VII requires employers "to reasonably accommodate ... an employee's or prospective employee's religious observance or practice" unless such accommodation would impose an "undue hardship on the conduct of the employer's business." 42 U.S.C. § 2000e(j). For example, by statute, if an employee's religious beliefs require her to be absent from work, the federal government must grant that employee compensation time for overtime work, to be applied against the time lost, unless to do so would harm the ability of the agency to carry out its mission efficiently. 5 U.S.C. § 5550a.

Though an employer need not incur more than *de minimis* costs in providing an accommodation, the employer hardship nevertheless must be real rather than speculative or hypothetical. Religious accommodation cannot be disfavored relative to other, nonreligious, accommodations. If an employer regularly permits accommodation for nonreligious purposes, it cannot deny comparable religious accommodation: "Such an arrangement would display a discrimination against religious practices that is the antithesis of reasonableness." *Ansonia Bd. of Educ. v. Philbrook*, 479 U.S. 60, 71 (1986).

In the government workplace, if neutral workplace rules—that is, rules that do not single out religious or religiously motivated conduct for disparate treatment—impose a substantial burden on a particular employee's exercise of religion, the Religious Freedom Restoration Act requires the employer to grant the employee an exemption from that neutral rule, unless the employer has a compelling interest in denying an exemption and there is no less restrictive means of furthering that interest. 42 U.S.C. § 2000bb-1.

F. Establishment of Religion. The Establishment Clause of the First Amendment prohibits the government—including its employees—from acting in a manner that would lead a reasonable observer to conclude that the government is sponsoring, endorsing or inhibiting religion generally or favoring or disfavoring a particular religion. For example, where the public has access to the federal workplace, employee religious expression should be prohibited where the public reasonably would perceive that the employee is acting in an official, rather than a private, capacity, or under circumstances that would lead a reasonable observer to conclude that the government is endorsing or disparaging religion. The Establishment Clause also forbids federal employees from using government funds or resources (other than those facilities generally available to government employees) for private religious uses.

Section 3. General. The Guidelines shall govern the internal management of the civilian executive branch. They are not intended to create any new right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. Questions regarding interpretations of these Guidelines should be brought to the Office of the General Counsel in each department and agency.

file

THE WHITE HOUSE

WASHINGTON

May 24, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN Phil

SUBJECT: Recent Information Items

5-31-97

'97 MAY 24 PM1:30

We are forwarding the following recent information items:

(A) **Jennings memo on Medicare premiums.** As you know, last Sunday's Washington Post ran a story about premiums claiming they would be twice as high as previously suggested. Chris and Gene report that our response has been well received both with the aging advocacy community and with base Democrats. Gene has suggested that we get AARP et. al. to provide written statements in support of the Medicare provisions in the budget agreement and invite them to do so through a White House event, possibly next week with the VP. Indications are that they might provide these assurances. Chris's memo also outlines the policy responses to the criticisms raised in the Post story. *Please see memo for details.*

(B) **Sperling/Seidman memo on Sallie Mae.** Detailed memo responding to your question on a Washington Post article. *Background:* Last September, Congress authorized Sallie Mae to privatize pending shareholder approval; the Administration supported this effort. There is now an internal management struggle over competing privatization proposals as two shareholder groups are vying to control board-of-director slates. Initially, the two groups differed over whether to privatize. Now the major difference between the groups appears to be the extent to which a privatized Sallie Mae will become a loan originator, competing with the banks from which the company has traditionally bought loans. *Bottom line:* This dispute means little for the government and probably not much in the end for Sallie Mae. It is highly likely Sallie Mae will move to privatize in an orderly manner. The Presidentially-appointed board members have -- on their own and without any direction form anyone in the government -- positioned the company so the shareholders will decide the company's future. Gene/Ellen see no reason to intervene.

(C) **Letter from Lane Kirkland re: Bob Reich's book.** Kirkland has forwarded you a copy of a lengthy and very critical letter he sent to Reich about various issues in the book. *A response to Kirkland is probably not necessary.*

We have also received the following items:

- **Poll Watch**. Forwarded by Rahm. A May 14-15 national Public Opinion Strategies poll showed 60% approve of your job performance and 34% disapprove. Congress is at 43% approve, 43% disapprove. 49% think the country is "seriously off on the wrong track" while 39% think "things are headed in the right direction" although only 38% think things "in their state are on the wrong track" while 50% think "things are headed in the right direction.

- **Letter from Maria Haley.** When you appointed her to the Board of the Ex-Im Bank it had the reputation of primarily supporting big business. Since 1993, the bank's small business portfolio has increased by 60% and now 81% of all bank transactions are in support of small business. She is grateful for your support and for the trust and confidence you have placed in her.

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THE WHITE HOUSE

WASHINGTON

May 22, 1997

'97 MAY 22 AM10:02

MEMORANDUM TO THE PRESIDENT

FROM: Chris Jennings

cc: Bruce Reed, Gene Sperling

This memo is in response to your conversation with Gene on Saturday and our conversation Sunday regarding Judy Havemann's story in *The Washington Post* on Medicare premiums. As we discussed, Havemann's story suggested that the original Medicare premium estimates were too low and that the actual increase will be twice as high previously projected (about a dollar a month).

Our response (below) has been very well received both with the aging advocacy community and with our base Democrats. Perhaps because of our success in obtaining a positive response from the aging advocacy community, Minority Leader chose not to mention the increases in Medicare premiums in his initial critique of the balanced budget agreement.

Understanding that we should not take anything for granted, Gene has suggested we get the aging advocates (AARP, etc.) to go on record by asking for written statements of support for Medicare provisions. To entice these groups to do this, we are considering designing a White House event or meeting, perhaps with the Vice President, as early as next week. It is our intention to ensure that these groups formally support the Medicare premiums, savings, and structural reforms, that we are assuming in the current budget agreement. We anticipate that they may be willing to go on record on the provisions they support to give themselves the opportunity to highlight additional provisions that they will not accept but fear that Republicans may try and include in the final agreement.

The following is our response to the criticisms raised in Judy Havemann's story on Saturday:

While original preliminary CBO projections may have been slightly off, we still estimate that the Part B premium will be only about $1 more in 1998 than under current law. In subsequent years within the 5-year Budget Agreement, the annual increase should be no more than about $2 more per month. As a result, by 2002, we project the premium being approximately $8 more than it otherwise would have been without the home health reallocation.

Regardless of the final projection, the Part B premium will be almost $20 per month less than it would have been if it was set at the same 31.5 percent level that the President vetoed. The monthly premium under the 1997 Budget Agreement will be about $69 in 2002. If the policy were a 31.5 percent premium instead of 25 percent, the premium would be about $87. In 2002 alone, this would equate to about $215 a year more for a single beneficiary, $430 for a couple.

Low-income beneficiary protections are expanded. Unlike the 1995 Budget Agreement that the President vetoed, which eroded current-law low-income protections, the 1997 Balanced Budget Agreement invests $1.5 billion to expand premium assistance to low-income beneficiaries. We believe this commitment will help many of the estimated 2.5 million Medicare beneficiaries who have incomes between 125 and 150 percent of poverty-- just above the current eligibility level for Medicare premium protection.

Savings from the new premium are offset by investments in beneficiary improvements. The $9 billion in savings that comes from gradually including home health in the 25 percent premium is virtually identical to the amount of money dedicated to the investment in new benefits. Specifically, the 1997 Balanced Budget Agreement invests $3-4 billion in new preventive benefits (which will, for example, detect breast and colon cancer, and cover the management of diabetes), $4 billion to limit excessive hospital outpatient coinsurance to beneficiaries, and $1.5 billion in premium protections for low-income Medicare beneficiaries. (This contrasts with the vetoed 1995 balanced budget agreement, which reinvested virtually none of its much greater beneficiary savings for benefit enhancements.)

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Budget May Have Bigger Medicare Premium Increase

Estimate for 37 Million Seniors Climbs Twofold Over Projections From Just Two Weeks Ago

By Judith Havemann
Washington Post Staff Writer
Saturday, May 17 1997; Page A14
The Washington Post

The balanced budget agreement that swept through the House Budget Committee yesterday could increase Medicare premiums for 37 million seniors almost twice as much as estimated only two weeks ago.

President Clinton announced May 2 that Medicare premiums would increase by about $1 a month more than currently projected to "protect Medicare, extending the life of the trust fund for a decade." Elderly Americans with low incomes would be exempt from paying the increase.

Senior citizens' lobbyists said Clinton had relied on hurried back-of-the-envelope calculations in describing the increase. "The newest twist is that premiums look like they are going to go up about $2 more per month each year than under current law," said Howard J. Bedlin, vice president for public policy and legislation for the National Council on Aging, a lobbying group. "The estimates are moving in the wrong direction."

The confusion over the size of the premium increase reflects not only the speed with which the budget deal was concluded, but also the fact that it is only an outline, with the details to be filled in by Congress.

But as the first budget documents emerged yesterday after weeks of negotiations, several new policies became more clear:

Congress and the White House have agreed to solve what Housing and Urban Development Secretary Andrew M. Cuomo has described as the "greatest crisis HUD has ever faced." Billions of dollars in contracts that allow senior citizens and low-income families to receive rent subsidies are expiring this year and in the near future. Negotiators agreed to allocate

$35 billion in long-term spending authority in the budget to allow the department to renew the contracts.

"With this balanced budget agreement, President Clinton has insured that the elderly, the disabled and working poor families now living in assisted housing no longer have to worry about losing their homes," Cuomo said in a statement. How this will be accomplished remains to be worked out.

Negotiators agreed to increase funds for legal immigrants who are disabled. Under the welfare law passed last August, legal immigrants who have not become citizens would lose disability payments, food stamps and Medicaid unless they met certain conditions -- principally that they had worked in this country and paid Social Security taxes for 10 years. Immigrant groups said the provision could have left 500,000 legal residents, some of them in nursing homes, destitute. Governors lobbied for the change, saying they would have had to pick up the costs.

The budget agreement restores disability and health benefits for all disabled legal immigrants in the country when the welfare law was passed, and for the small number of people who have entered the country since and have begun to receive the benefits.

The agreement does not restore food stamps to these immigrants, nor does it affect roughly 100,000 noncitizens who receive Supplemental Security Income payments because they are elderly.

The housing and immigrant changes, while significant, have generated only a fraction of the controversy surrounding the Medicare section of the budget agreement.

The Medicare trust fund, which pays the hospital costs for the nation's elderly, will run out of money in 2001. To prolong the life of the trust fund, negotiators agreed to shift the escalating costs of home health care from the dwindling trust fund to a different part of the budget that takes care of doctor and laboratory bills. This budget section, called "Medicare Part B" gets 25 percent of its revenues from beneficiaries through monthly premiums.

When roughly $86 billion in home health care costs over five years are shifted from the trust fund to "Part B," Medicare recipients will be required to pay for a quarter of these costs, just as they do for doctor bills. But the precise size of the premium increase will depend on the overall cost of "Part B" -- a difficult thing to estimate five years in the future.

"Preliminary projections suggested premiums would go up about $1 a year," said Chris Jennings, White House health policy adviser. "The final figures may be slightly more, but we will not know until all the policies are locked in." By 2002, "the premiums will be somewhere between $6 and $9 more a month" than would have been the case under current law.

Medicare premiums already are scheduled to increase from the current $43.80 a month to about $61 without the home health care expenditures. Marilyn Moon, one of two public trustees of the Medicare trust fund, calculated that premiums would go up by about an additional $7.80 a month at the end of five years as a result of the agreement, and by $10.90 by the end of seven years.

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THE WHITE HOUSE

WASHINGTON

May 22, 1997

'97 MAY 22 PM1:01

MEMORANDUM FOR **THE PRESIDENT**

FROM: **GENE SPERLING**
ELLEN SEIDMAN ES

SUBJECT: **Sallie Mae shareholders' battle - Washington Post article of May 16, 1997**

You wanted to know what the attached May 16 Washington Post article concerning the ongoing battle among Sallie Mae's shareholders about competing privatization proposals means. The short answer is very little for the government, and probably in the end not much for the future of a privatized Sallie Mae.

BACKGROUND: In the early 1990s, Sallie Mae had a major internal management dispute between Larry Hough, Chairman and CEO, and Al Lord, then COO and CFO, which resulted in Lord's leaving the company. Much of the dispute centered on whether and how the company should privatize. Lord essentially took the position that the government franchise was worth the limitations on the company's business purposes; Hough wanted to privatize and expand. The Administration's push for direct student lending ended whatever doubts Hough and his management team might have had about privatization. They began to fight for legislation privatizing the company. The Administration supported privatization, but battled with Sallie Mae over the terms of the transition[1] and over whether Sallie Mae would cease its campaign against the direct lending program.

In 1995, Lord formed the Committee to Restore Value at Sallie Mae (CRV) and waged a proxy fight for control of the company. The CRV nominees, of whom Lord was one, won eight of the fourteen shareholder-elected seats on the Board. Hough has retained his positions, however, with the support of the seven Presidentially-appointed directors.

In September 1996, Congress passed legislation establishing a process for privatizing Sallie Mae. The company's shareholders have until the end of March 1998 to vote whether to privatize the company. If they vote to privatize, the company would be restructured into a completely private holding company with a totally shareholder-elected Board of Directors which could, through subsidiaries, engage in any business activity. Current Sallie Mae would be a subsidiary of the holding company (with a board including presidential appointees). Its business would be limited

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[1] There were disagreements concerning whether there should be a firm date for liquidation if the shareholders rejected privatization, whether there should be an exit fee (no, but the DC Control Board will, in the likely event of privatization, receive stock warrants that at Sallie Mae's current market price should be worth over $20 million), and the terms of regulation of the liquidating GSE.

to purchasing, holding and selling guaranteed student loans and the company would be required to wind down and dissolve by September 30, 2008.[2] If the shareholders vote against privatization, Sallie Mae must liquidate by July 1, 2013.

In January 1997, Sallie Mae's Board of Directors approved and presented to the shareholders a plan of reorganization and a slate of candidates -- led by Larry Hough -- for the new holding company's board of directors. In April, the CRV put forth a competing slate of directors. Sallie Mae's seven Presidentially-appointed directors have supported the Hough slate, but the CRV members of Sallie Mae's board are supporting Lord.

Although Lord initially opposed privatization, CRV now supports it, and thus it is highly likely privatization will proceed in some form. The major difference -- other than personality -- among the two groups now appears to be the extent to which a privatized Sallie Mae will become a loan originator, competing with the banks from whom the company has traditionally bought loans. Hough maintains that (i) it would take Sallie Mae years to get into the origination business and (ii) in the interim the profitable secondary market and servicing businesses would die because Sallie Mae would be competing with its suppliers. (One of the reasons Sallie Mae is ripe for privatization is that there are alternative secondary market purchasers and loan servicers with whom originators can do business.) Lord asserts that much of the profitability of the business lies in origination and there's no good reason to concede that part of the profit to the banks. Although Lord has made casual remarks suggesting a new Sallie might become a direct loan servicer, it's fair to say neither side favors the direct loan program.

For the last several months, Lord and Hough have each been trying to get a majority of the shareholders to vote for their slate of directors.[3] Most of Sallie Mae's shares are held by institutional investors. As of the end of last week, each side had garnered over 20 million shares, but it was becoming clear that neither side was likely to get the approximately 26 million shares needed to get its slate elected. Both groups are still trying to get more votes. They are also talking to each other in an attempt to find a unifying compromise, which is likely to revolve around the divison of seats on the new holding company board between the rival factions.

The Administration supported privatization because we believed there was no further need for a government-backed secondary market for guaranteed student loans, both because of the direct loan program and because private-market competitors had developed. We think it is highly likely that Sallie Mae will indeed move to privatize in an orderly manner, rather than limp along waiting for liquidation. The Presidentially-appointed board members have -- on their own and without any direction from anyone in the government -- positioned the company so the shareholders will decide the company's future. We see no reason to intervene.

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[2] This date was chosen to be outside the 10-year Senate budget window. Sallie Mae must pay the government an "offset fee" on purchased student loans.

[3] The battle has been punctuated by lawsuits over the date of the annual meeting, the meaning of any vote in favor of Lord's slate, and by both defections from Hough and public expressions of support for him by senior Sallie Mae officials.

THE PRESIDENT HAS SEEN
5-16-97

Sallie Mae Managers' Plan Rejected

Two Groups Deadlocked Over Firm's Future as Private Company

By Albert B. Crenshaw
Washington Post Staff Writer

Management of the Student Loan Marketing Association failed yesterday to win a majority of shareholder votes for its plan to convert the company to a fully private corporation. That shortfall leaves management and an opposition stockholder group deadlocked over the future of the company.

The opposition group—known as the Committee to Restore Value at Sallie Mae (CRV)—at a special meeting of its own last week also was unable to garner a majority of the firm's shareholders for its proposal.

The sides are in a "dead heat" at the moment, Sallie Mae chief executive Lawrence A. Hough said after management's special shareholder meeting yesterday in Tysons Corner.

Slightly more than 80 percent of the shareholders have spoken, and they have split just about 50-50, he said, giving each faction slightly more than 21 million shares so far. Both groups adjourned their meetings in hopes of picking up more votes, either from shareholders who have not yet voted or from those who decide to switch.

The two sides also are negotiating with each other over possible compromises. The company's stock is concentrated largely in the hands of a number of large holders, such as mutual funds and money managers, and persuading one or two of them to switch probably would decide the issue, management officials said.

The largest holder is FMR Corp., parent of the Fidelity group of mutual funds. Also among the top five are Scudder Stevens & Clark, and AIM Management Group, which manage mutual fund money.

Sallie Mae, based in the District, is a government-sponsored enterprise. It is owned by private stockholders but it holds a federal charter and a portion of its board of directors is appointed by the president of the United States. Its mission has been to buy government-guaranteed student loans to provide additional capital to the education market.

Under the Clinton administration, the government has begun making student loans itself, raising questions about Sallie Mae's future. The company last year requested and received permission from Congress to convert to a fully private corporation, subject to shareholder approval.

Both Hough and CRV leader Albert L. Lord emphasized that they favor privatization and that the vote shows that an overwhelming majority of the stockholders favor that as well. They differ, however, on matters of corporate governance and business strategy.

For example, Lord would like to see the company begin making student loans itself rather than merely buying them

MAJOR STOCKHOLDERS

A large portion of Sallie Mae stock is held by mutual fund companies and money managers. Here are the top holders:

THE WASHINGTON POST

from lenders. Hough argues that would put the company in competition with its customers, which perhaps might decide not to do business with it.

Since neither plan has won a majority from shareholders, "the writing's on the wall," Hough said. "There's something about these two plans they do not like."

He said management will talk to shareholders and to the CRV, and is willing to revise its plan to meet shareholder demands.

"There is a formulation of an amended plan that will move our numbers. Far enough? Don't know. But we're going to run at 'em. And ultimately there's a way to get privatization done," Hough said.

Lord said his reading is that the shareholders want privatization but are rejecting a "cram down" of a management "entrenchment" that management has tied to the privatization issue.

Late yesterday, his group proposed splitting up the issues and taking separate votes on privatization per se, and then on competing slates of directors.

Management said it would study the proposal.

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The Washington Post
FRIDAY, MAY 16, 1997

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Maureen Lewis

President William Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C.

May 2, 1997

'97 MAY 22 PM3:03

Dear Mr. President:

I thought that you might be interested in my personal reaction to the recent book by former Secretary of Labor Robert Reich, as expressed in a letter that I sent to him on April 20.

With best regards,

Sincerely,

Lane Kirkland

Lane Kirkland
President Emeritus
AFL-CIO

970515

Mr. Robert B. Reich
Professor of Social and Economic Policy
Heller School
Brandeis University
Boston, Massachusetts

April 20, 1997

Dear Bob:

For my sins, I have just read your book, Locked in the Cabinet.

I had supposed that we had a reasonably cordial relationship, and that I had accorded you the respect appropriate to your position. I was surprised, therefore, at the venom that pervades your imaginative accounts of some of our meetings.

I did not, in fact, utter the words that you attribute to me in various places, in direct quotation marks, as though you were repeating my words verbatim. I question the literary and scholastic ethics of spicing up your account in this manner
.

I can only conjecture that your purpose was impressionistic--to paint a crude and belligerent trade union stereotype to contrast with the nobility of your own character and purpose.

That degree of literary license may be permissible in your world, but I don't appreciate being made the target of it. It not only twists history but violates the old Biblical injunction against false witness.. A measure of respect for history compels me to respond to some of your fabrications.

I particularly resent your false and discourteous references to my wife, Irena. That resentment is compounded by the fact that your account of the evening at our house is, for the most part, simply untrue.

In the first place , Irena is not Hungarian, but Czech. She was born, Jewish, in Prague and paid a very heavy price for both conditions of birth. She survived Nazi concentration camps (Therezienstadt and Auschwitz-Birkenau) and , after 1948, was imprisoned by the Communist regime for her activities as a leader of the youth branch of the Social Democratic Party.

She has paid her dues to the history of our time. She is not, as you imply, some sort of snooty social hostess, but a real person, worth knowing as were others present that evening. You might even have found a little more interest in them, and less absorption with yourself, rewarding,

They included the Vernon Jordans (whom I thought you knew), as well as Evangeline Bruce, who founded a program to shelter and retrain homeless inner-city young people. Irena is active with that program, as is Ann Jordan. David Brinkley, whose son, Alan, I believe you were friendly with at Harvard, was also there--as was Betty Lord, who chairs Freedom House (on whose Board I serve) and her husband Winston, a man of many parts.

Your own recital of the evening's alleged cast of characters is baffling. You mention someone from General Motors with a wife employed by the Post. No such persons were there and I do not know any such persons.

You mentioned someone named "Peter" from National Public Radio, with a wife named Charlotte "who is administrative assistant to Senator Blank". No such persons were there and I do not know any such person. You refer to a "Jeff Blank, undersecretary of state for blank"--another ghost of your imagination.

You say that you were seated at dinner "between Kathy from White House liaison and Carolyn from a public relations firm". Again, no such persons were there and I do not know such persons, if they do, in fact, exist.

Alan Greenspan was indeed there, with Andrea Mitchell, and I make no apology for it whatever. We are friends of long standing and I enjoy his company.

Believe it or not, it is possible to have friends whose political and economic views clash with your own, and I have a good many of that kind. It is sometimes more useful and wit-sharpening than to confine your ambit to those whose opinions are knee-jerk replicas of your own.

I got to know Greenspan by serving with him on a couple of Presidential commissions over the years. He chaired, fairly and well, the Commission on Social Security reform. That commission was the medium for a bipartisan compromise which contained some rather bitter medicine but insured the integrity of the system into the future. That was no mean achievement during the Reagan years.

We served together, long before that, on the Hunt Commission which, over my objections, recommended banking deregulation. I filed a lonely dissent that proposed conditioning any such move on the creation of a large fund earmarked for public investment, which

I believed would otherwise be impaired by the majority proposals. Time has proved me right. You can look it up, if you care to.

From elsewhere in your book, I take it that, despite your righteous posture, you are actually much closer to Alan Greenspan's economic views than I am. For example, you indicate that you agree with the proposition that there is, somewhere, a "natural" rate of unemployment that will trigger inflation if further reduced. Your reservation seems to be limited to the notion that you can manipulate that "natural" rate, downward, through retraining.

I disagree with this entire "NAIRU" concept.

I was deeply involved in the negotiations leading to the Humphrey-Hawkins Act, a good many years ago. That Act, still on the books, declares full employment as the national goal and defines it as a level about half the current rate. If that goal were pursued and realized, the deficit would cease to be even a political problem.

A further historical note: during the Johnson Administration, mainstream economists, led by Walter Heller (whose name your present school bears), argued that the most serious economic problem facing the nation was something called "fiscal drag". That threat stemmed from the grievous prospect of a chronic Federal budget <u>surplus</u>, mounting into the out-years.

Johnson--Viet Nam, War on Poverty, and all--was the last U.S. President to submit a budget in surplus to the Congress.

President Carter appointed Paul Volcker as chairman of the Federal Reserve Board and he wreaked more havoc on employment than Alan Greenspan has ever dreamed of, in his effort to control inflation caused by the oil shock. Yet Carter was the last U. S. President to send a virtually balanced budget to the Hill.

Another passage in your book purports to describe, in invidious terms, our dinner at Joe's Stone Crab, in Florida, before your meeting with the AFL-CIO Executive Council. No one else on our side at that affair remembers it quite the way you seem to do.

That outing with Labor Secretaries at Joe's had become a tradition at February Council meetings. I am really sorry that you did not find it as pleasant as your predecessors did. I did not, by the way, notice any stray crab flakes on your whiskers, but maybe I wasn't paying attention. I do recall that you consumed your share.

You suggest, or surmise, that I was upset because you were the first Democratic Secretary of Labor with "no previous connection with organized labor". Maurice Tobin and Willard Wirtz, not to mention Frances Perkins, would be surprised to learn that.

In fact, I have frequently expressed my strong opinion that Secretaries of Labor should <u>not</u> be drawn from the trade union movement, and they seldom have been. That is not to say that union people should be disqualified, <u>per se,</u> from any other government post they can competently fill.

Furthermore, apropos of your account of that evening, I do not have, and did not express, the negative attitude toward "Harvard professors" that you attribute to me. I have had a long and constructive relationship with, for example, John Dunlop, an eminent economist and former Dean of Harvard. We got along quite well when he was Secretary of Labor--a position that he resigned, as a matter of principle, when President Ford betrayed certain commitments on legislation affecting the construction and maritime trades.

Nor did I engage in the tour of the cultural horizon (Kant, Goethe, The Hapsburg Empire, etc.) that you describe. I would have regarded it as wildly inappropriate, if not a little nutty, on such an occasion. In any event, I wouldn't have known how to fake that kind of scholarly erudition, even if I had wanted to.

But, so what?. Did you drag this fantasy in to imply that any smidgen of culture is too good for the working class?

You state that some Secretaries of Labor have acted as AFL-CIO ambassadors to the White House and some as White House ambassadors to the AFL-CIO and that you did not care to be either.

Who asked you to? Certainly not I. The fulfillment of the statutory duties of the Secretary, which you cite elsewhere in your novel, would have been entirely sufficient.

My understanding with the President, worked out on his initiative at a meeting in his office, was that any dealings I might need to have with the White House that did not require a personal conversation should be pursued with George Stephanopolous. I followed that arrangement, found it satisfactory, candid and responsive, and I had no complaint whatever about access.

I did follow an old rule that conversations there were supposed to be privileged. Evidently, that is just another Washington attitude that you do not share.

You include a patronizing thumbnail account of my history, a subject about which you are totally innocent of first-hand knowledge. Let me balance the scales just a bit: I have walked far more picket lines than you have cafeteria lines.

I won't attempt to correct all the other distortions and fabrications in your book, but I will refer to a couple of issues of substance, where you give labor's position extremely short shrift.

You attribute our opposition to NAFTA to a blind fear of "free trade" and a desire to build a wall around the American market. In fact, the creation of a mercantilist trading bloc with Mexico, complete with domestic content provisions, had little or nothing to do with "free trade" as I have always understood it.

Far from wanting to build walls, I publicly advocated, in its stead, the development of a North Atlantic Free Trade Area, linking our market with that of Western Europe and extending it, in due course, to the Urals. That would be the greatest practical liberalization of trade ever undertaken. It would produce the largest unrestricted market, rooted in shared human values and standards, in the history of the world.

It might also give a boost to the "social clause" which continues to languish under the veto of exploiters, I still believe in that proposition, while NAFTA serves only to make the rich richer, a circumstance that your book purports to deplore.

You portray me as a crude ogre of resistance to job retraining. I believe that I did (or should have if I didn't) express to you (without expletives) my opinion that your constant reiteration, during the 1994 campaign, of the theme that workers should resign themselves to the loss of their jobs seven or eight times in their careers was not the best message to attract hard-pressed workers to the Democratic fold. That was widely perceived as your vision of the future--a world of constantly obsolescing occupational transients and temps.

I didn't buy that then and I do not buy that now. So, do me something.

Now let me tell you what I do believe. I believe that a rising demand for workers breeds training, while training does not necessarily breed a rising demand for workers. We might have, and have had, an unemployed work force with a large component of idle highly-trained workers.

Nothing undermines training, including outreach to the disadvantaged, as much as a paucity of jobs. I have seen that effect in the reduction of apprenticeship slots when construction slows down, and the curtailment of recruitment for seafaring schools when ships are laid up or flee to foreign flags. Those are just a couple of many examples I could cite.

I am, in fact, a strong advocate of training and retraining and always have been--long before you arrived on the public scene. I had a hand in the establishment of the AFL-CIO's Human Resources Development Institute, designed to further the involvement of national and local unions in Job Corps, outreach programs, and other training and job placement efforts. I chaired that institute until I retired, oversaw its expansion, and struggled to keep it afloat under the cutbacks of recent years.

On the matter of the minimum wage, some sharing of the credit, which you generously allocate to yourself, would have been in order. Following the health care debacle, where I don't recall that you were of any great help, I initiated--through our friends in Congress--the push for a minimum wage increase. The Administration came along somewhat reluctantly and sought to low-ball the number.

The impasse over the number was broken at a meeting I had with the Democratic leadership on the Hill, at which White House representatives were present. After listening to the Administration's arguments for a lower number, I pointed out--without your favorite expletives--that I had negotiated an agreement for a raise of 90 cents an hour with the likes of John Sununu in the Bush Administration, and that it would be unconscionable for a Democratic President to do less. That led to the ultimate agreement on 90 cents.

I share the general respect for most of your efforts, goals and sentiments. There are, however, some other points on which we part company. I do not believe that the extension of benefits to the long-term unemployed should have been resisted to reserve funds for retraining. I commend you for eventually finding an escape hatch from that untenable position.

I strongly disagree with your sideswipe at the Bacon-Davis Act. We have had to fight right-wing elements in every Congress to preserve the prevailing wage principle. Your negative remark about it is not just unhelpful but contradicts your asserted concern to promote entry to well-paid jobs.

On another small matter, you didn't have to "smoke me out" on the Polish embassy offer. I declined it when the President proffered it and confirmed that response by a letter to the President, very shortly thereafter. Incidentally, whatever your meddlesome proclivities might have been, I refuse to believe that the President regards Central European embassy appointments as tools to control the decision as to who should preside over a free trade union movement.. That suggestion has a certain Stalinoid flavor ill-becoming the principle of freedom of association.

Regardless of what you may have read or the gossip you may have picked up, my retirement --and its timing--was the product of my own long-considered choice. I stalled its announcement only to keep the lame-duck period short while affording the time to search for a consensus successor, an effort which unfortunately failed. It is not true that all my predecessors died in office, nor did I plan to do so.

As much as you may wish to flatter yourself with the thought that you arranged my departure, you really don't deserve the credit, or blame.

As to your description of my office, it may have been a bit shabby but it suited me and Meany before me. It was about one-third as "vast" as your own, and there was no protective "bubble" around it. Yet I think at least as much has been accomplished there for working people over the years. I never felt the need to spend their dues money to further exalt it.

Aside from that, your book is of some interest as one more example of its type--though others you have trashed may not appreciate it any more than I do.

Sincerely,

THE WHITE HOUSE

WASHINGTON

May 19, 1997

'97 MAY 19 PM12:28

Memorandum: THE PRESIDENT

From: RAHM EMANUEL

Subject: POLL WATCH

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218921

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VP

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21892|

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219599

EXPORT-IMPORT BANK
OF THE UNITED STATES

BOARD OF DIRECTORS

May 21, 1997 '97 MAY 23 PM2:03

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Three and a half years ago you nominated me as the Board member in charge of Small Business at the U.S. Export-Import Bank. At that time, Ex-Im Bank was known as "Boeing's Bank" and had the reputation of primarily supporting Big Business.

You should know our small business portfolio has increased by 60 percent compared to 1993. We have a congressional mandate that we set aside 10 percent of our budget for small business, and we have doubled this. Today, 81 percent of all our transactions are in support of small business.

The staff at Ex-Im Bank has done a superb job in accomplishing your administration's export strategy and goals. I am very proud of their work in advancing your economic agenda.

I am grateful for the support you gave me on my appointment, and most of all for the trust and confidence you had in me.

Sincerely,

Maria

Maria Luisa M. Haley
Director

811 VERMONT AVENUE, N.W. WASHINGTON, D.C. 20571

VP

EXPORT-IMPORT BANK
OF THE UNITED STATES

BOARD OF DIRECTORS

May 21, 1997

'97 MAY 23 PM2:03

The President
The White House
Washington, D.C. 20500

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